STREET CRIME IN AMERICA
(THE POLICE RESPONSE)

HEARINGS

BEFORE THE

SELECT COMMITTEE ON CRIME

HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

FIRST SESSION

APRIL 9–13, 16–19; MAY 1–3, 8, 9, 1973
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Part 2.—CORRECTIONS APPROACHES
Part 3.—PROSECUTION AND COURT INNOVATIONS

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STREET CRIME IN AMERICA

(The Police Response)

MONDAY, APRIL 9, 1973

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON CRIME,
Washington, D.C.

The committee met, pursuant to notice, at 10:15 a.m., in room 311, Cannon House Office Building, Hon. Claude Pepper (chairman) presiding.

Present: Representatives Pepper, Waldie, Brasco, Mann, Murphy, Rangel, Wiggins, Steiger, Winn, Sandman, and Keating.

Also present: Chris Nolde, chief counsel; Richard Lynch, deputy chief counsel; and Leroy Bedell, hearings officer.

Chairman PEPPER. The committee will come to order.

The first business on the agenda of the committee is to adopt the rules covering the committee in its operation during this Congress. Do I hear any motion relative to that subject?

Mr. MANN. Mr. Chairman?

Chairman PEPPER. The gentleman from South Carolina.

Mr. MANN. It is my judgment that the rules under which we functioned during the previous Congress were adequate and fair. I move the adoption of the same rules effective in the 92d Congress for the 93d Congress.

Mr. MURPHY. I second the motion.

Chairman PEPPER. It has been moved and seconded that we adopt the same rules that prevailed for the committee during the previous Congress. Any further discussion or further motions to be made?

Are you ready for the questions?

Mr. STEIGER. Question.

Chairman PEPPER. All that favor the motion made by Mr. Mann, seconded by Mr. Murphy, say "aye."

[Chorus of "aye."]

Chairman PEPPER. All opposed, "no."

[No response.]

Chairman PEPPER. The rules are unanimously adopted, with seven members of the committee present.

I would like to make a brief opening statement, if I may, before the first of the distinguished witnesses is introduced.

Today the Select Committee on Crime opens its inquiry into street crime in America. In part, this will be a success story, for a fundamental purpose of these hearings is to bring to congressional and public attention those criminal justice programs which have shown promise as crime reduction agents.

During this first week, the theme of our hearings will be "Street Crime—the Street Level Response" and 13 major police departments

will present testimony about a wide variety of police programs and policies which are being used to combat street crime.

Street crime is still a fact of life in America, and its presence is especially ominous in our Nation's urban centers.

If I may do so, without objection, I would like to introduce for the record, to appear in the record at the conclusion of our opening statement, the announcement of the U.S. Department of Justice, Federal Bureau of Investigation, of March 28, 1973, relative to the latest summary of statistics on crime in the United States.

On March 28, 1973, the Department of Justice announced that there had been a decline in serious crime of 3 percent in 1972, "the first actual crime decrease in 17 years." On January 30, 1973, Senator John Stennis was robbed and shot in front of his home here in the District of Columbia; on March 30, 1973, former Congressman and Mrs. Brooks Hays were robbed within a few blocks of the Capitol. Senator Stennis, I am delighted to report, is making a good recovery.

These prominent public figures took their place in a long line of street crime victims. In 1972—according to preliminary data—7,751 robberies were reported in the District of Columbia; 714 persons were victims of rape; 3,897 were victims of aggravated assaults, and 245 more people were murdered.

These crimes—with the exception of rape—occurred less frequently than in 1971, but the incidence is still unacceptably high. Washington, D.C., is by no means alone in this regard. While index crimes—murder, rape, robbery, aggravated assault, burglary, larceny over $50, and auto theft—decreased, it is worth noting that the violent crimes—murder, rape, robbery and aggravated assault—actually increased by 1 percent. In fact, the FBI's preliminary 1972 data indicates that violent crime was up from 2 to 13 percent in suburban and rural areas, and in cities with populations of 500,000 or less.

None of us can take comfort from the fact that violent crime is still increasing. Notwithstanding the fact that overall index crime frequencies are decreasing, people are still falling prey to robbers, muggers, rapists, and murderers. This we cannot accept.

This committee would be remiss in its obligations if it did not review the present nature and extent of street crime. We launch this hearing with the firm hope and expectation that the many police, prosecution, court, and correctional programs which are to be described by expert witnesses during the next several weeks will provide eloquent testimony of imaginative criminal justice efforts which have reduced crime in some of our cities and made them safer places in which to live. We hope these examples will be an inspiration and a challenge to many other law enforcement authorities in our country.

Recent polls indicate that crime remains of overriding national concern. Crime and the fear of crime continue to plague us as a people. We are by no means out of the crime crisis: Brutality and barbarism still rule the streets and sidewalks in urban high-crime areas. Violence and depravity still harm the most those who are the least able to defend themselves.

A young man who runs an elevator here in the Capitol, who is crippled, has been mugged, I believe seven times, in the recent past.

Street crime is by no stretch of the imagination the only kind of crime we need be concerned about. It is, however, the most visible

kind of crime. Its victims end up in hospitals or morgues; those who survive often carry psychic scars. As long as crime of this type preys upon us, we are not a free people. Our fundamental freedom is in jeopardy, and liberty has a hollow ring when people are afraid to walk in their own neighborhoods.

Street crime cannot be eliminated until we can finally summon the resolve to eliminate its contributing causes, among which are poverty, unemployment, ignorance or lack of skills for employment, and that multitude of social ills which afflicts all of our Nation's population centers. We cannot ignore the need to get on with the business of attacking the root causes of crime, as well as crime itself.

While the need to attack the root causes of crime is irrefutable, we also need to pay increasing attention to the short-term task of removing from the streets those offenders who are disrupting the fabric of our society.

It is this latter facet to which we will address ourselves during the next several weeks. Testimony will be taken from those agencies which are now engaged in the tasks of apprehending, prosecuting, adjudicating, and confining those among us who have chosen to follow paths of lawlessness and violence.

We need to arrest, prosecute, try, and—where necessary—confine those offenders who create havoc and fear. We need to do so in an expeditious, zealous manner. For the most part, the programs which we will be examining will show that we can attack—and hopefully defeat—street crime in a lawful way. This goal can be achieved without pity for the criminal act, with a decent respect for the violated rights of victims, and with a zealous regard for the constitutional rights of all concerned, both offenders and victims.

These hearings will demonstrate that many thoughtful and dedicated law enforcement officials are bringing leadership and imagination to bear in their efforts to reduce street crime and its carnage.

We warmly commend all those who have been responsible for the innovative law enforcement programs which will be presented in these hearings, and, as I have said, we hope that they will be an inspiration and challenge to other law enforcement officials in this country. Nevertheless, the purpose of these hearings is to find out what can be done in the future to further reduce crime in this country, and make the streets, homes, work and recreational places of our citizens safer for them.

[A copy of the March 28, 1973, statistics from the Federal Bureau of Investigation, referred to previously, follows:]

UNITED STATES DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION
Washington, D.C., March 28, 1973.

Serious crime in the United States declined 3 percent in 1972, the first actual decrease in crime in 17 years, Attorney General Richard G. Kleindienst announced today.

The downturn in the volume of crime was disclosed in preliminary year-end statistics tabulated by the FBI and released today.

"This is a day that we have been looking forward to for many years," the Attorney General said. "It is an important milestone in the fight to reduce crime and is directly attributable to the strong efforts of law enforcement officers throughout the nation to turn back the wave of crime that rolled upward in the 1960's."

During 1972, 94 major cities reported actual decreases in serious crime, Mr. Kleindienst said, compared with 53 cities in 1971, 22 cities in 1970, and 17 cities in 1969.

Nationally, serious crime declined 8 percent in the final quarter of the year, after registering a 1 percent increase through the first nine months of 1972.

The last measurable decrease in serious crime—2 percent—was recorded in 1955, according to FBI crime records.

The crime spiral peaked in 1968 when serious crime rose 17 percent above the previous year. In 1969 and 1970, serious crime increased 11 percent, while in 1971, the increase was 6 percent.

"We enter this new period with an acute awareness that crime is still unacceptably high," Mr. Kleindienst said. "We pledge to renew our determination and efforts to make our communities safer places in which to live."

The preliminary figures are contained in the FBI's Uniform Crime Reports, a collection of nationwide police statistics supplied voluntarily by local, county, and state law enforcement agencies. The figures were released today by FBI Acting Director L. Patrick Gray, III.

Violent crime increased by 1 percent in 1972, compared with a 9 percent increase the year before. Robberies, however, which make up the largest number of crimes in the violent category, showed a 4 percent decrease in 1972. Murder was up 4 percent in 1972, aggravated assault increased 6 percent, and forcible rape increased 11 percent over the previous year.

Property crime decreased 3 percent, compared with a 6 percent increase in 1971. Auto theft declined 7 percent, larceny $50 and over dropped 3 percent, and burglary was down 2 percent.

Cities over 100,000 population reported an average decrease of 7 percent in the volume of Crime Index offenses. Crime in suburban areas increased 2 percent, compared to an 11 percent increase in 1971, while crime in rural areas went up 4 percent compared to a 6 percent rise in the previous reporting period.

Serious crime in Washington, D.C., continued to decline. The 1972 decrease was 26.9 percent, compared with the 1971 decrease of 13 percent.

The nation's capital registered fewer crimes in every category, except for a 16 percent increase in rape. Auto theft decreased 33 percent, burglary decreased 32 percent, robbery decreased 31 percent, larceny $50 and over decreased 18 percent, murder decreased 11 percent, and aggravated assault decreased 2 percent.

A copy of the preliminary crime figures for 1972 is attached. Final crime figures and crime rates per unit of population will be available in the detailed Uniform Crime Reports scheduled for release this summer.

Also attached is a list of the 94 major cities reporting crime decreases.

Cities With Decrease in Crime Index

JANUARY–DECEMBER

1972 VERSUS 1971

	Index percent (decrease)
Akron, Ohio	9.5
Albany, N.Y	23.8
Alexandria, Va	2.1
Allentown, Pa	15.4
Arlington, Va	15.4
Austin, Tex	3.7
Baltimore, Md	6.5
Beaumont, Tex	1.6
Berkeley, Calif	2.7
Boston, Mass	8.8
Bridgeport, Conn	14.6
Buffalo, N.Y	6.7
Cambridge, Mass	7.7
Cedar Rapids, Iowa	3.8
Charlotte, N.C	11.8
Chicago, Ill	4.1
Cincinnati, Ohio	5.0
Cleveland, Ohio	11.3
Columbia, S.C	16.6
Columbus, Ga	3.0
Columbus, Ohio	9.5
Corpus Christi, Tex	.8
Dallas, Tex	2.6
Dearborn, Mich	8.8
Des Moines, Iowa	9.1
Detroit, Mich	15.8
Duluth, Minn	6.8
Elizabeth, N.J	4.2
El Paso, Tex	16.5
Erie, Pa	.1
Evansville, Ind	13.4
Fall River, Mass	14.2
Fort Lauderdale, Fla	4.2
Fort Worth, Tex	5.6
Gary, Ind	3.7
Glendale, Calif	5.8
Hammond, Ind	2.3
Hampton, Va	6.9
Hartford, Conn	19.8
Hialeah, Fla	8.2
Hollywood, Fla	7.5
Honolulu, Hawaii	15.3
Huntsville, Ala	19.9
Indianapolis, Ind	16.0
Jacksonville, Fla	4.9
Jersey City, N.J	8.3
Kansas City, Mo	13.2
Lansing, Mich	6.3
Lexington, Ky	6.5
Los Angeles, Calif	3.8
Louisville, Ky	11.3
Lubbock, Tex	11.0
Macon, Ga	3.1
Miami, Fla	9.9
Milwaukee, Wis	3.9
Mobile, Ala	15.2
Montgomery, Ala	3.2
Nashville, Tenn	18.0
Newark, N.J	10.2
New Bedford, Mass	20.3
New Haven, Conn	9.7
New Orleans, La	15.2
New York, N.Y	18.0
Norfolk, Va	18.1
Oakland, Calif	3.4
Orlando, Fla	10.7
Parma, Ohio	9.7
Pasadena, Calif	1.6
Philadelphia, Pa	4.5
Pittsburgh, Pa	11.0
Portsmouth, Va	2.0
Providence, R.I	13.5
Raleigh, N.C	5.0
Richmond, Va	11.9
Rochester, N.Y	8.6
St. Louis, Mo	4.1
Salt Lake City, Utah	10.0
San Francisco, Calif	19.0
Savannah, Ga	13.8
Scranton, Pa	27.0
Seattle, Wash	3.8
Shreveport, La	8.4
Spokane, Wash	2.3
Stamford, Conn	27.6
Syracuse, N.Y	11.2
Topeka, Kans	15.2
Torrance, Calif	5.2
Trenton, N.J	7.7
Warren, Mich	2.8
Washington, D.C	26.9
Waterbury, Conn	7.7
Wichita, Kans	.7
Yonkers, N.Y	11.7
Youngstown, Ohio	11.9

Chairman PEPPER. I feel it would be only proper to express a word of thanks and welcome to the National Public Affairs Center for Television, for the television coverage offered. They will be filming several days of these hearings for inclusion in a documentary on street crimes. It will be entitled "America 1973—Documentary," and it will be aired on 226 education television stations during the week of April 16.

The airing by public television in the District of Columbia will be at 8 p.m. on April 18.

I will now ask my colleague, Mr. Rangel, the distinguished gentleman from New York, to introduce the Honorable Patrick V. Murphy, New York's police commissioner.

Mr. RANGEL. Thank you, Mr. Chairman, and members of this committee. I have the pleasure and honor to introduce one of the most outstanding, dedicated public servants we have in the United States, Commissioner Patrick Murphy, a career policeman who has served as chief of police in the cities of Detroit, the District of Columbia, Syracuse, and now the city of New York.

Commissioner Murphy was appointed by President Johnson as the first Administrator of the Law Enforcement Assistance Administration in the Department of Justice. He holds both B.A. and M.A. degrees and is a graduate of the FBI National Law Enforcement Academy. He served as an officer in the Navy in World War II and is the parent of eight children.

Commissioner Murphy has made a distinguished contribution to the discovery of and attack on corruption within the New York City Police Department. He did this with the type of courage that is unparalleled in the history of law enforcement in the State and city of New York.

It affords me a great pleasure to join with him in presenting to this committee information on present law enforcement efforts in the city of New York.

Thank you, Commissioner.

Chairman PEPPER. Commissioner, I, as chairman, and all of the other members of the committee wish to concur in extending the welcome extended to you by our distinguished member, Mr. Rangel. We are very grateful to you for coming to help us this morning. We all know of the contributions you make in the many parts of the practice of law enforcement and the reduction of crime. We look forward to hearing what you have to say today.

You may proceed with your statement.

PANEL OF NEW YORK CITY POLICE OFFICIALS:

MURPHY, PATRICK V., COMMISSIONER;
CAWLEY, DONALD F., CHIEF OF PATROL SERVICES;
VOELKER, ANTHONY M., DEPUTY CHIEF INSPECTOR;
TUCKER, JULIA, LIEUTENANT, RAPE INVESTIGATION AND ANALYSIS SECTION;
HUBERT, FRANK, LIEUTENANT, AUTO CRIME UNIT;
O'FRIEL, JOHN T., SERGEANT;
GARRITANI, CARL, PATROLMAN; AND
CALLIER, LEROY, PATROLMAN

Statement of Commissioner Murphy

Commissioner MURPHY. Thank you very much, Mr. Chairman, Congressman Rangel, and members of the committee.

I am grateful indeed for the opportunity to appear before this distinguished committee to describe some of the programs developed by the New York City Police Department to reduce crime during my tenure as commissioner.

Mr. Chairman, I would like, with your indulgence, to make just a very few brief remarks in order to give the members of the committee every opportunity to ask questions.

There was a significant decline in major crime in New York City last year of approximately 8 percent. Compared with other large cities, and the country as a whole, we did relatively well. But considering the thousands of victims, it would be a delusion to think that we have achieved a tolerable level of safety on the streets of New York City.

When I was appointed police commissioner 2½ years ago, I found a number of problems facing me. One very serious problem which could not be kept in other than first place on the list of priorities, the one alluded to by Congressman Rangel, was the problem of corruption, which we have attempted to address in a straightforward manner. But when Mayor Lindsay, John B. Lindsay, the distinguished mayor of New York, interviewed me concerning my willingness to accept the position of police commissioner in New York City, we had a lengthy discussion about the proper role for the police commissioner and the kind of independence and freedom he should have.

Politics and law enforcement cannot be mixed if honest, effective law enforcement is to occur. The late J. Edgar Hoover proclaimed that principle many years ago. And although on occasion I disagreed with Mr. Hoover's thinking on some matters, his foresight and determination in this regard, as well as many others, have made a great contribution to American law enforcement.

Mayor Lindsay assured me, before I agreed to accept his appointment, that I would function independently and that the police department during my term under him as mayor would be free from political interference. We have had that independence and that freedom from interference and I think it is a factor which cannot be ignored in discussing the ability of a police department in a great city to address the difficult and complex problem of crime.

Among the problems I identified early in my term was a quality of management that called for upgrading. Among the things we have been able to do in the department, in addition to selecting a new leadership team down through the second and third echelons, was our ability to bring in civilian professionals of a variety of backgrounds—attorneys, engineers, systems managers, personnel directors, training specialists, and others. They all made an important contribution, in my opinion, to improve management in the New York City Police Department.

We identified the problem of low productivity and we have been hard at work on that problem to attempt to make more effective use of our resources. The principal resources of any municipal police department are personnel. We found our personnel not being used as effectively as possible.

One of the major changes accomplished in the past 2 years has been a significant shift of manpower from the hours after midnight, and especially after 1 or 2 a.m., when the calls for police service and the incidents of crime drop dramatically, and a shifting of that manpower to the hours before midnight. Approximately 50 percent of the man-

power on duty during a 24-hour period in New York City today is on duty during the high-crime period of approximately 4 p.m. to midnight.

We also believed that the use of uniformed police officers, though very important to provide the visibility and the presence that is reassuring to the citizens, and which acts as a deterrent to the criminal, was not perhaps the most effective way to use all police officers, even though assigned in the individual precincts. So very early we authorized precinct commanders, under a program of increased authority for commanders at the operating level, to assign up to 5 percent of their manpower in civilian clothes, to work we described as "anticrime street work."

Since that time, each precinct commander has had his authority increased to 10 percent.

Some time thereafter, under the distinguished leadership of the chief of patrol, Donald Cawley, who is with me on my right this morning, we established the citywide anticrime section, which is now headed by Deputy Chief Inspector Anthony M. Voelker, on my left.

Mr. Chairman, I am happy to be able to tell you—you knew him as Inspector Voelker, and last Friday I had the privilege to advance him to the rank of deputy chief, in recognition of his distinguished leadership potential, and the great contribution of his citywide anticrime section to the modest reduction in street crime we experienced in 1972.

This anticrime patrol functions in plain clothes. They are deployed within the individual precincts and throughout the city, in accordance with a very careful day-to-day analysis of the occurrence of street crime by hour of day, by type of crime, and by location.

As you will learn during today's meeting, the officers assigned, both male and female officers, are usually in a disguise of one kind or another. It is the function of the dedicated men and women of the unit to blend into the scenery, so to speak, wherever they are functioning, and you will hear later about some of the successes they have experienced.

We saw a need for greater citizen support and so we hope to have an opportunity later to talk with you about our neighborhood police team concept and how it involves the citizens much more actively in understanding, supporting, and working with and assisting police officers.

We would like to say a little bit during the day about our auxiliary police and the significant increase in enrollment in the auxiliary police program that we have experienced, especially in the minority communities of the city, where, because we do not have enough police officers or enough Hispanic police officers, it is a significant advantage to have more men and women in those communities in the police uniform, as auxiliaries, volunteers, who give some number of hours a week of their time and increase the police presence. They are unarmed, but they are equipped with walkie-talkie radios; they are very familiar with the neighborhoods and, of course, they are providing an increased protection for their own neighborhoods, which I think is significant because police officers in our city do not live in the precincts in which they work. As a matter of fact, for many years it has been a policy of not permitting officers to work in the neighborhoods where they

live, although currently we are experimenting with the concept of resident police officer.

In addition to the auxiliaries, we have established some other programs for citizen volunteers, a block-watcher program, and recently Mayor Lindsay announced a $5 million appropriation from the capital budget to encourage the citizens organized in block clubs and other kinds of neighborhood groups to, with Government support, contribute their own funds to the purchase of security equipment of one kind or another.

Less than 1 percent of the budget of the New York City Police Department since the creation of the Law Enforcement Assistance Administration has come to us through Federal grants. We have been happy to cooperate with the policies of the criminal justice coordinating council of Mayor Lindsay, in seeing to it that the funds have been used where most needed. And in New York City, and I believe in many cities, the greatest need today is in the courts and in corrections.

This may seem a strange position for a police commissioner to take, but because I live day after day with the frustrations of our 30,000 officers, I know of nothing that frustrates them more than the delay in courts, than the dismissals in courts, than the lack of convictions and lack of sentences.

So to be realistic about addressing the problem of crime, I think we must face the fact that an adequate backup system is required for a police department. The prosecuting officers and the courts must be able to do their jobs, they must not be so overwhelmed by workload that they begin to break down in the fulfillment of their function. And certainly this distinguished committee is well aware of the failures of our corrections system in State after State in this country.

In New York State, we experienced the terrible tragedy of Attica. All of us are saddened that such a tragedy had to occur before we, our communities, have begun to understand the great need for improvement, modernization, and upgrading of the corrections systems of the Nation.

Almost invariably, the first reaction of the public when confronted by a law enforcement crisis is to seek to increase the size of the police force which it sees as its first line of defense. It has not been generally recognized that more police activity cannot be truly effective when other parts of the system suffer from lack of resources, manpower, and facilities, or are unable to adequately fulfill their purpose for whatever reason.

To make police work more credible, more resources must be made available to prosecutors, courts, and corrections systems, and our attention must be directed toward improving the whole criminal justice system so that it will function as a system.

I have already introduced Chief Cawley, who is with me, and Chief Voelker. Also, Lt. Frank Hubert of our auto crime unit of the citywide anticrime section is with us; Sgt. John O'Friel of the office of programs and policies, who has responsibility for processing Federal and other grants; and a number of other members of the New York City Police Department will be here through the day and they will be introduced to you at the appropriate time.

Mr. Chairman, we are ready to respond to whatever questions the committee might have for us.

Chairman Pepper. We thank you very much, Commissioner, for the very able statement that you made.

I will now call on our deputy chief counsel, Mr. Lynch.

Mr. Lynch, would you care to address some questions to Commissioner Murphy?

Mr. Lynch. Thank you, Mr. Chairman.

Commissioner, I wonder if you could tell us, to begin with, why the citywide anticrime section was created, how it operates, and what, in your judgment, its success rate has been during the past year or so in which it has been operating?

Commissioner Murphy. With your indulgence, I would like Chief Cawley, who really is the initiator of this program, to respond to that question. And I am sure Chief Voelker will have something to add.

Statement of Donald F. Cawley

Mr. Cawley. In November of 1971, shortly after my assuming the position of chief of patrol, there was a unit working for my office entitled "The Taxi and Truck Surveillance Unit" consisting of approximately 80 men. They were primarily dedicated to dealing with taxi and truck robberies. In looking at the larger issue and the larger problem of street crime, and robbery in particular, I thought the matter through, came to a conclusion, what we really should be thinking about was supplementing the increased anticrime civilian patrolman working at the precinct level to approximately 200 men, and selecting the proper commander, the proper leader, have him pull together a strong team of supervisors and create a unit that would deal exclusively with the street crime problems.

As that lead, I selected Chief Voelker, at that time a captain, and I would suggest that perhaps if Chief Voelker gave the committee a brief presentation, which we have available, it might answer some of your questions.

I would be very happy to respond to the specifics.

Mr. Lynch. Chief Voelker, could you do that for us, please?

Statement of Anthony M. Voelker

Mr. Voelker. Yes, sir. At the time I was given the opportunity to organize the citywide anticrime section, I was given complete and total freedom as to selecting of personnel, laying down the ground rules and guidelines, deciding on what tactics would make the most sense in this kind of a police operation.

Each superior officer was handpicked, as was each man. When we structured the unit, I think we were aware in advance of the necessity of striking a careful balance between policemen who are interested and enthusiastic enough to catch the street criminal in the act of committing a street crime, while at the same time being greatly concerned of the rights of the individual citizen and being concerned not to encroach upon those rights.

For that reason, in order to increase the complement of that unit from 80 to 200, we conducted some 600 interviews of patrolmen who were all highly recommended. They received a full week's training before we felt we were fully operational and then we went about the business of attempting to outwit the street criminal in his own baili-

wick, a task which I think is very difficult. It is very dangerous. It is very challenging, but I, as well as the men, find it probably the most meaningful kind of police work there is.

What we have attempted to do is make the police officer relatively invisible. We gave him the option to modify his appearance in whatever way he would. He uses what might be termed "props." In the past, we have used such things as wheelchairs, canes, crutches, bicycles, women's wigs, workmen's hard hats, toolboxes, surveyor's transit, a tie salesman's cardboard box, a peddler's cart, in order to make our policemen relatively invisible.

We have him focus his efforts and attention on street crime. "Street crimes", by my definition, being crimes of violence that occur on the city streets, crimes which cause concern and inconvenience to users of the city streets. The men are not assigned on a random basis, but are assigned on the basis of a statistical overview of crime.

This is done both at the central unit and at the precinct level. We are interested in where crime is occurring, during what time brackets, what the violation may be, what the modus operandi of the criminal is, and possibly the description of the teams of assailants, if that is available.

The tactics have been devised generally by the officers themselves. I feel we have given them great tactical flexibilities so they can do what they think makes sense, as police officers.

Two of the basic tactics are—the first being what has probably become the most favorite word in our vocabulary—is "blending." The officer attempts to blend into the street scene wherever he may be assigned. If he is in a downtown business district, he will have on a business suit and carry an attaché case and look like one of many others moving along the street.

If he is in another neighborhood, he may be a truckdriver, cabdriver, a hippie, a student, a doctor, a nurse. He can assume any of these roles.

That enters into the other facet of the operation which is the decoys. The anticrime men always blend and sometimes decoy. "Decoy," in my mind, is replacing the victim the street criminal thinks he may find when he strikes out. He intends to find someone who is, as the chairman has said, possibly infirmed. He looks for the aged; he looks for someone who will be a poor witness. He looks for someone who is going to be reluctant to go to court.

What we do is take that person from the location where the crime is most likely to occur and substitute a police officer, a well-trained, physically fit, armed police officer, backed up by several others. That is what the decoy operation is, in my mind.

Mr. Lynch. In that regard, Chief Voelker, this unit and units like it in other cities, do perform decoy operations. Do you have a substantial number of defendants who claim in court, and claim successfully, that they have been victims of entrapment as a result of the decoy operation?

Mr. Voelker. I never heard the question raised, other than academically, when we get into a discussion on decoy. When I give you an example of the effectiveness of the unit, of the robbery arrests made in 1972, of those cases disposed of to date, 90 percent have resulted in conviction. Many of those convictions—excuse me, have resulted in imprisonment. I have not heard any defendant raise the question of entrapment.

Mr. LYNCH. In regard to the success rate, I understand you have some statistics here. Would you be good enough to go over them?

Mr. VOELKER. Yes, I do. I would be happy to.

I think I would first like to show you what the anticrime investment is in the city of New York. Throughout the city's 72 precincts, there are approximately 800 men assigned to anticrime. Added to the 200 men at the central unit, we are speaking of a 1,000-man investment, which in a department the size of New York's represents slightly less than 3⅓ percent.

Mr. RANGEL. Chief, approximately what percentage of that 1,000 total is on duty at any given time?

Mr. VOELKER. Somewhere between 50 and 60 percent during evening hours, because the duty charts are structured to strongly favor the evening hours, the hours of the highest incidence of crime.

Mr. RANGEL. In reference to the 8- or 10- or 12-hour shifts, and vacation and sick time, notwithstanding the fact that you lean toward the hours where you have the highest criminal activity, I was wondering whether or not we should expect a drastic reduction in the 1,000-man figure that you use for the anticrime manpower, as we expect to find when you talk about your general police statistics, on duty at any given time.

Mr. VOELKER. I would say the figure is comparable. I would say between 50 and 55 percent would be on duty.

Mr. RANGEL. You would say between 6 p.m. and 2 a.m., that we should believe 500 anticrime officers are actively on duty?

Mr. VOELKER. As an educated guess, sir. It might be less, but that would be my educated guess.

Mr. RANGEL. We couldn't guess like that if we were talking about the number of people assigned to a precinct. I don't know what the figure is, but it certainly would be nowhere near 50 percent.

Mr. VOELKER. No, the coverage is different. I can give you an example. The men at citywide have 6-day duty charts. The 2 last days being days, also, and the first 3 days being evenings. So half of their duty day is evening. So we subtract some of that for the court time and we might be in the vicinity of 40 percent would be on patrol.

Mr. MURPHY. Chief, may I interrupt? You say 72 precincts. You have 800 men in there and that is a little over 8 a precinct; right?

Mr. VOELKER. It varies, sir. It is quite a spread between what one police precinct considered "quiet" may feel is an anticrime team and what the "high-experienced" precinct might feel.

Commissioner MURPHY. Ten or eleven: 72 into 800.

Mr. MURPHY. How many people would you say comprised a precinct in New York, total population living in the precinct?

Commissioner MURPHY. Population per precinct is 110,000 or 120,000 on the average. But there is a wide range there from as low as 30,000 to close to 200,000.

Mr. VOELKER. I think when we are talking in terms of the size of the investment, that some of the next statistics may shed some light on that. Because we are now talking about officers who do not have the broad range of responsibilities that all policemen have. They don't have to answer the calls for the disorderly boys, or barking dogs, or family disputes, or minor accidents, or injuries. These offi-

cers are involved in what I consider in my mind, pure, distilled, anti-street-crime work.

Mr. CAWLEY. If I may, just for a moment, I am sure we will touch on this later, but the 800 men assigned to the precinct level, consistent with the decentralization of authority concept Mr. Murphy put in when he first came aboard, the precinct commander makes a lot of the judgments as to how he will use his people and when he will use them. So there is a wide variety of ways in which the precinct commander will assign the percentage that he selects to put into this type work.

Mr. VOELKER. I think this chart here [indicating] will give you some indication of what the anticrime forces which are doing only anticrime work are able to do.

In the four crime categories, which I think we would agree are the heart of violent street crime, they have effected the percent of arrest indicated here, this being the percent of all arrest effected by the entire department. It averages in around some 22 percent and they are responsible for 23 percent of all arrests in these four crime categories, as well as 22 percent of all felonies and 16 percent of all arrests effected in the city.

Mr. LYNCH. Chief, you indicated they had a high rate of conviction for felony arrests. Of the 750 robbery arrests made by citywide anticrime patrolmen, how many were in fact sent to court during 1972? Do you have any idea?

Mr. VOELKER. I am sorry, I don't have figures for other than the central unit.

Mr. LYNCH. Could you supply those figures to us later? Could you send those to us?

Mr. VOELKER. Yes, sir. I will make every attempt to.

[The information referred to, had not been received at time of printing.]

Chairman PEPPER. Would your same percentage of arrest apply to murder, rape, and aggravated assault?

Mr. VOELKER. I don't think so, sir. These, I feel, are the crimes that the anticrime has focus upon. These are the stranger-to-stranger crimes. The crime categories you mentioned, sir, I don't believe these are in the category of stranger to stranger, although they well may be.

The next page on the chart is just an indication of what happened to these same crime categories during 1972. Since there were many programs in effect in the department, I make no correlation, other than to show in those crime categories that there was a reduction of crime.

Mr. RANGEL. Chief, arrest statistics are really just one indication of the effectiveness of the squad. You have to agree, every year, less and less people are complaining about crime being committed, for other reasons.

Mr. VOELKER. I don't know. In my own mind, I think the number of complaints is reflective of the total number of crimes, although they may not be the same numerically. I think if you see a decrease in reported crimes, we are talking about a decrease in actual crimes.

Mr. RANGEL. I think if you would check with the members of the police force—and there are a large number that go to the community meetings—you will find more and more people believe it is less and less important to report crimes committed against them. Given this

factor, which really has not been assured, I hate for you to stress the good work of your division based on the number of complaints received.

Mr. VOELKER. No; I don't intend to. I would like to show you some other factors which I consider more important.

Commissioner MURPHY. Congressman, I can't let this go by. I think since we are talking about crime statistics, maybe we ought to put some facts on the table. I believe crime reporting in New York City today is the most honest, accurate, crime reporting New York City has ever had.

I admit that crime reporting is not an exact science. I would not want to talk about crime reporting in other cities, especially Philadelphia. But in New York City——

Mr. RANGEL. Do we understand what we are talking about, Commissioner? I am not claiming that you don't accurately report what you have. I am saying, and you have been to enough community meetings to know this yourself, that more and more people believe it is just not worthwhile to report crimes. They are not reporting. I know that in the house where I live there have been in the last 2 years, a half-dozen burglaries. After each incident I have asked the question, "has a report been made to the precinct," and in each instance the answer has been "no."

So I had to initiate 2 or 3 days later, the report, even though I recognized that had it been made earlier, the police would have had a greater chance to solve the case.

Mr. STEIGER. Would the gentleman yield?

Mr. RANGEL. Yes.

Mr. STEIGER. I think the gentleman has raised a very, very important question, and I know, Commissioner, you recognize it from your service here in Washington. Not only are people not reporting crimes because they don't feel it is worthwhile, but at least in Washington, I know, there is an even greater factor of fear of reprisal by the accused.

As to whether the reluctance to report a crime is on the increase or not, I agree with Mr. Rangel. I don't think any of us question the accuracy of your report. It would seem logical to assume if the complaints are down, probably the overall crime is down.

Whether the percentages conform exactly or not, I don't think is important, but I think the fear of the victim, who is so intimidated that he is reluctant to report the crime, is something we probably ought to address ourselves to.

Commissioner MURPHY. My response to that, Congressman, I couldn't agree with you more. I think the National Crime Commission, in 1967, pointed out that many people don't report crimes for a variety of reasons. They have no hope of the crime being solved.

I am well aware, Congressman, of many people, and tragically many in our district perhaps more so than other parts of the city, have a sense of frustration.

Mr. RANGEL. I would like to add, Commissioner, that because of your attempts to change the image of the precinct and change the image of the policeman to the point of his being regarded as a part of the community and the community is encouraged to become a partner in fighting against crime, progress has been made. I remember when people in my community would not have walked in that precinct for

any reason, because the precinct was always associated in the minds of people with wrongdoing and insensitivity. Because of the things you have done, I hope that perhaps we can encourage people to make complaints, even though it will take some time to change the general cynicism about what is going to happen.

So I am not taking issue with the accuracy of your reports, I am just saying that I don't think it really warrants such attractive displays, because there are more and more people saying, "To hell with it, we just hope things become better."

Commissioner MURPHY. That is what is frustrating. If that is accurate, that the reporting is getting worse each year, and it may be right——

Mr. RANGEL. I am not going to give you an example, but during the break—letters I have written to you, where people, elderly people, have written to me after filing a complaint and I know darned well, God forbid something happens to them again, they are not going to complain. To be victimized by crime is considered now as a way of life.

Commissioner MURPHY. I certainly agree that this has been a problem. Whether it is worsening, I am not sure, but certainly, we ought to have better crime reporting in the United States, not only in New York City, but nationally. We ought to have better crime reporting because the system is subject to error and, tragically, manipulation as well.

I think we should be concerned about having the most acccurate crime reporting possible, so the police will know how to address it. There are many weaknesses in the system. Whether it is getting worse, I am not sure. We are trying awfully hard to make our system as good as we can make it.

Mr. RANGEL. But you do believe this is one of your more successful projects, the undercover?

Commissioner MURPHY. Oh, yes.

Mr. KEATING. Would the gentleman yield for just one observation? I want to congratulate the gentleman from New York for his comments that people do not report crime, not to the police division, not to the law enforcement agencies. Individuals in my district—I don't have anything to back it up—but my impression in communicating with them is their attitude of "What's the use?"

I think it is a very important point Mr. Rangel brings up. I say we now have at least three districts that are very diverse, that are making the same representation, and I think it is an extremely vital part of the total law enforcement problem.

I think with the reverses you have had and some rape conviction cases, I suspect rape may be one of the worst crimes involved in nonreporting at the moment, because of what the girl has to go through, and the very difficulties you have had in securing convictions.

I was a little surprised when the gentleman referred to a stranger-to-stranger crime and didn't include rape. I thought surely that would fit that category.

But I think that is a very serious element that we have. Again, I congratulate Mr. Rangel.

Chairman PEPPER. Will you go ahead, Mr. Voelker.

Mr. VOELKER. Thank you, Mr. Chairman.

I might just comment that I am in total agreement here, because without the basic source document, the crime complainant, there can be no tactical response to those problems. There can be no identifying of high crime trends and high crime patterns.

Rather than stand on these, which was not my intention at all, I would just like to cite the 1972 achievement record of the unit I command, the citywide anticrime section.

With the complement of 200 male police officers and 6 female police officers, this unit effected, in 1972, 3,602 arrests. And I am sure we are all aware, raw arrest statistics can also be misleading. But I think when we further discuss and comment on the fact that of these total arrests, 83 percent were for felonies, I think they now become more meaningful. I am able to tell you of those arrests that approximately 750 were for robbery, for grand larceny from the person, which are the two penal law terms that encompass the citizen term "mugging."

Among those arrests were 540 for guns; and of the arrests disposed of to date in all categories, 73 percent have resulted in conviction. Of the robbery cases disposed of, 90 percent have resulted in conviction. I think this is what I would rather stand upon than the other, which was just shown to indicate there was a decrease in reported crime in the same categories where this emphasis and focus has been placed.

When we look for our anticrime man, we look for a man who is interested, enthusiastic, is mature, has good judgment, and we try to measure in advance that most difficult thing to measure, integrity. These 200 officers in 1972 effected 50 bribery arrests; representing less than 1 percent of the department, they effected 9 percent of the bribery arrests.

I think this is a comment upon the integrity level of the unit.

To talk about anticrime is one thing. I think it is much more clarifying if I would show you two anticrime officers, the way they normally work on the street. I and they will be very pleased to answer any questions you may have.

Mr. LYNCH. Before you do that, Chief, I wonder, certainly the questions raised by the Congressmen are very pertinent. I suppose one way that one increases public confidence about a police department is to be able to advertise, if you will, the number of convictions had.

So, I simply would like to reiterate and stress that if you could supply us with data for our final record, as to the number, as well as the percentage, of those robbery cases for 1972, it would be most helpful.

Mr. VOELKER. Fine, sir.

[The information requested was not received.]

Mr. LYNCH. Before you introduce your patrolmen who are here today, I wonder if you could explain to us how you deploy the citywide anticrime patrolmen around the city. What judgments are made in deploying those men? How do you do it?

Mr. VOELKER. We take a statistical overview of the entire city. Each precinct commander is now responding to his problems. I consider us a civilian-clothes overlay. We look at the total crime picture and see where the areas of high incidence are.

We then meet with the local commander and his staff and he finds for himself, if you will, the information. My staff will say to him, "I see your robberies are up." He will say, "They are." And on Lennox

Avenue, between 52d and 58th on the West Side, between 8 and 11 p.m., and the predominant team is two males and a predominant victim, if he has this information, he will furnish it to us. We then tailor our assignments in response to the identified crime.

Mr. LYNCH. To what extent do you use them as a saturation force? Would you at any one time be sending 100 anticrime unit personnel into a given sector of the city?

Mr. VOELKER. We have attempted saturations, not of that size. A saturation of possibly 20 or 30 men, which is a lot of civilian-clothed police officers in a precinct.

Mr. LYNCH. What are the results of that kind of saturation work then?

Mr. VOELKER. I would have to say, in my mind, it is too early to make a firm assessment, but I see this has the potential for possibly turning crime statistics.

Mr. LYNCH. I wonder if you could introduce your two anticrime unit patrolmen to the panel and ask if they would take a seat.

Mr. VOELKER. Patrolman Leroy Callier, would you step up, and Patrolman Carl Garritani?

Mr. LYNCH. I wonder if you gentlemen would please tell the members of this panel how long you have been assigned to the anticrime unit and tell us what you do in the normal course of your duties?

Statement of Carl Garritani

Mr. GARRITANI. I have been assigned to the citywide anticrime unit for approximately 16 months. My duties consist of daily going into areas to which I am assigned, trying to blend or decoy, depending on the circumstances in that area.

Mr. LYNCH. How long have you been a New York City patrolman?

Mr. GARRITANI. Four years.

Mr. LYNCH. How many arrests have you made since you have been a member of the city anticrime unit?

Mr. GARRITANI. I, personally, have made approximately 20 arrests in the last 16 months and assisted in about 40 other arrests.

Mr. LYNCH. Would that be considered a high arrest rate?

Mr. GARRITANI. It might be slightly above the average.

Mr. LYNCH. How would that compare with the number of arrests a uniformed patrolman might effect in that same period of time?

Mr. GARRITANI. In the same category of crime, I would say it would be higher simply because we have greater opportunity to make the high-degree felony arrest that he does not have. Numberwise, it might not be significantly different than active uniformed men.

Mr. LYNCH. How were you selected as a patrolman for this unit?

Mr. GARRITANI. I was interviewed. I submitted an application to my precinct commander who ruled that I would be eligible, depending on my activity in my particular precinct. He then put in my name to the citywide anticrime section. I was called down and interviewed, thoroughly screened, and subsequently selected.

Mr. LYNCH. What kind of training did you undergo prior to going in the street as an undercover patrolman?

Mr. GARRITANI. There was 1 week of formal training and many many weeks of on-the-job training.

Mr. LYNCH. Would you tell us a little bit about that formal training, sir?

Mr. GARRITANI. Yes. We spent 1 week in the police academy. We were spoken to by members of our department specializing in disguise work, undercover work, plain clothes activity, hand-to-hand combat, and administrative recordkeeping and report taking.

Statement of Leroy Callier

Mr. LYNCH. Patrolman Callier, would you tell us how long you have been a member of the city anticrime unit?

Mr. CALLIER. I have been a member of the city anticrime section for approximately 1½ years. Prior to that, I was in the tactical patrol force for approximately 2 years.

Mr. LYNCH. How many arrests have you made?

Mr. CALLIER. For the entire time I have been a police officer, I have effected 177 arrests.

Mr. LYNCH. How many of those came since you have been a member of the citywide anticrime section?

Mr. CALLIER. 44.

Mr. LYNCH. How many felony?

Mr. CALLIER. Thirty-eight of the forty-four were felony arrests.

Mr. LYNCH. How many of the 38 were for robbery?

Mr. CALLIER. Approximately 20.

Mr. LYNCH. You spent how long as a uniformed patrolman before joining this section?

Mr. CALLIER. 2½ years.

Mr. LYNCH. What is your judgment, as a street-level policeman, as to the effectiveness of this kind of policing?

Mr. CALLIER. Well, we were able to blend in the area more readily and we are able to get right on top of a situation when there might be one that is imminent. Also, in some cases where a complainant might be reluctant to complain, we are right there, which we, in many cases, take the complainant to the precinct, process the papers, et cetera. Also, in many cases, we pick up the complainant and take him to court, which affords more safety for them, and a little confidence.

Mr. LYNCH. Is this kind of policing more dangerous for you, personally, than wearing a regular uniform?

Mr. CALLIER. Well, for any police officer, I feel, out in the streets, it is dangerous. But in many cases, we try and have the crime perpetrated upon ourselves rather than the victim.

Mr. RANGEL. I would like to follow up on that point, because it seems to me that you are being very modest, because you "blend" too well in certain areas.

It just seems to me, you might have a whole lot of explaining to do as you try to effect an arrest, if some of your brother officers are not entirely familiar with your identification. You don't find that any problem at all?

Mr. VOELKER. Could I respond to that?

Mr. RANGEL. Yes.

Mr. VOELKER. We do have a system that provides identification between nonuniformed police officers and uniformed police officers. We found it to be very effective. I really don't think we want it highly publicized. It is known throughout the police community; it is known

throughout the police community within the city. We have a system that we can change on a day-by-day basis, that permits identification between and among the officers.

Mr. RANGEL. My question is a serious one, because of a lot of things that are happening in cities throughout these United States.

Many black officers off duty, especially if they live or work around my community, have to be very careful in how they attempt to effect an arrest, or to show they have a pistol, for fear some brother officers might overreact. That is a problem we have to deal with and it just seems to me in that outfit you might be more subject to well-intentioned attacks by your brother officers.

But certainly, in the middle of the night, between 6 p.m. and 2 a.m., you have to think rather fast to get that code out, if the perpetrator looked better off than you did, and a brother officer was coming, trying to decide which one was apprehending whom.

Mr. CALLIER. Normally, with myself working with a team of three, and one of us usually stays back in case police officers are responding, to let them know that there is a black police officer at the scene and they will usually give them the clothes I have on, the color of the coat, and so forth.

Mr. RANGEL. But you do dress more discretely when you are not on duty?

Mr. CALLIER. Yes.

Mr. LYNCH. Patrolman Callier, in that regard, I wonder if you, or perhaps Chief Voelker, could tell us how many members of this unit have been wounded in line of duty during the past year? Do you have those figures?

Mr. VOELKER. None by gunshot. There has been one man stabbed, although not seriously, this year. There have been many officers who have been punched and struck with various weapons and knocked to the ground and kicked.

As far as the potential for danger, I think there is a considerable potential for danger in this kind of an operation. I think we have addressed it in advance. I think the fact that we do have a system of identification, that we do operate primarily in three-man teams, the men receive extensive training, all indicate an awareness of this danger. It is very dangerous. I think providence must have intervened, because we have not had any serious injuries.

Mr. LYNCH. In other cities—one city in particular—operations similar to this one have met with a good deal of criticism because it appears that a high rate of official violence has occurred.

Commissioner Murphy, I wonder if you could respond and tell us whether, in the course of operating this unit, patrolmen are engaged in more shootouts, more acts of violence, than would be the normal case in police operations?

Commissioner MURPHY. I think, as Chief Voelker points out, the mission of the unit is such that the men are exposed to danger on almost every mission, but their restraint, the use of force by the officers in the citywide anticrime unit has both been commendable, and the use of violence, legal violence, has been extremely limited.

We are proud of that. We really do not have even what I could describe as a pattern of complaints that the unit uses force excessively, and I think Chief Voelker has pointed out what a good record we have had, even for the people in the unit.

So we are very pleased with the restraint, and this is something we constantly stress, to avoid the use of force and especially weapons, if at all possible, even to the extent of retreating or devising a new strategy. Of course, we don't teach the men to lose a criminal who has committed a violent crime, certainly. But restraint is something we stress, day after day, and I think Chief Voelker's outstanding leadership has been a factor in this regard.

Mr. RANGEL. Chief, would your response be the same in connection with the tactical patrol force?

Commissioner MURPHY. Congressman, I am proud of the restraint of the New York City police officers, generally. The work of the tactical patrol force, again, is unique and unlike—incidentally, we have significantly reduced the size of the tactical patrol force and one of the ways in which this unit was formed was to reduce that unit.

They are another unit I am very proud of. They work under very difficult circumstances, especially because they move from precinct to precinct, night after night. We are all concerned. I think all of us at this table understand that that is not the ideal way for the uniformed police officer to function.

The ideal way is for him to go into the precinct, into the community, to introduce himself, to be identified, and to be supported and accepted by the community as a police officer they know.

The mission of the tactical police patrol force, unfortunately, moving about the city to handle crime control and any incident that has the potential for disorder, that mission is such that they are not known and they are stranger policemen to a certain extent, and this results in their using more force, I would say—and I don't have data with me—than the ordinarily uniformed police officer.

Mr. RANGEL. Commissioner, nobody is more unknown to the community than this outstanding outfit we are talking about this morning. How would the mobility of the tactical patrol force allow them to use more restraint or less restraint than other police officers?

Commissioner MURPHY. Because the missions are different. If we have a crowd, if there are demonstrations, or picketing, or serious disaster, or any kind of minor disorder, the tactical patrol force is the unit we send in to deal with crowd control and to deal with tensions of crowds, which is a very different mission, not to take anything away from these officers, and at least one of them has served in the tactical patrol force with distinction.

I think that other mission does put them in a different position. They are also required, the tactical patrol force now, to deal with conditions such as large crowds congregating on street corners for one reason or another. They may have to be used to help move the crowd along. We emphasize community relations and the patient approach, and I think they do an outstanding job in that regard. They do, because of their mission, meet more incidents that may require the use of force.

Mr. RANGEL. But you do believe they are necessary, more so than the local police precinct, where the tensions are building up, where one might know the captain, et cetera?

Commissioner MURPHY. Congressman, my own view of it is I wish we didn't have to have any uniformed police officers, other than those permanently assigned to a precinct. Because I strongly believe in the value of the police officer being known. That is the basic concept of

our neighborhood police team approach, and as you know, we even have new resident police officers.

They are real heroes in my book because they try to police the neighborhood where they live, and that is not an easy mission because of all that is involved, and residents coming to them with their complaints and bothering them 24 hours a day, and so forth.

We have reduced the size of both our tactical patrol force and our special event squad, because Chief Cawley and I both believe strongly in the neighborhood policeman, whether he is on the team or just one of the precinct officers.

But I am not at the point where I feel we can do away with our tactical patrol force yet. I wish the problems of crowd control and the potential for disorder were so low that we felt we didn't need any.

Mr. RANGEL. What is the size of that force now?

Mr. CAWLEY. Approximately 40 in the tactical patrol and about 25 or 35 in the special event squad. A combined total of 75.

Mr. RANGEL. What about the PEP squad? I forgot what the letters stand for.

Commissioner MURPHY. Preventive enforcement patrol.

Mr. RANGEL. Are they still in operation?

Mr. CAWLEY. We have decentralized that down to 28 and 32. I think there are units of 10 in each of those 2 precincts. At one time, as you know, we operated from the moral level. We brought it back into the community where we thought it would be more effective.

Mr. RANGEL. So the total strike force of the PEP is 20?

Mr. CAWLEY. I believe at this time it is 20; 10 in each of the 2 precincts.

I would also like to make this point, if I may. In a recent report from Chief Voelker, he indicated that during 1972 there were approximately, at least an estimated, 10,000 contacts with the citizens of New York City, resulting in a total of 9 complaints about the actions of our police officers in the citywide anticrime section.

Mr. STEIGER. I wanted to ask Mr. Callier, how long are they able to stay in a given area without calling your cover, and how will this exposure affect your future cover work? Either one of you gentlemen who wishes to respond.

Mr. CALLIER. That depends on the type of operation we are having. If I feel that the way I am dressed now is actually blown, I will either switch coats with my partners, or I will carry a wig and put it on.

Mr. STEIGER. From your own experiences, do you find that the people you are anxious to apprehend are aware of the existence of your operation; is that correct?

Mr. CALLIER. No. In many cases, I have been approached by prospective muggers to team with them in order to mug another person.

Mr. STEIGER. Have you had the same experience?

Mr. GARRITANI. I found in some cases they are aware we are somewhere in the area, but they are not quite sure where we are. And if we follow what we feel might be a perpetrator long enough, he does commit the crime. It is a question of frustration he has to commit the crime, and when he knows to do it.

Mr. STEIGER. You are telling us then that staying under cover is not the problem the layman might think it is and you are not supported as greatly, at least, as I would assume.

Mr. VOELKER. I wonder if I might respond to that?

Mr. STEIGER. Certainly.

Mr. VOELKER. I think our two objectives, we have a short-range objective—we are looking to take this relatively invisible policeman and putting him where the crime is most likely to occur. He is going to get closer to the crime scene, hopefully. He will make a better observation, a high-quality arrest, and enhance the chance of conviction.

In the long range, I think we want to sow the seeds of uncertainty in the minds of the street criminal as to just who the police officer may be. He is certainly not only the man in blue; he may be any of those we described before—the taxidriver, the truckdriver, the old woman.

So I don't feel the exposure hurts these officers for that reason and for the reason that, be it notwithstanding, he could be an old woman tomorrow, but he could be anything, a cabdriver, a student. He is liable to be in the north end of Manhattan tonight and the south end of the Bronx tomorrow.

Mr. STEIGER. That was my question. You gentlemen are in the city-wide end of 200. Do you know from talking to your brother undercover officers in the precinct if they have had to move around because they are inclined to be spotted by the criminal element within the precinct?

Mr. CALLIER. Because of the closeness of the contact we have between teams, we are able to, if one team feels they are actually blown, their cover is blown, what we do is get in touch with another team and have them pick up where we left off.

Mr. GARRITANI. We had an incident like that last week, which points it out pretty vividly, and I think we can thank the price of meat for being able to make that arrest.

One of the teams spotted what they thought were several youths breaking into a closed meat market. It had a screen in the front door and apparently they were working on a lock. But they also felt the young fellows may have them made out as police officers. So they called for another unit, and myself and my partner happened to be nearby, and with the benefit of binoculars we stayed a block and a half away and watched the group; and we enabled the other unit to drive away and let the perpetrators see them drive away, and their fears were dispelled and they continued to work on the lock, break in the meat market, and we wound up getting six arrests out of that.

Mr. LYNCH. I wonder if you can tell us what kind of automobiles you use and what kind of communications equipment you carry.

Mr. GARRITANI. We have several makes of late model cars we use, non-police-type automobiles. We have our own van walkie-talkie system for communications. We have step-vans, we have telephone company trucks, Yellow Cabs, Gypsy Cabs, and a great assortment of unmarked police cars, but totally nonrelated police vehicles.

Mr. LYNCH. These then are not the standard kind of unmarked police cars?

Mr. GARRITANI. That is correct. They would be just like any other car on the street.

Mr. VOELKER. If I can elaborate on that. We were very fortunate to receive slightly over one-half million dollars in Federal grants in the latter part of 1971, which was used to purchase, among other

things, 83 sedans, some step-vans, surveillance truck, binoculars, telescopes, cameras, some protective equipment, and some theatrical makeup which, believe it or not, is quite valuable in this kind of an operation, to give the man the opportunity to change his appearance.

But the sedans, as you alluded to, were not the standard, heavy-duty, four-door, dark blue or black that in our minds are known to child and criminal alike. We have Torinos, LeManses, Skylarks, golds, reds, hardtops, whitewalls, chrome trim; and none at all with the look of police vehicles.

Our communications system is UHF system, rather sophisticated, which permits an anticrime man with a hand-held walkie-talkie to talk to an anticrime man anywhere else in the city.

Mr. LYNCH. I believe you have asked for an additional amount of Federal funds for this year; is that correct?

Mr. VOELKER. We have, sir. The amount is $735,000. It has been approved. Among other things, it will be used to purchase 140 vehicles, the vast majority of which will go on to the precinct teams. Among these are sedans, econovans, and yellow medallion taxis, which are highly effective as surveillance vehicles.

Mr. LYNCH. Is that LEAA support?

Mr. VOELKER. Yes, it is.

Mr. LYNCH. Do you use LEAA money for anything other than equipment in this program? In other words, the salaries are regular N.Y.P.D. salaries?

Mr. VOELKER. Yes, sir; that the matching funds for the cities are in salaries. Just for, basically, the equipment I mentioned.

Mr. LYNCH. I would like to address one question to you, Chief Cawley. One of the values, it would seem, of a program like this is to create in the minds of so-called street criminals an apprehension that people other than uniformed people might be policing; and in that regard, does the department have a policy about publicizing this program and, if so, what is the policy?

Mr. CAWLEY. Yes; we have publicized rather extensively the existence of both the citywide anticrime section, as well as the 800 men assigned to the precinct level. There has been considerable newspaper coverage, television coverage, national magazine coverage. We go out of our way to let the wrongdoer, the criminal in New York City, know that if he is on the street and contemplating a mugging, he may be mugging a police officer. I think it has been very successful.

Mr. LYNCH. Is there any way, as police administrators, you can make a judgment, not just on the number of arrests which have been made by a unit such as this, but as to the possible deterrent effect it might have?

Mr. CAWLEY. Measuring deterrent effect is exceedingly difficult. It is something, I guess, we have been chasing for many years. It has proved to be very elusive.

I think the combination, though, of the uniformed patrolman, married, together with the civilian clothes—uniformed patrolmen coupled with the detective investigative capability, all three working together, blending as a team, must have a positive effect, but I can't give an estimate as to what.

Mr. BRASCO. Would counsel yield at that point?

I wanted to welcome you, Commissioner, and your staff, and say that I apologize for being late but my flight this morning was delayed.

In any event, in a city of millions of frustrated people with the disabilities you have to work with, I want to say I believe your department has done a fine job.

Mr. Rangel. I might add, Commissioner, that proves he is not running for mayor; right?

Mr. Brasco. You are right, Charlie. Commenting on the deterrent effect of the undercover operation in a portion of the district I represent, we have a housing development that had a murder in a local recreation center and many acts of violence around the development. As a result, the New York City housing police stationed a similar force in the area, and many arrests were made within the first 2 days of their being in the vicinity.

I can tell you that crime dropped in the area, where heretofore it had been abnormally high.

In that controlled setting of the housing development, the deterrent effect was most effective, and I think it is an excellent way to fight crime; and the psychological effect, beyond that, is important.

Commissioner Murphy. I am delighted to hear you say that, Congressman. I said earlier, Chief Cawley is really the initiator of the citywide program. I think he is modest.

I am completely convinced two factors—shifting manpower from after midnight to the before midnight hour and authorizing precinct commanders to use 10 percent of their personnel in civilian clothes, and the creation of the citywide unit—have had a tremendous effect.

I agree with Chief Crawley that it is very difficult to accomplish this, but I have heard from people in the narcotics treatment side of this total problem of crime that addicts coming in to treatment have indicated that the streets aren't as easy to work as they were. We don't want to take credit and say we are pushing addicts into treatment programs, but it is possible that is having that effect. And I think the more we can do, what you just described, to make a housing project or an area of the city safer, I think we are accomplishing something.

Mr. Brasco. On that same subject matter, during the course of the narcotics hearings which we had in the middle of last year, we had several undercover people from your department who testified before this committee, and I would say that the same thing held true there, where they were able to get into the high schools to effect arrests.

As a result of the overall testimony, it was shown to be a most positive weapon and as a result the Board of Education of the city of New York took some steps in the direction of attempting to provide more safety in the schools by first recognizing there was a problem as you people pointed out.

Mr. Lynch. Mr. Commissioner, I wonder if you could tell us whether or not it would be your judgment that this program has now become institutionalized within your department and, if so, have you made any plans to continue and/or expand its operation?

Commissioner Murphy. Well, I have very strong feelings it has been a most successful program and I think a citywide unit as institutionalized now, and we are in the midst of very active discussion at the moment for enlarging the citywide anticrime program. The dilemma is where to draw the people from, but I am currently inclined very much toward enlargement.

Mr. Rangel. Mr. Counsel, may I inquire?

Chief, there is no question that this section of your force has been widely accepted in the community and generally believed to be successful, and, certainly, your conviction record substantiated that. Counsel asked whether or not you intend to institutionalize it and I thought your answer was going to be based on a consideration of manpower.

Perhaps Chief Cawley could explain once again the problem we in the community have in connection with deploying the men that you have with existing budgetary restrictions. It is hard to determine how much of a deterrent the foot patrolmen are, but we continue to have the same problem—and I assume other cities have it—where the layman and the person in the street say they wants more foot patrolmen. The geographic area has not increased the population has increased and without taking away from the good work being done by these men, they are not, in fact, deterrents because of lack of uniforms.

The answer has been that you can cover more ground with the squad car than the foot patrolman can. Is it still your belief the visibility of the foot patrolman does not outweigh the flexibility of the squad car?

Mr. Cawley. In order to be responsive to the tremendous service needs of the community, Congressman, I think the radio car is the most economical and effective way of providing the highest level of service. If we could afford it, we would certainly like to have more men on foot patrol. We do not have that luxury at the moment.

We have tried to take both sides of the street, though. We have instituted a number of programs and one of which comes to mind is the Park, walk, and talk concept.

We have tried to require officers during particular times of their tour of duty to get out of the car, to walk on the streets of the community, and to meet with the business people.

We have put in a program I call, responsive patrol. That program is designed to deal with what I call "unstructured time." Only about 30 percent of a uniformed patrolmen's time is consumed in mandated services, so he has quite a bit of time that is available to us to direct his energies and suggest where he could better spend that time.

So we have tried, in that part of his time, to get him to leave the radio car, to get out and walk. But right now, we have been through an additional process. We are in the process of hiring more people. Hopefully, in the very near future, we will have additional personnel that we can consider how to best assign them and where to best assign them. But right now, I do believe the most effective way of using the resources that I have is to keep them assigned to radio multipatrol duty.

Mr. Rangel. This sounds like a breakthrough. Meaning, if more money was available and you had more manpower, you would consider more foot patrolmen rather than expansion of the radio car system?

Mr. Cawley. That will depend, of course, upon the analysis of the local needs on the part of the precinct commander. That, again, I go back to our setting in, the commissioner setting in, a concept of decentralization of duty. We have had each precinct commander to continually evaluate his problems, to come up with the best use of resources made available to him.

If the commanding officer of the precinct believes the best way of solving many of his problems would be to run on RMP planning——

Mr. Rangel. What is RMP?

Mr. CAWLEY. Radio motor patrol. And then the balance of those resources that are used in scooter patrol, foot patrol, we would encourage them to think through their own problems and suggest to us how to best use the people assigned to them.

Mr. RANGEL. Wouldn't more foot patrolmen want to be elevated to the squad cars? I don't know. But isn't that something like a better assignment than pounding the beat?

Mr. CAWLEY. No; I don't think it is necessarily viewed as a better assignment. I think, if the best place to use a police officer would be on the scooter or on the foot patrol assignment, that officer would not consider it to be a lesser assignment than one in a car. Cars are kept quite busy, as you know.

Mr. RANGEL. I won't get into that, the way they are kept busy, but it just seems to me you are asking a lot of the command if most of its men would want cars, and, heck, during the cold, bitter winters, it seems to me a car makes a heck of a lot of difference—whether you are in the street or in the car.

But that being what it is, are you saying that now the department is so decentralized that if you were voted more funds that the local precinct commanders would decide whether there would be more foot patrolmen or more radio cars?

Commissioner MURPHY. I would like to respond to that, Congressman. As you know, we have been in the job freeze in the city for about 3 years and that means we have suffered an attrition of well over 2,000 police officers and well over 1,000 civilian employees. So it is a kind of 10-percent attrition over 3 years.

When I was public safety director here in Washington, in 1968, for the first time in, I think 10 years, I brought the department up to quota of 3,100 officers. In Washington, D.C.

Now in Washington, there are 5,100 police officers, the last I heard. Those of us in the policing world, when we meet with the distinguished Chief Wilson in Washington, we say to him, "You are a lucky fellow; you have wall-to-wall cops."

In Washington, Chief Wilson is blessed with 6.5 policemen per 1,000 of population. We have less than four policemen per 1,000 of population in New York City. Congressman, I assure you, if we had five policemen per 1,000, we would have a lot more on foot patrol. If we had 6.5, we would have wall-to-wall cops in your district.

Mr. RANGEL. You deal with the population figure ratio to the police officer, and I assume that is the best way to do it. From a layman's point of view, however, while the population has expanded geographically, New York City has not increased, so that we could have the same number of policemen in any given area as we believe we used to have before the expansion of the squad car.

Commissioner MURPHY. Well, there are a number of other factors, Congressman. As a result of better working conditions, officers have longer vacations, more paid holidays, time for training. We don't really have available the same amount of street time per officer that we had a few years ago.

Another factor is the time lost in court. The number of times an officer must go back when he makes an arrest.

So the truth of the matter is—and I know Chief Cawley and I have both come under fire for shifting more on the basis of crime incidence

and that is what we have been doing, so that also there has been a net loss of manpower in your district, I believe, because we have had this serious loss citywide. The distribution of officers citywide, I believe, has improved for your district.

That is, the percentage of all of those available for precinct work has improved because in Totenville, for example, the merchants feel they don't have sufficient police protection. I think you know where Totenville is. It is true, we reduced the size of the force in Totenville and some other outlying precincts, trying to get a distribution more in accordance with the incidence of crime and the calls for service.

But I am sorry to say, because of the total attrition in the department, there has been a decrease from what you had some years ago.

Mr. RANGEL. I appreciate the scientific input you brought to the police department. No one can successfully argue against the proposition that you have increased the effective utilization of the force. But getting more policemen, really, is a political matter in a sense. I was the sponsor of the so-called fourth platoon bill in the New York State Legislature and I know the argument in State legislative bodies will not be scientific but will, in fact, be political in nature, as each legislator attempts to reflect the feeling of the people he represents.

So my real question is: notwithstanding your technical arguments on the utilization of manpower, to the layman, the foot patrolman represents a large part of the solution of the problem. I am asking you, Chief, what number of men do you need to enable you to reach that point where you have already used as much manpower for the radio squad car as you can, and then you can begin to assign the excess to what the people believe the solutions, from a layman's point of view, of having more visible evidence of police presence.

It seems to me from an emotional point of view, most people believe there is no substitute for the foot patrolman, whether it is for better police-community relations, or as a deterrent to crime. If, politically, we were to ask the State legislature for more money for more police, it would be embarrassing if you came up saying these additional men would be used for more radio cars.

Mr. CAWLEY. Again, I am not trying to avoid the question. I have to come back to the fact that there has been a 2,000-man attrition in the last few years.

Mr. RANGEL. We know what we have suffered and we know the difficulty with the New York City budget to bring you back up to standard manpower. But somewhere along the line, with all of the politicians talking, we have to find out how many men you think would be necessary to effectively patrol the streets of New York, and do everything that you want to do.

Chairman PEPPER. We will have a 10-minute recess.

[A brief recess was taken.]

Chairman PEPPER. The committee will come to order.

Gentlemen of the committee, I thought we would like the first presentation made and then we would ask questions.

Mr. LYNCH. I wonder if we could at this time call Lieutenant Hubert of the auto crime squad to explain to the committee what the function of that unit is, and what its success rate has been?

Statement of Frank Hubert

Mr. HUBERT. Good morning.

The auto crime unit is a uniform force. It works in marked and unmarked autos and the main thrust of the unit is the auto larceny problem.

Our command is citywide anticrime section and we are under the command of Chief Voelker. We patrol all areas of the city where the auto larceny problem is high and we respond there on, primarily, statistical analysis, although we will respond upon a request of a local precinct commander.

I was going to utilize the flip chart, but I see it is down. I guess the best way to reflect upon achievements of 1972, we have a complement of 64 field patrolmen. It represents 0.22 percent, or, better yet, one-fifth of 1 percent of the entire department.

It effected 1,758 arrests during the year 1972, of which 1,583 were for felonies. This figure represents 90 percent of the total arrest picture for this unit. It has effected 899 arrests for a grand larceny, auto. This represents 9.4 percent of all grand larceny auto arrests effected in the New York City Police Department.

Of our total arrests, over 1,200 are directly related to auto larcenies. In addition, the auto crime unit has effected 16 arrests for bribery, which reflects 3 percent of all bribery arrests in the city.

An additional function of our unit is that we will respond upon request to any precinct whereupon a precinct patrolman has what he believes to be on auto larceny and he is unable to identify the car or identify the documents involved in the car. We responded during 1972 on 552 occasions, resulting in 337 arrests resulting from the identification of the vehicle in question.

I think our most impressive figure is that we have recovered 2,078 stolen motor vehicles, with an estimated value of $2.6 million. We arrive at this figure by using the retail figure for the recovered vehicles; we deducted any damage on the vehicle; and then I again reduced this figure by 10 percent, to bring it as close as I could to the real value.

Chairman Pepper. Have you any figures on the age groups which are primarily responsible for auto thefts?

Mr. Hubert. It really doesn't lock in. We run the whole gamut. We have the professional thief. We have had one as old as 52 years old. And we moved down to the 40-year-old age bracket; 30-year-old age bracket. I would say, about the only answer I could give you in this particular area, that the joyriding, transportation thief would be the young individual.

As we go into a professional thief, where he is stealing the car for parts, or he is stealing the car for resale, we would go into a middle-age bracket, say, starting at 30 years old.

Chairman Pepper. Thank you.

Mr. Hubert. You are welcome.

Of these recovered vehicles which I just mentioned, 1,084 were recovered in arrest situations; 994 were recovered in nonarrest situations.

I don't contribute this dramatic decrease in grand larceny, auto, which was 21.6 for the year 1972, solely to the efforts of our unit. But I do feel the formation of this unit has filled a long-neglected void that existed between the detective bureau's auto squad, which primarily investigates major auto theft rings, and the uniform force, which lacked the knowledge and expertise to correctly identify an auto.

But it has proven, to me at least, that a limited number of highly motivated and trained men whose efforts are directed to, very specifically, a narrow area of the total crime picture, have caused a decrease in auto larcenies.

Along with the creation of the auto crime hearing in March of 1972, the patrol services bureau decided to further expand its program against auto-connected crimes, and into existence came the auto crime squad. Using as a cadre, men from the auto crime unit, eight patrolmen from each patrol precinct received 2 days of training in the auto crime field.

Upon completion, the patrolmen returned to their commands and were available to assist and train precinct personnel in the various crimes connected with auto theft.

As the value of this course became evident, it was expanded to include lieutenants, sergeants, and specialized units. Over 1,400 members of this department attended this course during 1972.

With a view toward providing a much-needed service to the public, we are currently engaged in developing a program where a specific day of the week—we are thinking of Saturdays, between 10 a.m. and 6 p.m. at this time—we would make our expertise available to the motoring public by having a location where anyone contemplating purchasing a used auto could have it inspected by our personnel to insure it is not a stolen vehicle.

We feel this would reduce the number of incidents where a person unknowingly purchases a stolen vehicle. A side effect of this program, we are hoping, is to curtail the auto thief's market for his goods.

We also had published in two major newspapers a list of warnings for the used-car buyer to follow in purchasing a used auto.

I feel that these combined endeavors, plus the awareness by other members of the department of the availability of willing expertise at their disposal, has made a significant contribution toward the reduction of auto larcenies in the city of New York during the year 1972.

I thank you for your time and attention.

Mr. Brasco. Lieutenant, I don't know whether it is your area of jurisdiction specifically, but one of the things that I find particularly distressing is in the area of stolen automobiles where those who would take them for transportation, joyriders, then leave them some place on the street.

Mr. Hubert. Yes, sir.

Mr. Brasco. If there is an automobile on someone's block for 2 or 3 days, and it hasn't been moved, and no one is familiar with the automobile, then I think the average citizen is aware enough to know that, at that point, it is probably a stolen automobile.

The car is not taken off the street and youngsters in the area start to strip the automobile, and that happens rather quickly. Obviously, two things happen: the fellow's automobile that might be in good shape other than just being taken for the joyride is now stripped beyond repair, many times burned; but particularly distressing is the fact that the youngsters who strip the cars wind up as defendants charged with either petty or grand larceny.

Does your department have the authority to integrate this removal with the department of sanitation, who I understand has some responsibility? Also, I understand that there is a contract given out

by the city through the police department to private tow operators who are suppose to take this automobile off the street.

Commissioner MURPHY. I am just going to say a word about that, Congressman. It is true that the department of sanitation has had a responsibility and the police department has had a responsibility, and private contractors are involved in taking away the junk cars. We don't have a perfect system yet, but I do believe there has been a marked improvement in the past year or two.

The problem is complicated. Some people, as you probably know, abandon cars on the streets. They will frequently take the license plates off. In other words, they won't pay the small fee to have the junkman take it off their hands.

I agree with you that, unfortunately, there have been examples, and too many of them, of a car in relatively good condition not recovered quickly enough, not taken in off the street, and it has been attacked and, in short order, is no longer a good car.

There have been some irregularities as well. I think we are improving, but we don't have the final answer. However, either Chief Cawley or the lieutenant will probably give you more specific information.

Mr. HUBERT. With reference to your question, you imply the youngster, upon taking a mirror from the car would be charged with the grand larceny of the car?

Mr. BRASCO. Not of the car but larceny with respect to taking parts. Obviously, when the owner of the car is found, and it is a stolen automobile, he is the complainant. I am not indicating any defense for the theft of parts from the auto, but it is a great temptation to take something from an abandoned automobile, particularly in poor neighborhoods.

There is just no way you can keep the kids away from that automobile when they know it has been sitting there 4 or 5 days, and it doesn't belong to anybody in the neighborhood. That is my point.

Mr. HUBERT. A lot of times, what happens is they find it cheaper when they wish to get rid of a vehicle to just leave it where it is, remove all of the identification and let the vehicle sit.

Initially, when the police patrolman responds, he checks to see whether logs exist on the particular vehicle. If it is a stolen vehicle, we can move it right away. If it is not stolen, it goes to the sanitation program on removal, which sometimes, unfortunately, takes 2, 3, 4, or more days.

But we have a problem storing the vehicles. In the pounds we have where we store the vehicles, space is at a premium at all times.

Mr. BRASCO. Could I ask one more question, Mr. Chairman?

In the same area, another disturbing situation I found when I was in the district attorney's office in Brooklyn was that when that police officer would apprehend someone in possession of a stolen automobile, he would lodge charges of grand larceny with respect to the stolen automobile, uninsured motor vehicle, unregistered vehicle, several charges with respect to traffic violations.

So that the police officer then is placed in a situation—which never made any sense to me and I communicated with the district attorney's offices about it and I tell you about it as it is in your area of jurisdiction—where that police officer now has got to go, if there is an indictment, to the supreme court with respect to the grand larceny of

the automobile. The misdemeanor charges are left to the criminal court of the city of New York, and then in Brooklyn, he has to go over to the courthouse on Pennsylvania Avenue with respect to the traffic violations.

I found in those cases, once it is tried and there is a conviction or a plea is obtained in the course of conviction, these things are taken into consideration by the judge in the supreme court; except that what is happening is it is costing so much time, effort, and money because the police officer is then running to the criminal courts, and running over to the Pennsylvania Avenue courthouse in Brooklyn. I have seen cases where a man has actually gone to prison and when he is let out, he finds out there is a warrant at the jailhouse waiting for him.

He is picked up and brought back and put into the mill again in the criminal courts to take care of the misdemeanor or other charges, the traffic violation, that arose out of one transaction.

It just seems to me a total waste of manpower and money that would have to be expended to keep that man in the system in three courts.

Mr. Crawley. Mr. Congressman, I would like to respond to that because much of what you said, the department has recognized. And I think one of the things we have done in the last 18 months or so is take a very hard look at the quality of arrests being made in the multiple auto situation as you just described.

We have instituted central booking facilities in the Bureau of Queens, Richmond, and last week in the Bronx, where the quality of arrests and the—well, almost the validity of the arrest, is it a necessary arrest, is very carefuly examined. And if it doesn't meet very high standards, we try to divert it from the system, into some other referral process, or on some occasions, with the concurrence of the district attorney, we will go the 343 route. You know what that is. So we are very concerned with that, recognized to be a problem; and I think we are dealing with it in a very ongoing sense.

Chairman Pepper. Could we move along, Mr. Lynch.

Mr. Lynch. Mr. Commissioner, it is our understanding then, and please correct me if I am wrong, that the auto crime unit functions under the general guidance of the citywide anticrime section and this adds another capability to that section?

Unless there are further questions in that regard, I wonder if you might introduce the young lady at the table and tell us what her assignment is in your department.

Commissioner Murphy. Thank you, Mr. Lynch.

With us is Lt. Julia Tucker, who commands the rape analysis investigation unit, which is a relatively new unit in the New York City Police Department. Lieutenant Tucker is also assisted by female detectives.

This unit has been created for a number of reasons. We were discussing earlier the problem of unreported crime, and those of us in police work have been aware for a number of years that one of the crimes that may be least reported is the crime of rape, for a variety of reasons.

The victim is embarrassed: the victim for a number of reasons may feel that it is a reflection on her in some way, the male police officers frequently have difficulty in obtaining the cooperation of the female

victim because the victim is embarrassed about describing the particular act involved.

Because we want to devote more attention to this very serious crime, we looked into some of the problems that exist in connection with the police department's approach to the problem, and came to the conclusion that it was worth experimenting, at least, with the use of female detectives for taking the reports, interviewing the victims, and doing the kind of analysis that would make us more effective in identifying and apprehending the violators.

Lieutenant Tucker has headed this unit for the past several months. She in one of our outstanding leaders in the department. I am very happy to have her with us today. She will describe some of the work of her unit.

Mr. Brasco. Mr. Chairman, if I might interrupt. At the moment, there is a quorum call going on. I am wondering whether or not we could take a 10-minute recess and then we can all hear the lieutenant?

Chairman Pepper. It is appropriate to take a recess so we can run over to answer the quorum call. We will be right back.

[A brief recess was taken.]

Chairman Pepper. The committee will come to order.

Statement of Julia Tucker

Mr. Lynch. Lieutenant Tucker, I wonder if at this time you could describe to the members of the committee exactly how it is that your unit functions within the department and what changes, if any, have been effected by the presence of your unit?

Miss Tucker. Well, first of all, I am sure many of you are aware of the unique problems involved in investigating rape cases. This is a very personal crime and that woman is very sensitive at the time of interview, and subsequently. She frequently is too embarrassed to even report the crime, and I think this was one of the paramount reasons the commissioner had in establishing the unit. That, coupled with the fact that the number of forceful rapes had gone up significantly and the clearance rate on rape is not, shall we say, as good as we would like it to be.

These were the main reasons for setting up the unit, which is composed solely of female detectives. First of all, we receive copies of all complaints made on forcible rape, forcible sodomy, and their attempts. We review these cases; we have them coded and keypunched into a computer in the hope that patterns will be established where perhaps an individual has raped more than one woman. This has been found to be true.

Most of the time, if a man rapes once, he will rape over and over again.

Now, once we have determined a pattern, my woman will go out and reinterview the victim and hope to obtain additional information which may have been lost by the interview with a male officer. We have been very successful in this regard. Generally, the women will indicate they were too embarrassed to tell a specific detail; and we have been fortunate enough to make several apprehensions based just on this type of information.

We also will take in complaints directly from a female. We have established a special telephone number—577–RAPE, in the hope that

women will remember it and if they have a problem, will call us and give us the details. Since the telephone number has been established, women have called. In fact, women have called from all over the country to demonstrate and to imply to us they were very pleased with the fact a unit such as this was established.

In addition to that, we also will go out whenever a male officer demonstrates or indicates to us that a female officer is needed. Many times during an investigation by a male officer, they will realize that perhaps they are not getting all of the details, and if a woman were present, the woman would feel more relaxed and then come up with something she may have left out.

In connection with the unit, we have also expanded the concept of specialization, and male officers are now selected and screened for their sensitivity and experience in this area, and work exclusively on rape. This and our unit, I think, will really be very effective. In fact, I know it will be effective.

In addition, in the future, with the assistance of the Police Foundation, we are hoping to perhaps find a model for exactly how to handle rape cases. There are many, many problems involved in handling rape. Hospitals, the courts—not the courts, actually, the law, is rather demanding—and certain evidence must be obtained and if proper training is not given to the detectives or the officers, and to the public themselves, much evidence is lost which then handicaps the investigation.

I think that is kind of a total of what we are doing and perhaps if you have any questions——

Mr. LYNCH. Is your unit funded by the Police Foundation?

Miss TUCKER. We have just received Police Foundation funding; yes.

Mr. LYNCH. What are those funds for?

Miss TUCKER. Initially, they will be for a research director and assistant and personnel to help us in the research, in finding the best way of handling rape cases, and also for various equipment.

We had hoped that perhaps, and we will, actually, have photographs of rapists on microfilm and my women will be able to go out into the field with portable viewers and let a woman see all the people that have been arrested for rape. Many times women are too embarrassed to even come down to headquarters to view these photographs, and I am quite sure many cases would be solved if this were possible; and it is now possible.

In addition to that, the women are trained in investigative techniques and when they go out on an interview they will lift fingerprints if there are any available and they will have composites made, using identity kits. Hopefully, with the foundation funding, we will get a new machine. It is called the montage machine—it is quite unique, actually. It is kind of an advance identity kit.

In this machine you will be able to take part of a photograph, perhaps a chin of an individual, or a nose, and put them all together; and you are able to see a clear picture, or at least have a very good picture of who you are looking for.

Much of the money will be going to equipment that will help us in our investigative techniques.

Mr. LYNCH. Since your unit was created, has there been an increase in the number of reported rapes within New York City?

Miss TUCKER. Yes, there has been. I would say approximately a 20-percent increase, which we were hoping for and anticipating. Because, of course, unless we get a clear picture of exactly how many rapes are being committed, we can never really deploy our people the way we should. I am hoping that more and more women will contact us. Because I don't feel it is actually there are more rapists: I think the same number of rapists are just raping more women.

Mr. LYNCH. To what do you attribute the increase in the number of reported rapes? Have you publicized the existence of your unit?

Miss TUCKER. Oh, yes; I have been on television several times, and in the newspapers. We have tried to reach community council meetings and various community groups, women's liberation groups: actually, as many people as I can possibly get hold of, in order to allow women and let women know that we are here to help them.

Mr. LYNCH. Lieutenant Tucker, several weeks ago you told some members of our investigatory staff that one of the functions of this unit would be to serve as a central intelligence data-gathering unit. I wonder if you could explain to the committee what you mean by that?

Miss TUCKER. As I mentioned before, all of the cases are coded. We have set up a special coding system and it goes into the complete physical description of the individual, the modus operandi, and anything else that is unique about the person.

Chairman PEPPER. Excuse me just a minute. We have another vote on the floor. We will have to take a recess so we can run over and vote.

Commissioner, I understand you have to leave at 1 o'clock?

Commissioner MURPHY. Yes, Mr. Chairman. I am sorry, but I must get back; but Chief Cawley will stay here and the other members of the department.

Chairman PEPPER. Will you be able to come back after lunch?

Commissioner MURPHY. I am sorry; I won't be able to.

Chairman PEPPER. Well, I will miss the vote. I want to ask the commissioner about a few things that could be done other than is being done now.

How much Federal aid have you received for the New York City Police Department?

Commissioner MURPHY. We have received approximately $10 million. That is my recollection, Mr. Chairman. We can get a precise figure for the record. Of course, we have a very large budget from city funds.

[The information referred to above was not received.]

Chairman PEPPER. About what percentage is that of the total expenditures that you make for the police department of New York?

Commissioner MURPHY. It would be less than 1 percent.

Chairman PEPPER. Let's just suppose that Congress would make available substantial additional funds and suppose you could get substantial additional funds from the city of New York. How would you employ those funds in order to further reduce crime in the city of New York?

Commissioner MURPHY. If we had large additional funds, Mr. Chairman, we would have many more officers in uniform in our precincts; we would probably increase this unit, which we are thinking of doing now; and we would put officers in any number of other assign-

ments. But we would have greater visible patrol if we had sufficient funding.

Chairman PEPPER. You, in your opening statement referred to the bottleneck, or the obstacle, of the prosecuting attorneys and the courts.

I saw in the Times a statement by District Attorney Monrola of the Bronx that if he didn't do anything but prosecute murder cases in the next year, it would take all of the time that he had. Would you think that might be true?

Commissioner MURPHY. A very small percentage, less than 5 percent of those indicted for felonies in his county, as I recall it, are brought to trial.

Chairman PEPPER. So he said, under the pressure that he bears, that he has to have plea bargaining in order to make any progress at all in the disposition of his court docket.

Commissioner MURPHY. Well, I agree with that; and I would never propose doing away with plea bargaining, Mr. Chairman. But I am not sure that 95 or 96 percent of the cases should be plea bargained.

Chairman PEPPER. If there were additional money, the prosecuting attorney area would also be one which would well be the subject of additional funding?

Commissioner MURPHY. Oh, yes. And, in New York City, we admittedly are permitting a greater share of the funds to go to the courts and prosecutors and corrections, rather than the police department, because that is where the need is greatest, I believe.

Chairman PEPPER. Do police officers feel such a degree of frustration in the disposition of cases because of the delay of the courts in disposing of the cases?

Commissioner MURPHY. Oh, yes. We have been frustrated because the courts are unable to hold enough trials to expedite the handling of serious cases, and they just don't have the capacity, it seems, to deal with the volume of work we take in.

Chairman PEPPER. In thinking about how we can further reduce crime, in addition to the excellent job you have done by these innovative procedures you are revealing here today, a great deal of additional help is needed in the area of the prosecuting attorney's offices and the area of the courts?

Commissioner MURPHY. Yes. I believe that.

Chairman PEPPER. The same thing applies to the area of corrections.

The Chief Justice of the United States, speaking in New York a year or 2 ago, stated that 75 percent of the people who are confined in our correctional institutions are returned within a relatively short time after release for having committed another crime.

Do you regard our correctional system today, with its inadequacies and imperfections, as being a serious contributor to the crime we have today?

Commissioner MURPHY. Yes; I do. I think we are not correcting people or helping them. I wouldn't certainly put all of the blame on the correctional institutions, but they don't have the funding to do many of the things they should be doing; and there are lots of problems about finding work for people when they leave institutions.

Chairman PEPPER. As I recall, when our committee went up to Attica, the Friday of the week in which the tragedy occurred, Governor Rockefeller said, "I know just as well as anybody that we need to improve and modernize the prison system of New York."

But he turned, I believe it was to Senator Dunn who, I believe, was chairman of the legislative committee on crime, and he said, "I believe it would cost $100 million." I believe the senator said perhaps $200 million to modernize completely the correctional system of New York.

You have your Attica, we have our Raiford in Florida, a great State prison, 50 or 100 percent overcrowded, out in the rural area, where there is no opportunity for halfway houses or job employment.

You would put great emphasis on improving the correctional system also. You police, no matter how good a job you do, can't do it all. You have to have the cooperation of these other units in the administration of the justice system.

Commissioner MURPHY. Definitely, Mr. Chairman.

Chairman PEPPER. How adequately would you say the public authority is able to deal with the drug problem in the city of New York? How adequate is the present treatment and rehabilitation program in respect to the drug addiction problem in relation to the crime you have in New York City?

Commissioner MURPHY. Well, during the past year or two we have seen a marked increase in the number of addicts being treated. There are now 53,000 addicts in treatment in New York City, and it may very well be this helps to explain the decrease in crime last year in New York, because addicts who are depending upon crime to support their habits commit a great amount of crime.

Chairman PEPPER. You say about 53,000 addicts are being treated?

Commissioner MURPHY. That is correct. Yes.

Chairman PEPPER. How many addicts do you estimate there are in the city of New York?

Commissioner MURPHY. Estimates range from 100,000 to perhaps 150,000. Some would estimate higher.

Chairman PEPPER. It may well be that no more than half of the drug addicts of New York City are being included in treatment and rehabilitation programs of today?

Commissioner MURPHY. That would be a good estimate, I think.

Chairman PEPPER. And if there were additional treatment and rehabilitation facilities available, do you think that would also tend to reduce crime in the city of New York?

Commissioner MURPHY. I think so. I think we must face the fact that the addict needs treatment; that a jail or a prison is not the place to cure an addict. When he leaves, all the experience seems to tell us he will go back to crime and back to the use of drugs.

Chairman PEPPER. There must be an enormous amount of property stolen in this country every year. That must run into the hundreds of millions, if not into the billions of dollars. I know my wife and I lost several thousand dollars' worth of our property, including a car right in front of our home, and we never heard anything about it. It is going on all the time.

Must not there be a system of fences? Somebody has to dispose of that property. These robbers, these burglars, they want money. If they are drug addicts they want money to buy a drug. They have to dispose of that property rather soon.

What has been your experience as to a system of professional fences that exist in your area and probably exist in the country? Is there such a thing?

Commissioner Murphy. I certainly believe there are fences; and when we are successful in identifying one, it may help us to recover a great deal of stolen property and to solve a great deal of crime. I am sorry to have to say, though, too many thieves are able to sell their stolen merchandise right on the streets of our city. I am also sorry to say, many businesses, thought of as legitimate, will purchase the stolen property.

So I think the fence plays a part, but I don't think he is the whole answer.

Chairman Pepper. In respect to organized crime, do you think that there is more that we can do than we are now doing to reach the top people who deal in the drug business, or who are in the drug traffic?

Commissioner Murphy. Mr. Chairman, I think in New York City we have a motto. In fact, Mr. Ambrose has been kind enough to say that the arrangement we have in New York City of our department working on a day-to-day basis, as a matter of fact the same units and the same officers with the Federal agents, is the ideal arrangement because investigations can then be prosecuted either under the Federal laws or the State laws, and for other reasons as well; exchange of intelligence information being one example. It is highly desirable there be a close working relationship.

I don't think we are doing all we can do, but I think we are improving and I think we are reaching people at higher levels.

For example, in our department last year, Mayor Lindsay approved an appropriation to us of $1.25 million for information and "buy" money for narcotics. Previously, we had only a fraction of that amount, and as a practical matter, to reach the higher level people in the drug traffic, "buy" money is needed in large amounts.

I think we can do much more, but I am not optimistic that we will ever be able to totally stop the illegal drug trade while the profits remain as great as they are. People will take risks.

Chairman Pepper. Would you say the authorities, Federal, State, or local to a relative moral certainty, are aware of who are the top organized crime figures in the drug traffic?

Commissioner Murphy. Well, I think, Mr. Chairman, we have good intelligence and good information about who many of the top-level people are. It is extremely difficult to make strong cases against many of them because the higher they are in the structure the more they seem to operate far removed from the drugs and the money, and they are hard to reach.

Chairman Pepper. I don't know whether you heard of it or not, but we are going to have a witness before this committee who is a professor at a university in this country, who has the theory that I have entertained for some time. The theory is that we might be able to use the injunctive process against some of these figures when we have a moral certainty they are the top figures, or among the top figures, of organized crime in the traffic in drugs, but are not able to convict beyond a reasonable doubt in a criminal case, on the theory that it would be analogous to enjoining the violation of antitrust laws. You can get an injunction against violating some of the antitrust laws, which is a criminal offense.

This professor's theory is all of you people together, the Federal, State, and local people, would have enough evidence to go before a

Federal judge and make a prima facie case that "X" was indeed one of the hierarchy of the traffic in drugs and he would be enjoined by that judge and a prima facie case made by the authorities from participating in such an activity.

Then if he were later on found to be still trafficking, it would be easier to find enough evidence to get the judge to find him guilty of contempt of court than it would be evidence that would convict him beyond a reasonable doubt in the criminal court. If something like that could be worked out, it would give you all a new weapon; would it not?

Commissioner MURPHY. Yes. I think that might have considerable potential, because we need all of the tools that we can get that will work for us.

Chairman PEPPER. Mr. Murphy, if you will just take a minute more, our chief counsel, Mr. Nolde, would like to ask you a question.

Mr. NOLDE. Commissioner Murphy, your citywide anticrime unit is, of course, doing a tremendous job in specializing in the kind of street crime attack that we have heard about today. It has been proposed that the police should be free from having to deal with gambling and prostitution and marihuana possession, so as to permit officers to concentrate on street crime.

What is your response toward that proposal?

Commissioner MURPHY. Well, I think we can't ignore those crimes, as difficult as enforcement of those laws may be; because organized crime figures are involved in those crimes and make enormous profits. I don't think there is any way we can separate street crime from organized crime, because they are very closely related, as a matter of fact; an outstanding example being narcotics. While organized crime people are getting rich in the narcotics traffic, the addict is committing street crime every day.

I certainly am pleased that we have offtrack betting, legalized offtrack betting in New York City, and perhaps some more forms of gambling should be legalized, because the gambling laws are quite unenforceable. But while those things are illegal and the profits are enormous, organized crime will be in those areas of activity.

So we try to strike a balance between what percentage of our resources are applied to organized crime enforcement, and what percentage to the patrol and other functions, and what percentage to anticrime work. But we are aware that there are some who feel little or none of the resources should be applied to organized crime. I disagree with that.

Mr. NOLDE. But if we legalized some of these activities, would it not, in fact, eliminate some of the organized crime problem?

Commissioner MURPHY. Indeed. I think, as a matter of fact, the situation in New York State and New York City for many years has been hypocritical. We continue to have laws on the books that the people do not believe in. Few, it seems to me a minority of New York City residents, for years have thought gambling to be immoral or wrong, and yet the laws were there and it kept the police officer in the middle.

Shortly after becoming police commissioner, I publicly stated we would not enforce the blue laws, the Sabbath laws. There had been corruption, abuses, as part of the enforcement work of the depart-

ment, and we just stopped that. Now, we do enforce the laws when there are complaints and circumstances call for it, but it is another example of the dilemma of the police.

Now, I certainly don't believe in legalized prostitution, but perhaps the criminal law is not the best weapon against prostitution. We may devise some strategies under the civil law. We may begin to understand that the prostitute may be more a victim than a criminal, if you will, and that she needs to be dealt with as a sick person.

And certainly it is my belief that the history of this Nation, in dealing with the narcotics problem, has been a history of hypocrisy in that we have attempted to solve the problem by the use of the criminal law, that the criminal law can never solve.

I am delighted, with in the past couple of years, the Federal Government has finally tipped the balance, in spending more money now in treatment than on enforcement of the narcotics laws. I certainly commend the President for that. I think it is fair to say it is a law and order administration. I am delighted to see enlightenment in the treatment of addicts.

Mr. NOLDE. On that point, what is your reaction to Governor Rockefeller's proposed mandatory life sentence without parole for convicted hard-drug pushers?

Commissioner MURPHY. That proposal is not practical. It wouldn't work. The district attorney would have his hands tied. It would be more difficult to obtain convictions, I believe, and the district attorney would be unable to use what is the standard weapon of the district attorney; that is, to deal, with one person involved in a criminal conspiracy, in order to get convictions against people at higher levels. So I don't think that is a practical matter.

One thing it fails to do is distinguish between the addict pusher and the nonaddict pusher. I think it is impossible to be too severe on the nonaddict drug trafficker who gets rich on human misery and death. But the addict who pushes is another breed, it seems to me, and we must make that distinction. The Governor's proposal, it seems to me, does not make that distinction.

Mr. NOLDE. Thank you Commissioner Murphy, for your very informative testimony here, which is but one more basis for your eminent reputation as this Nation's most professional and progressive police commissioner.

Commissioner MURPHY. Thank you, Mr. Nolde.

Chairman PEPPER. Gentlemen, Mr. Murphy has to go.

Do you have any other questions?

Mr. Brasco?

Mr. BRASCO. Getting back to something, I suppose called the vice squad. Is there still such a concept, Commissioner, or did you change that?

Commissioner MURPHY. No. We never in my memory had a unit called a vice squad. Gambling and prostitution has been dealt with by the plainclothes unit, as we always called them.

Mr. BRASCO. When I was in the DA's office, unless it got that name attached to it without being officially entitled, it was known as the vice squad.

Commissioner MURPHY. I assume they owe that to the headquarters plainclothesmen.

Mr. BRASCO. Right. I always felt the department placed too much emphasis on the gambling and prostitution end of it, and I felt it created more problems than it solved.

Did I understand you to say, in placing deemphasis in this area, you reduced the complement of that squad?

Commissioner MURPHY. What I did say was that I feel that the police department has been in the middle and continues to be in the middle in being expected to enforce gambling laws that citizens don't believe in. We have fewer officers assigned to gambling enforcement now. We are making fewer arrests, but we are striving for higher quality arrests; and we are striving to reach people at higher levels rather than the street runner from the lowest level of bookmaking.

Mr. BRASCO. It has been—I don't know whether it is still the policy—that the activity of a police officer was determined by the number of arrests he made, not the number of convictions he obtained.

Commissioner MURPHY. We have changed that, Congressman. It was commonly known as the sheet, and the sheet is dead, we like to say, and under a new arrangement.

You see, the gambling enforcement previously was under each patrol division and bureau commander. It no longer is; it is now in the organized crime patrol billet under Deputy Commissioner William McCarthy, and I believe he has succeeded in eliminating the quota system and sheet, and people are evaluated on the quality of their work, even if they don't make arrests.

Mr. BRASCO. I am very glad to hear that. I thought you were moving in that direction. I wasn't completely up to date.

Chairman PEPPER. Mr. Rangel.

Mr. RANGEL. Just one question in terms of the investigation to the property clerk matter.

Other cities are having similar type problems in maintaining control over what is confiscated. Who is finally in charge of that investigation? There was some problem between the city office and the State.

Commissioner MURPHY. The special prosecutor, Mr. Nadjari.

Mr. RANGEL. He finally assumed jurisdiction?

Commissioner MURPHY. Yes; he did.

Mr. RANGEL. Again, I want to thank you for coming down here and helping us wrestle with problems other cities are having. We certainly commend you for the wonderful job you have done in restructuring and redirecting the police department in New York.

Commissioner MURPHY. Thank you, Mr. Congressman. I appreciate your support on some of our common interests in narcotic enforcement.

Mr. RANGEL. And our conflict in other areas.

Commissioner MURPHY. It is a pleasure.

Chairman PEPPER. Mr. Lynch, do you have any other questions?

Mr. LYNCH. No further questions, Mr. Chairman.

Chairman PEPPER. Mr. Murphy, I want to extend, on behalf of the committee our very deep obligation for your coming here and helping us so valuably as you have. You are one of the oustanding men in the world, in my opinion, in law enforcement. We are very grateful to have you dedicated to what you have been doing in the New York area as an example for the Nation. We hope you can get some more help to do even more than you have been doing in the past.

Thank you.

Commissioner MURPHY. Thank you, Mr. Chairman. It is always a pleasure to work with you.

Chairman PEPPER. We will take a recess until 2 o'clock.

[Whereupon, at 1:10 p.m., the hearing in the above matter was recessed, to reconvene at 2 p.m. this same day.]

AFTERNOON SESSION

PANEL OF NEW YORK CITY POLICE OFFICIALS—Resumed

CAWLEY, DONALD F., CHIEF OF PATROL SERVICES;
CROWLEY, ROBERT L., SERGEANT, NEIGHBORHOOD PATROL TEAM COMMANDER;
EISDORFER, SIMON, DEPUTY CHIEF INSPECTOR, SPECIAL OPERTIONS;
FREEMAN, ARTHUR A., DEPUTY INSPECTOR;
LUHRS, ROBERT E., DEPUTY INSPECTOR;
ROGAN, JOHN F., DEPUTY INSPECTOR;
SIEGEL, JOSEPH, INSPECTOR, AUXILIARY POLICE; AND
TUCKER, JULIA, LIEUTENANT, RAPE INVESTIGATION AND ANALYSIS SECTION

Chairman PEPPER. The committee will come to order, please.

I believe you wanted Lieutenant Tucker back, Mr. Lynch?

Mr. LYNCH. Yes, Mr. Chairman.

Chairman PEPPER. You may proceed, Mr. Lynch.

Mr. LYNCH. Lieutenant Tucker, just before we broke for lunch, you were describing to the members of the committee the intelligence functions which your new unit will be performing.

I wonder if you could summarize that testimony for us, please.

Miss TUCKER. We take each particular complaint, review that case, and we look for certain information, which we then code and keypunch to have stored in the computer. The type of information we glean from the reports are relevant to the particular perpetrator's description, his complete physical description, his clothing at the time, anything unique or different about his appearance; also, his method of operation, the M.O. Also, various details about the victim.

It is felt, perhaps, if we cannot get a pattern just based on the individual perpetrator's description, or M.O. we might be able to find that he is selecting a certain type victim.

This is the basic type of information we are gathering from the various complaints we have received.

In addition to that, we also map or chart each pattern case on a citywide map, feeling that perhaps we might be able to get some pattern that way, or at least be able to distinguish where he may strike again.

Mr. LYNCH. Do you send intelligence information out to precincts within the city?

Miss TUCKER. Well, at the present this information is available on a need-to-know or call basis. However, in the future, as we grow, I would like to disseminate the information out to the field commands, to the district commands.

Mr. Lynch. Lieutenant, it was your testimony this morning that the crime of rape is a crime that is difficult to get convictions on, for a number of reasons; is that correct?

Miss Tucker. Yes; it is.

Mr. Lynch. So that the intelligence function that your unit does serve, or is attempting to serve—giving minute details about certain things about the perpetrator—would be especially useful in locating, apprehending, and trying rapists; is that correct?

Miss Tucker. It is our hope; yes. I think the more information we can gather, the better our chances will be in getting a conviction.

In addition to that, also we have to learn the type of evidence we must bring to court. There are many situations of things we might not have been knowledgeable about previously that might just be able to be utilized in getting a conviction.

Mr. Lynch. I wonder if you would tell us how many reported rape cases have there been in New York City since the first of this year?

Miss Tucker. Up to date, we handled approximately 1,000 cases.

Mr. Lynch. That is somewhat higher than is normal; is that correct?

Miss Tucker. Yes. It is about 20 percent over last year.

Mr. Lynch. I have no further questions of the witness. Mr. Chairman.

Chairman Pepper. Lieutenant Tucker, what is the penalty for rape in the State of New York?

Miss Tucker. It is a class B felony, and you get up to 25 years.

Chairman Pepper. Ordinarily, how long do they stay in prison before they are paroled?

Miss Tucker. If a conviction is obtained, I would say about 7 years.

Chairman Pepper. About 7 years?

Miss Tucker. That is the length of time I heard that most of them are doing.

Chairman Pepper. Have you heard of there being repeaters among the rapists once they are released from prison?

Miss Tucker. Yes; many times. This crime seems to lend itself to recidivism and generally, if a man is arrested and sent away, when he comes back out he is often again arrested for rape.

Chairman Pepper. If a man is convicted a second time of rape in New York, what sentence will he ordinarily get? Is there a separate statutory offense provided?

Miss Tucker. You mean would he do a longer period of time if he were arrested a second time on this? No.

Chairman Pepper. For a second offense, the punishment wouldn't go up or anything?

Miss Tucker. Nothing of this type.

Chairman Pepper. The same way if he were convicted a third time of rape, the sentence again would be as an ordinary rapist?

Miss Tucker. If he was considered as a three-time offender, a multi-felony offender, then he would get life. But that does not happen too frequently. And as I said before, it is very, very difficult to get a conviction on this type of crime.

Chairman Pepper. Other than some sort of emasculation, is there any treatment for oversexed people, or for a perverted mind? Is there any medical treatment, comparable to the treatment you give a drug addict, that would be of any help?

Miss TUCKER. There appear to be two different types of rapist. One is someone who actually does need some type of medical, or shall we say mental, treatment and the other appears to be a fairly normal individual who perhaps is a little bit more violent than your everyday personality and seems to take out his drive in this way.

But he is apparently not sick; and treatment, I don't think under these circumstances, will really benefit him.

Chairman PEPPER. Have you any other suggestions to make as to how the police departments of the country could better deal with the problem of rape?

Is there anything more you could do if you had more money?

Miss TUCKER. As far as treatment of the rapist?

Chairman PEPPER. Any aspect of the crime of rape or to deter the crime of rape?

Miss TUCKER. What we are going to be doing and, of course, the more money we have the more involved we could become in this, is to actually go through each particular step.

The hospital is an area which definitely needs attention. The treatment should be unified as far as every hospital wherever you would take a rape victim, should be standardized. They should take certain tests from the woman and treat her in a particular manner.

One of the biggest complaints I have had from victims of rape is the treatment they received at the various hospitals, more than even many people indicate, the fact the male officer may be insensitive, have a traumatic reaction to a woman. However, this I have seen very rarely in New York and it has been 3 months I have been working in this field, and I can actually say there has only been one situation where an indication of insensitivity on the part of a male officer was expressed to me.

However, there were many indications that treatment in hospitals was very negative, shall I say.

Mr. CAWLEY. Mr. Chairman, I want to say that it is precisely those questions you have raised that we hope to be able to arrive at answers to, and which led to the development of this very unit. There is a great deal of ignorance and lack of knowledge concerning the crime of rape. We don't have a profile of a rapist; we would certainly hope that part of that Federal project and the funding project we are going through will put us in a better position throughout the Nation, all police agencies, as to how to better deal with the problem of rape.

Chairman PEPPER. Chief, by the way, are all offenders, anyone who commits an offense, perpetrates a felony anywhere in the country, recorded in the FBI computer system so that any police department in the country can check up immediately on whether anybody has an arrest or conviction record and, if so, for what?

Mr. CAWLEY. Any fingerprintable crime would be eventually recorded in the FBI crime statistic sheets, and we would become knowledgeable about it. It may take a day or two in order to get the information, but we would get the information.

Chairman PEPPER. I have heard of instances at home of where a judge would be about to pass sentence on a convicted person and would find out that person was before another court for trial on another charge, or had been convicted in another court or courts of other offenses. I know the probation officers ordinarily are supposed to check

up, but a lot of times they don't seem to know about it by the time they begin the prosecution of the case.

You mean only a felony is fingerprinted? People charged with a felony, are they always fingerprinted when they are arrested.

Mr. CAWLEY. Yes; they are.

Chairman PEPPER. And they go into the FBI files?

Mr. CAWLEY. They go in from New York; yes.

Chairman PEPPER. And you can get those very quickly from the FBI when the case comes up?

Mr. CAWLEY. I am not certain about the amount of time, the turnaround time in getting the information, but it is a reasonably short period of time, Mr. Chairman.

Chairman PEPPER. One other question, Lieutenant Tucker.

Of course serious consequences may derive to the victim of rape: Possibly venereal disease, pregnancy, and the like.

Is there any public assistance available to a rape victim under those circumstances?

Miss TUCKER. The hospital treatment that I mentioned provides this type of service to the woman, where antipregnancy shots and shots against venereal disease are administered to the woman. At least in New York this is part of the hospital treatment, in most of the hospitals. And that is the treatment we are hoping will be administered in every hospital in the city.

Chairman PEPPER. Mr. Wiggins.

Mr. WIGGINS. Lieutenant Tucker, why don't you get convictions?

Miss TUCKER. First of all, the corroboration requirement in New York is such that it becomes very difficult to get a conviction. The law requires that at least some circumstantial evidence be presented to support the woman's allegation that she has been raped.

Frequently, what happens in this type of crime is there is no one around to see the attack take place, and if there is no medical confirmation that a rape took place, there cannot be a conviction on the rape at all without medical corroboration. And this becomes a problem.

Mr. WIGGINS. Well, rape, as you know, is a common law crime involving the nonconsentual act of intercourse. Usually, the difficulties involved are the issue of consent and the issue of penetration.

Would it be easier, in your judgment, if legislative bodies would abandon this common law notion and merely address themselves to a sexual assault and make that the crime, without the difficulty of proving some of the elements of a common law offense of rape?

Miss TUCKER. I think that might be easier and it might direct the problem. Because at present it is very, very difficult to get a conviction because of this corroboration requirement.

It has been brought to my attention by many of the women's groups that they feel perhaps the law should be the same for every crime, that the defendant has ways of protecting his own rights that the law has built in, and that they should be given the same opportunity, and that corroboration should not be required in this type of crime.

Mr. WIGGINS. Well, so long as a consentual act is not an offense—and in most States simple fornication is not a crime—it does take something to negate the defendant's assertion that the young lady consented to his overtures and perhaps some corroboration is in order.

It has always bothered me that we put the victim through the ordeal of testifiyng to the minute details of a sexual assault in order to prove something that comes down to us from the middle ages; namely, that an act of penetration in fact occurred, when that really doesn't go to the gist of society's interest in this matter.

A person has been subjected to a dangerous, humiliating assault that may or may not have involved penetration. That doesn't lessen the offense to my mind one bit. And insofar as you make recommendations to legislative bodies who enact these State laws, I would urge upon you to recommend to them that they consider abandoning this historic burden which we place upon victims and prosecutors; namely, proving penetration.

Miss TUCKER. Yes.

Mr. WIGGINS. Do you think that is a good idea, Chief?

Mr. CAWLEY. Yes; I think anything that would minimize the difficulties that women encounter in trying to describe the details of that crime would certainly be beneficial. Anything that we can do—and that is one of the purposes of instituting the unit itself—to make it very easy for a woman to speak with a woman about a very intimate act and very intimate crime. I think it would be beneficial.

Mr. WIGGINS. I missed the earlier part of your testimony on this subject, but I gather the thrust of it is you want to make it easier for the victim to relate the circumstances and you think it is easier if she speaks directly to a woman about these circumstances.

I think most police calls are made to males and a male police officer may respond in the first instance. Is that the case typically of a rape situation?

Mr. CAWLEY. That is true.

Mr. WIGGINS. Do your policies indicate that the police officer on the scene, when confronted with a possible rape or at least the allegation of one, does nothing at that point and takes the young lady into a secluded place for a woman to iterrogate her?

Mr. CAWLEY. No; we have not gone in that direction, nor do we intend to. If I can just back up for a moment: The creation of the unit was designed to accomplish several different objectives, one of them being the woman could communicate with a woman much more easily. Another, and very important part of it, is the study and the identification of patterns of these crimes and, hopefully, identifying individuals who are multiple offenders.

So quite a bit of the energies currently vested in Lieutenant Tucker's operation is to analyze the patterns of crime and study where they occur, with the hope of identifying the people responsible for it.

The male detective who receives the complaint initially does conduct the investigation. The complaint report is forwarded to Lieutenant Tucker's rape analysis section where they try to pull together pictures, overall pictures, and they do follow up on selected bases at the moment; and hopefully we will have the capability at some point in time of a followup interview in all instances.

Mr. WIGGINS. One of the things about rape that has troubled me is that it is not an offense that one would expect organized crime to be involved in. You would think it would be pretty much a function of population; that is, out of every 100,000 people, there would be so many rapes, and it would be pretty constant around the country.

But it is not. Two and a half times more rape per 100,000 population occurs in my city of Los Angeles than occurs in Cincinnati. How would you account for that?

Mr. Cawley. It is a very difficult problem to get to. I think one of the major problems has been a number of rapes have not been reported. Just why people might be more willing to report a rape that occurred in Los Angeles as opposed to Cincinnati, or any place else, is difficult to answer.

I am not sure whether your first statement might not be correct; it would be reasonable to assume in a given population group there might be x percent of those people who would be involved in that crime.

Mr. Wiggins. If that is true, the difference in statistics is simply a difference in the reporting of crime, not in their actual incidence. That may be the case. It may be your procedures will produce a dramatic increase in the incidence of rape reported to you and, of course, the numerical incidence of rape may, in fact, remain the same.

Mr. Cawley. We expect to receive a substantial increase in the number of rape reports. The preliminary and early indications are that we are getting more complaint reports. A lot of them are coming directly into Lieutenant Tucker's office, which I think is significant, in that that might have been a rape that would not have been reported had we not provided the female with the means of reporting it.

Mr. Wiggins. Thank you, Chief.

Chairman Pepper. Mr. Winn.

Mr. Winn. Thank you, Mr. Chairman.

Lieutenant Tucker, do the reports that you get on rape come from any specific area? In other words, from certain districts where there is known high usage of drugs, high usage of alcohol, et cetera.

Miss Tucker. I would say, generally, it is spread out almost evenly. There are, of course, some areas in the city where I think it is probably more densely populated, but the number of rapes are also higher. However, there does not seem to be any link with narcotics or alcoholism.

Mr. Winn. Would it be more prevalent in the low-income areas, middle-income areas, or high-income areas; or is it pretty well spread?

Miss Tucker. As I said before, it is pretty well spread around. There do seem to be areas where it is higher. Trenchant groups are a little higher than other areas. But then again, it is pretty evenly distributed.

Mr. Winn. Is there a tie between rape and robbery?

Miss Tucker. There are many rapes that are connected with robberies. I wonder at times if perhaps that is also increasing. What might possibly happen is if an individual realizes that he is going to get away with raping a woman and he breaks into her house or is robbing her, he feels he has nothing to lose.

Mr. Winn. Would there be any tie between what may have started out as a rape and ended up in murder?

Miss Tucker. Well, we have homicides that are connected but, you know, not all that many, really.

Mr. Winn. It would be hard to tell, too, probably.

Mr. Cawley, you made a statement a minute ago that I don't quite understand. You said you have these meetings and you pull together with overall pictures.

I don't know what you mean. You mean the vague image of the word "picture" or actual photo-type pictures?

Mr. CAWLEY. I am sorry. I should clarify that. I am talking about the rape analysis unit receiving copies of all of these rape complaints that are received throughout the city. In an effort to identify whether or not there is a concentration of rapes in a particular area, with the view of trying to identify whether one or two people might be responsible for that particular concentration of crime. So when I talk about pictures of crime, I am talking about the concentrated patterns of crime.

Mr. WINN. You are talking about patterns?

Mr. CAWLEY. Rather than pictures.

Mr. WINN. Do you use actual photo-type pictures of those who might be known rapists in those areas, if the pattern develops?

Mr. CAWLEY. Maybe I can ask Lieutenant Tucker to respond to that. She did earlier at the first session.

Mr. WINN. I am sorry. I would like that.

Miss TUCKER. If we see a pattern develop, what I generally will do is have the women go out and reinterview all of the victims of that particular pattern. For instance, if we feel there may be 10 cases that the same perpetrator has committed, one of my women will go out and reinterview all of the women, hoping to gather additional information.

During the course of these interviews they will make composites up there, or they will bring the women down to our latent section and have them view photographs of all known rapists.

They may also even hook them into burglaries and various other crimes that may be connected. If an individual is quite young, the perpetrator, frequently he may have been arrested for auto thefts. The girls are trained investigators so they are familiar with the various other crimes that might be connected with the rape, and therefore try and utilize everything they can to link these cases to a perpetrator.

Mr. WINN. We have read recently, from time to time, about the pros and cons of having women police on the streets, dressed as sexy women, to entice men of this type, or maybe just men in general.

I suppose that is where the controversy comes in—leading a man on the street to believe that that woman is available, either for prostitution or pickup. Are you involved, or are any of your policewomen involved, in this and what is your thinking on whether this is constructive or whether it hurts the image of the police department?

Miss TUCKER. We don't utilize our women in this way.

First of all, I think it would not be too effective. You could have a girl on the street for months and have no one bother her, actually.

Mr. WINN. In New York?

Miss TUCKER. True. In New York, too. I have lived in the city all my life and I have never been attacked.

Mr. WINN. I didn't mean attacked. I mean propositioned; and I suppose it is harder for a man to figure out if it is a prostitute in New York, or a girl that wants to be picked up. But I can't believe a gal can walk the streets of New York very long without an attempt being made, which might result in an assault or a rape.

Miss TUCKER. As I said before, I don't utilize the women in that regard, especially in the rape area. And I am not involved with the other section of having women out relative to the prostitution complaints, et cetera.

Mr. WINN. But the New York Police Department does have a group of women out in that field; like Washington, D.C., did for a while?

Mr. CAWLEY. I would like to respond to that rather than the lieutenant.

On occasion we have used policewomen decoys in the Times Square area to deal with particular problems, but it is not a program that is an ongoing program.

Mr. WINN. Wait a minute. Would you clarify what those particular problems are, and then we would like to find out what your results are.

Mr. CAWLEY. Well, for example, if we had a problem in the Times Square community, as we will on occasion, where we received information that a procurer might be looking to approach a young lady and convert her, if you will, into prostitution we will put out a female detective in that location to see whether or not that is or is not a fact. That is one type of decoy that we might use, and have used.

Another type would be where we want to emphasize the fact that the penal law in the State of New York also has a penal sanction for the patronizer of a prostitute. We will put out, and have on occasion, these women to see whether or not they are solicited and in fact taken to a location for an act of prostitution. We have used that on occasion.

Now, as I said, it is not a long-range program; it is generally instituted on a short-term basis. I am not conversant with the results of the program so I could not give you statistics.

Mr. WINN. I think it is very interesting along the lines that Mr. Wiggins brought up—and I am not defending Watergate, believe me—but we have, according to your remarks that I heard just as I came in—convictions up to maybe 7 years for rape and 4 years for the kidnapping of an admiral's daughter, but 8 years for the tapping of opponent's political headquarters. I think it is kind of interesting. I am not looking for an answer from any of you.

Thank you very much, Mr. Chairman.

Chairman PEPPER. Mr. Rangel.

Mr. RANGEL. Lieutenant, did you give any testimony as to the relationship between convictions and arrests in connection with perpetrators?

Miss TUCKER. No.

Mr. RANGEL. Well, I can see where the assistance that you are giving to the general public, or rather women specifically, would give you more information in order to make more and better arrests; but what happens to the rules of evidence in court on corroboration? Have you been able to effectively deal with that through the district attorney's office?

Miss TUCKER. I have been in connection with the district attorney's office and in contact with them; and as I mentioned before, also with the hospitals.

I think the problem, as far as corroboration, is something that has to be attacked at all angles and a part of the problem is the fact, first of all, that women themselves don't realize the significance of, for instance, running home and taking a shower after an attack which will eliminate any evidence that was there. This has to be something, I think, that is also an educational program, where a woman, if she is attacked, must realize there are certain things she must do, as much as she may want to forget the incident. If we are going to have any suc-

cess at all in convicting a person, we have to have some tools to work with.

I am looking in, as I said, with the D.A.'s office, so they will give us some guidelines as to exactly what is needed for a conviction. There are many odd, or shall I say different, things that may be around that we may be able to utilize. One in particular is a bite file that we are creating. If a woman is bitten you can take a photograph of the bite, and when we apprehend the person involved we can take a cast of his mouth and match that up with the photograph.

It is actually evidence, concrete evidence, that can be used in court.

It is similar to fingerprints. This is just one area that we are finding out about that we are going to be utilizing, and are utilizing. I am sure there are many other things we are going to be able to find out that will help us get convictions.

Mr. Rangel. I suppose you agree a change of the law might be more effective in the work that you have done?

Miss Tucker. Yes. There has been a change in the law in New York and I don't think we can actually at this point evaluate it and say it didn't help at all. I think it was May of last year that the law was changed, and although there are still problems as far as I can see, I would like to see exactly how effective the law is and if we can work with it.

Then after everything we have done, and as tightened up as our investigations have become, if we still are not able to get a conviction then I think the move has to be to try and change the law.

Mr. Rangel. What is your batting average in terms of arrest and convictions?

Miss Tucker. The convictions have been very low, but actually, as far as the new law is concerned we have had few cases come to court under the new law. So I don't think I can evaluate it at this point.

Mr. Rangel. Well, your department is doing a tremendous job in getting public support, but how do you explain if a woman goes through all of these embarrassing things, even with a sensitive investigator, only to find the perpetrator back on the street? I think this is one of the things, from the layman's point of view, that makes you wonder why should you get involved and subject yourself and your family to this so-called embarrassment, if, in fact, you don't have the convictions.

How do you cope with that?

Miss Tucker. First of all, we are looking now to try and get a conviction on the cases and at least today you can get a conviction on an assault if the woman was attacked, whereas last year at the same time you couldn't get a conviction on an assault. If it was connected with the rape, you lost the whole thing.

Chairman Pepper. What is the new law to which you refer?

Miss Tucker. Actually, the old law required an eyewitness, someone standing there and testifying to every step of the way. You had to testify to penetration, the act, everything had to be corroborated by an eyewitness. Today that is not necessary.

But you do need circumstantial evidence to support the evidence.

Chairman Pepper. Corroborating evidence which may be physical?

Miss Tucker. Right.

Chairman Pepper. Mr. Keating?

Mr. KEATING. I would like to ask a couple of questions, and if I am repetitious, I apologize. Say so and I won't recall testimony which took place when I wasn't here.

I have been concerned about this rape law as well. We had a rather celebrated case in Washington at one of the universities here; and as a result, there has been much written about it and much discussed about it, and much discussed about changing the law.

Subsequently, there were some instructions, I gather, to female employees on the Hill, and they told them what to do under certain circumstances. And they said to submit so that you don't sustain any serious physical harm or injury, or maybe even loss of life; but also that if you do, your chances of winning your case in court are very slim.

Now this, I guess, is what we have to get around, to make a law very effective in this area, and I am wondering how you cope with that specific thing, so far as proof in court is concerned.

First of all, do you tell the women to submit so they don't sustain physical injury if you are out talking about this subject anywhere?

Miss TUCKER. No, I don't. I think as far as submitting or not, it has to be up to the woman herself. This is a decision she is going to have to live with. I do explain the pros and cons as to what will happen to the women. I don't think anyone can judge the position a woman is in at a time like that and say, "Gee, I think you should submit," or "No, fight to the death," because a woman may submit and for the rest of her life condemn herself for submitting; whereas, another woman may fight and be seriously injured.

I think it has to be something that at the moment when this happens she, herself, has to make this decision. I don't think it can come from an outside source.

Mr. KEATING. How are we ever going to shore up the laws at all? There is almost a presumption if she does submit that she did so willingly and not under any duress.

Miss TUCKER. This is the problem; but I think there has to be some recognition that a woman may feel she cannot cope with fighting a man, and there is no shame and disgrace in submission in a case like that. But, unfortunately, the laws are such that if there is no physical damage to the person of the victim, it is very, very difficult to prove that she did not go along with it.

Mr. KEATING. And in that event, when you have an incident such as occurred at George Washington University, I think statistics sometimes will show there has been an increase in this kind of a crime after there has been an acquittal in a case that has gotten a great deal of notoriety. I think there is likewise an indication there are a few cases of reporting an incident of rape for a short period of time after such an incident has occurred.

Miss TUCKER. That may be true. Many of the women I have spoken with are disheartened with the law. What we generally do, though, to prepare a woman for the experience she is going to go through in court is go with the woman—I have one of my girls assigned to her—to try, as I said, to prepare her for the experience she is going to have to undergo.

But many cases don't even reach the trial level. They are dismissed, or they take a plea, because they feel the corroboration requirements

have not been met and that the case would not be won if it went to trial. So it is a problem and we are aware of it; and we are trying to do everything we can to tighten up our investigations in the hope that if there is any fault on our part we will see it, and recognize it, and correct it. And if it isn't on our part, and if it is the law that definitely needs correction, then we are going to do everything we can to try and change the law.

Mr. KEATING. Now, I don't know what your procedures are, but I know several instances involving incidents—exposure and also rape cases—where police officers were totally insensitive to the situation to the point where these girls that were involved in the incidents were suggesting to all of their friends that whatever happens don't have anything to do with the police because they are going to give you a very difficult time; they are going to act as if they don't believe you.

Now, really, it is a prelude of what they are going to experience in the courtroom, but is there some way to stop this? This is a very real problem in my community, your community, everywhere else. I think women get together and they talk and they ask "What's the use?"

Miss TUCKER. I have gone out and given many talks to various groups of women in the hope of reaching them and making them understand that we are there and we want them to come forward, and we will be as sympathetic and understanding as possible.

I know all of the women I have working for me, and myself included, cannot listen to a woman who is reporting the crime of rape and not have the hair on the back of their neck stand up. It is such a really heart-rending situation. And it is a situation that will probably stay with that woman for the rest of her life. I think that none of us can lose sight of that and I know as long as I am in charge of the unit it won't be lost sight of.

We are trying to also expand this as I mentioned earlier. We do have specialization in rape, and male detectives are selected and screened for their sensitivity in this area because it is a crime that stays with the victim for years. I have had phone calls from women who were raped 8 to 10 years ago. I spoke to a woman just the other day. I have gotten letters—I have piles of letters—indicating how happy the women are to know we are there and that they have someone to talk to.

Apparently, in a crime like this, it is difficult to even speak to your own family about it. Somehow, even your husband or your mother will say, "Gee, don't talk about it; you forget it." But the woman doesn't want to forget it.

I am hoping that with the establishment of this unit and perhaps other units throughout the country—because other police departments have also written to me expressing their hope they could follow suit and asking how we set up our unit—I think it will make a big difference. Once the women know that they can come forward, I think we are going to be able to apprehend the perpetrators.

Mr. KEATING. I agree with that; and being sympathetic to the woman's position in the matter I have to say that if someone seeks your advice, or my advice, or some member of the panel, whether or not to prosecute, if you get in that area, there must be some reservation in telling people to go ahead and prosecute, knowing what they are

going to go through and knowing the difficulty that they are going to be confronted with.

Miss TUCKER. I don't agree, really. I have experienced this and I have spoken with women, and I said to them, "Look, we may have a problem, but we are all working at this together and if we don't go forward, if you don't come forward to the police and let us know how many crimes are really being committed out there, we are never going to be able to do anything with the problem."

As far as convictions are concerned, that will come. You have to take one step at a time. I think one big issue is getting the women to come forward and report the crime.

Mr. KEATING. Is there any effort being done at your level, and at the prosecutors level, to cope with the problem of corroboration in the courtroom at this time?

You have a new law as you indicated. What does this law require? You told us what the old law requires. Tell us what the new law requires.

Miss TUCKER. The new laws still require some form of corroboration, but it can now be some type of circumstantial evidence. You do have to prove that a rape was actually committed. You also have to prove that the person forced you into the rape. But as I said before, we now don't have to have an eyewitness.

Mr. KEATING. Is pure assault a lesser crime overall? Is pure assault a lesser offense so the judge or the jury determining the innocence or guilt can find them guilty of a lesser offense without retrial?

Miss TUCKER. Yes.

Mr. CAWLEY. Mr. Keating, if I may. This unit was created in the middle of December. That is when the concept really came into the fore. Then the next several months we had been in the process of trying to build it, so that many of the concerns that you have are ours, and we would hope when we get enough of a base to analyze and study we will be in a position to understand the problem somewhat better and, hopefully, come up with some better answers.

Mr. KEATING. What I am saying in questioning here really relates to all offenses and all criminal trials in a sense. It just is more serious in this, because I think it happens more frequently. I think that, No. 1, people have grown to tolerate certain levels of crime over the last 10 years.

Second, I believe that people hesitate to become involved because the judicial system is slow and witnesses have to come back repeatedly to the courtroom, and they lose wages each time, and it is very difficult for the poor person who is a wage earner, an hourly wage earner, to keep coming back. I think there are a lot of things like this that keep people from wanting to report crimes. The victim, for example, feels he is going to lose more from his place of employment.

Now you, myself, and the courts, have to make it more convenient for the people to get involved in the prosecuting of these crimes so they will be willing to come forward. We have to make it easier for people, and we have to encourage it. We don't have to make it a penalty they must pay, either in wages or adverse publicity, et cetera, to get these convictions.

Mr. CAWLEY. I agree with that.

Mr. KEATING. I just think it is an attitudinal thing we have to overcome. A lot of people don't want to serve on juries because they are

treated like cattle. There are just a lot of things in the very human treatment of individuals that can help overcome this crime problem.

Mr. Cawley. I agree.

Mr. Keating. It really rests with you and myself as a legislator, and the judges, to really start doing what is necessary to get this job done.

I didn't mean to get carried away, but I want to thank you very much for your testimony.

Chairman Pepper. Mr. Wiggins.

Mr. Wiggins. As you all know, the penalty for the crime of rape has been in a state of transition in this country a long preiod of years. It wasn't too many years ago that the death penalty was a common penalty for the crime of rape. It was one of several categories of capital offenses, and still exists, if it is authorized at all, in some States. It does not exist in the State of New York.

Do any of you have any observations about changes in the penalty for rape, in terms of (*a*) getting convictions, and (*b*) the increase or decrease in the incidence of rape?

Mr. Cawley. Would you repeat the last part of that?

Mr. Wiggins. Yes.

One of the notions that we cherish is that the stiffer the penalty the more deterrent the impact will be upon possible violators. The penalties for rape have diminished in your State. Have you noticed a greater or lesser incidence of rape as a result of that changed penalty?

Mr. Cawley. There has been an increase in the number of reported rapes in New York State. I can't, however, relate that increase directly to the severity of the penalty. I am not able to say if because we no longer have a death penalty, or the death penalty is not one of the punishments that will be given to a convicted rapist, that the number of rapists has increased because of that. But there has been an increase in numbers of reported rapes. It is a matter of statistical fact.

Mr. Wiggins. Then let me pose a speculative question this way: If your State legislature, in a fit of passion, were to reimpose the death penalty, to the extent it is constitutional to do so, for the crime of rape, do you think it would have any impact upon the instance of rape in your State?

Mr. Cawley. That is a very difficult question to answer directly. I think one impact upon the crime of rape and upon crime in general, the most serious crime, would be if more of the people that were convicted of the serious crimes, rape included, were imprisoned, if that were possible. I think Commissioner Murphy, before he left, indicated that somewhere in the neighborhood of 95 percent of the crimes resulted in plea bargaining, and in many instances convicted felons are not confined to prison at all.

So I think in that sense that if we had a greater assurance of imprisonment for crime, particularly very serious crime, that might have an impact on it.

Mr. Wiggins. Certainly muggings, wouldn't you say?

Mr. Cawley. That is correct.

Chairman Pepper. Lieutenant Tucker, out of your experience have you formed any opinion as to what type of weapon a woman might use, or what would be the best way for her to protect and defend herself, in case she is attacked?

Miss TUCKER. I don't think a weapon is the answer, because a man can easily turn a weapon against the woman herself and it can then be more serious than before. However, I think if most women were knowledgeable about street fighting and knew the areas where to kick—if somebody tried to gash out someone's eyes, or kick them in the shins, or groin area—I think things of this nature for all women to know would be probably a lot better for the woman herself.

Chairman PEPPER. Referring to corroboration: A lot of the cases I read about is where the man used a knife or threatened to cut the woman's throat if she didn't yield.

Miss TUCKER. Yes; but what happens is if he is not arrested immediately with the knife there is no evidence that this actually occurred. It is her word against his unless she was cut and there was physical damage to the woman. This many times happens.

Chairman PEPPER. That is what I said: There isn't any physical damage on the body if she yields against having her throat cut.

Mr. Rangel?

Mr. RANGEL. I just wanted to find out whether or not you know how many members of the New York City Police Department reside within the city of New York.

Mr. CAWLEY. I would take an off-the-top estimate of about 60 percent.

Mr. RANGEL. Now, it is still the law, I believe, that a New York City policeman is really on duty 24 hours a day?

Mr. CAWLEY. That is the written regulation; yes.

Mr. RANGEL. If New York City was able to get more members of the police department to be residents of the city of New York would not that improve the efficiency of the police department?

Mr. CAWLEY. Yes; I would say yes.

Mr. RANGEL. Well, have we ever tried to do anything to encourage or to give incentive for more residents to become policemen?

Mr. CAWLEY. As you know, Mr. Rangel, the civil service examinations are given by the civil service commission, and by current law people living in some five or six neighboring communities within New York State can compete for those positions. So that people living in Nassau, Suffolk, Westchester, Brooklyn, to name a few, can live in those communities and still be hired as New York City police officers.

Mr. RANGEL. I know since the Lyons laws was disposed of, we do have this; but I was just wondering from the chief of police point of view whether or not your office would be supportive of any type of legislation which to me would create almost an automatic increase in the number of policemen that would be available for any political subdivision.

Mr. CAWLEY. I am in favor of working out some type of arrangement where we can increase the number of New York City police officers coming from within the confines of New York City. There are a lot of options that might be available there. We have tried, absent their being able to change the law at the moment a lot of different tactics—the Community Service Order being one—with a long-range view of perhaps having that as a preliminary step toward a man achieving the rank of patrolman.

Of course, that is not a career ladder at the moment; although it is something we seriously thought about. We are anxious to increase the

number of employees that live in New York City and work in New York City, but we do have the problem of dealing with the existing law, which is always a difficult one.

Mr. RANGEL. Do you have the problem in terms of your own regulations and your upward mobility of those policemen that not only work then for the police department, but have elected to live in the city of New York? Would you not be in a position to promote these men at a different rate of speed than perhaps those who lived in New Jersey and outside the New York City area?

Mr. CAWLEY. You are talking about positions above the level of civil service rank of captain?

Mr. RANGEL. No. I thought the police commissioner had made it very clear that those officers that, for example, were involved in successfully bringing about bribery convictions, the promotions would be handled a little differently than those officers that were not actively involved. Is that not so?

Mr. CAWLEY. If the commissioner said that, he was talking about promotion opportunities that exist outside of civil service promotional opportunities. They would be men promoted to the rank of detective who would have their career path accelerated because they participated in a particular program.

Mr. RANGEL. Don't you have preferential assignments where you could help out a patrolman a little better that lived in the city than one who didn't?

Mr. CAWLEY. Any preference that we show toward any of these assignments would be based primarily upon whether he had the skills and talent for the position.

Mr. RANGEL. Say the 6 to 2 shift; don't they get a little something extra for volunteering for the so-called force platoon? Don't they get more than the fellows that just take the normal flack?

Mr. CAWLEY. They have the night differential pay but anyone working between the hours of 4 p.m. and 8 a.m. receive that. Again, the assignment to any specialized unit would be primarily dictated upon what the skills were as opposed to where he lived.

Mr. RANGEL. If I were a policeman and lived at 132d Street and Lenox Avenue, I know I would be on duty 24 hours a day; and I am receiving the same pay as someone that leaves the community and gives that new community outside the city of New York the benefit of all of his expertise and training.

Could you support the fact that I will get preferential pay because I am exposed to my law enforcement responsibility more than someone that lives outside the city of New York?

Mr. CAWLEY. You mean extra compensation for living within the city?

Mr. RANGEL. Yes, sir.

Mr. CAWLEY. It is something I had not seriously considered, but I certainly will think about this as a possibility.

Mr. RANGEL. You agree the police that do live in the city are expected to give a little more to the city than those that live outside of the city?

Mr. CAWLEY. I would agree a man who lives in the city 24 hours a day, 7 days a week, is certainly much more responsive to take a police action than a man who comes in 40 hours a week.

Mr. Rangel. And that would help the police department service the people in New York City, would it not?

Mr. Cawley. I would agree with that.

Mr. Brasco. Chief, I am under the impression that most of the patrolmen start out on the job living in the city of New York, and then move out. And based on that, isn't there something that can be done to hold them in the city? Or is the reverse true, the majority of policemen being recruited now are being recruited from outside the confines of New York City?

Mr. Cawley. Very frankly, in answer to that question, it would be strictly a guess at this point. I am not sure whether we are hiring more people who live in the city and subsequently move out, or vice versa.

Mr. Brasco. Chief, Congressman Rangel asked whether or not you would support a change in the law, if that is what is necessary, so that, by statute, preferential treatment, all other things being equal, can be given to patrolmen who remain in the city?

Would you be in favor of that kind of approach?

Mr. Cawley. I would certainly be in favor of the new employees that we are bringing aboard, and we are hiring quite a few this year, if there was one way of having them live within the city and stay within the city, that would be preferable to the system that we now have, where they work within the city but can live outside of the city.

Mr. Brasco. I am not suggesting we ask those already living outside the city to sell their homes and come back. Obviously, I am not talking about that kind of chaos that would be created in one's personal life. I am talking about new employees, specifically.

Mr. Cawley. Ideally, we would like to have city employees employed by the city and live within the city. There are a number of problems, as you know, including housing conditions and a lot of other factors that would have to be carefully studied by a number of people before change could be made in the existing law.

Chairman Pepper. Miss Tucker, I believe that finishes your inquiry. Thank you very much. We commend you for your great work.

Mr. Lynch, would you go ahead?

Mr. Lynch. Yes, sir.

Seated next to Chief Cawley at the witness table is Deputy Chief Inspector Simon Eisdorfer. Under his command is the New York Police Department Robbery Stakeout Squad.

I wonder, Chief, if you could describe to the members of this committee what the robbery stakeout squad is, how it operates, and what has been its rate of success over the past 5 years it has been operating?

Statement of Simon Eisdorfer

Mr. Eisdorfer. Yes.

This stakeout unit, as it is called, was formulated in 1968.

Due to the increase in robberies, due to the increase in homicides onto business people, due to the increase in the availability of handguns, and also because of community pressures, we formed this unit in 1968, consisting of 40 patrolmen with adequate superiors.

These patrolmen were selected as volunteers. They were given psychological testing as to their stability; they were trained in marks-

manship; in the laws of arrest, evidence. They were trained specifically to work inside, to cope with this robbery problem.

Although we have only 40 men, and we are now down to 32 men because of attrition, we feel that these 32 men do have some public impact to allay the fears of the community. We select the location upon the complainant's application to his local precinct commander. Usually these business people have been held up more than once. Usually the perpetrators that appear on the scene have been the same on more than one occasion.

We select our location, keeping in mind the safety of the public, the safety of the people using the business premise, the safety of the officer and, of course, the safety of the owner of the business involved.

We use different types of weapons. We use either rifles or shotguns, whichever the location that we select to secrete the patrolman suits us best.

We usually stay in one location for a minimum of about 30 days. With 32 men we can only cover, roughly, about 15 locations at any one time. If we feel that the robbery potential has diminished because of our presence there, or because it is known that we are there, we don't stay there longer than 30 days.

If we feel that we may have some impact we do stay there beyond the 30 days, although we may not have any contact with any criminal.

The men are adequately suited. We use bulletproof vests. Most of the time we have no contact with the criminal. About 25 percent of the time we do have contact, and usually when we do have contact, we are successful in either apprehending or injuring the criminal.

Last year, 1972, we covered predominantly 24 locations. We had seven contacts, and out of those seven contacts we had nine arrests and five injuries. This year so far, on a 3-month period, we covered six locations; we had two contacts with the criminals for a total of five arrests.

We tried to keep the officers in this unit for a minimum period of 2 years, and then we try to rotate them to give to them different duties. We don't like to keep them in here beyond the 2-year limit.

We can't pinpoint our effect exactly. On a transient area, an area like Times Square, an area where we have many, many people, I doubt whether we have any impact at all. But on a local business area, a local shopping area, we have considerable impact and, usually, if we do have one contact within that premise, within that store, and it doesn't reoccur, then it does have.

Mr. LYNCH. Chief, it is my understanding that in the past 5 years of operation you have had approximately 200 stakeouts——

Mr. EISDORFER. Yes, sir.

Mr. LYNCH [continuing]. And in approximately 53 of the stakeouts there was a confrontation with armed robbers, and that in 25 of these confrontations armed robbers were killed by stakeout squad officers.

Are those figures substantially correct?

Mr. EISDORFER. Yes, sir.

Mr. LYNCH. You indicated there were five injuries in 1972. Were those injuries fatal?

Mr. EISDORFER. Five fatal; yes, sir.

Mr. LYNCH. To the robbers?

Mr. EISDORFER. Yes, sir.

Mr. LYNCH. How many businessmen have you lost since you operated this unit?

Mr. EISDORFER. We haven't lost any. We had two patrolmen injured—shot. I recall having one shot in the fall of last year—shot in the stomach. He lived.

Mr. LYNCH. Chief, the FBI crime data shows that in 1968 you had a rate of robbery of approximately 485 per 100,000. In 1971, that rate had risen to 790. In our earlier dicussions with you when we were up to see you with our investigators, you indicated it was difficult on a citywide basis to judge the effectiveness of this kind of operation. But you also indicated that in certain sections of the city, it was the department's view—and it certainly was your view—that a stakeout would, for a given period of time after a confrontation, reduce the number of robberies in that locale.

Do you have any data that could substantiate that judgment?

Mr. EISDORFER. No; I don't have any data on that score. But as a rule that does happen. We do remain in after we do have a confrontation.

The people already know we are there—the business pople know we are there, the local community knows we are there—and I think that in itself has a positive settling effect on the crime rate within that immediate locale.

Mr. LYNCH. Can we infer then that armed bandits come from the locality in which they commit robberies? How do they learn about your operation?

Mr. EISDORFER. It looks like they do come from that immediate locality. As a rule they do. We find they do come from a close vicinity to the premise which they hold up.

Mr. LYNCH. Are your operations publicized in any manner?

Mr. EISDORFER. As a rule, when we do have any shootings it is publicized. It does come out in the newspapers and people learn about it; yes.

Mr. LYNCH. I realize you don't advertise the fact you are staking out the XYZ candy store, for instance; however, does the department publicize the availability of this service, and does it publicize as a departmental policy the existence of this special antirobbery squad?

Mr. EISDORFER. I don't think we publicize it as a rule, but I know all of the business people know of its availability.

Mr. LYNCH. Chief, of the 25 armed robbers who have been killed in confrontations with your men, have you had occasion to check the criminal records of those armed robbers, and if you have, could you tell us how many of them were recidivists? How many of them in particular had prior armed robbery arrests and/or convictions?

Mr. EISDORFER. I don't have the figures for it, but I will tell you the majority of the people are recidivists; they do have prior armed robbery arrests.

Mr. LYNCH. Would that information be available from your department?

Mr. EISDORFER. Yes.

Mr. LYNCH. Could you send that to us?

Mr. EISDORFER. Yes, sir.

Mr. LYNCH. We would appreciate that.

[The information requested was not received.]

Mr. EISDORFER. I would like to point out, Mr. Lynch, that in the last contact we did have with five people that held up a grocery store, four out of the five had prior convictions of armed robbery—five arrests.

Mr. LYNCH. I do have one further question, Chief. Let me preface it by saying that Commissioner Murphy this morning in his testimony indicated the citywide anticrime section had not generated any adverse publicity, nor was there any unusual level of violence connected with it in the discharge of police functions. Obviously, in this robbery stakeout operation, there is.

There are a lot of people who are being killed. They, of course, were people who were in the act of committing felonies. Nonetheless, what effect does this have on the department's image in the city? Have you been criticized for this unit? Have newspapers or magazines criticized the existence of this unit?

Mr. EISDORFER. I would say when it was originally instituted we did have criticism. I would say in the past year that the people are asking for this service. We are not getting criticism for the past year.

Mr. LYNCH. I have no further questions, Mr. Chairman.

Chairman PEPPER. Tell us, Chief Eisdorfer, how are your men deployed in a given store, say?

Mr. EISDORFER. They are deployed according to where the money is kept, where the exits are, where the entrances are, and where the customers pay their bills. In other words, at a supermarket the cash registers are usually at the end of a line at which the people line up at the checkout counters. We have to be very careful in any location like that.

Chairman PEPPER. The officer is hidden under the counter?

Mr. EISDORFER. No; we usually have various methods. We put up various installations which we get behind.

Chairman PEPPER. I see.

Mr. EISDORFER. It blends in with the local decor.

Mr. BRASCO. Mr. Chairman?

Chairman PEPPER. Mr. Brasco?

Mr. BRASCO. In connection with some of your comments, Chief, again I contend from an experience in my own district that you do have an impact. As a matter of fact, one of those shootings in which a policeman was injured occurred last year in an A. & P. on Lincoln Boulevard, around Van Sicklen Avenue, that was in my district.

The police officers on the stakeout team were shot at. However, I do know, as a result of your confrontation and activity, the string of stores that were constantly being robbed in that area did decrease.

I do find it particularly disturbing that there are only 32 men on your squad, with respect to availability; and that is one thing I find disturbing throughout that we haven't been able to develop the size of the force in the city that is required to meet the increase of crime.

I suppose it is not really your problem. It is a problem of getting funds, either from the city, State, or Federal Government to enlarge your capabilities.

With respect to the criticism that might be leveled, I think that that kind of a squad has a specific mission and it is kind of a difficult mission to perform when people are already in a shop with their guns drawn, and apparently becoming more and more like cowboys in the

city, which leads me to the question of capital punishment with respect to certain types of felons.

And—do stop me if I am wrong—but it has been my own experience, again drawing from what I was used to in the D.A.'s office, we get a number of cases in which people can be prosecuted with robbery, but if they went in with unloaded weapons or "dummy up starter pistols," there was at least, in my opinion, from that experience a very distinct feeling on the part of the would-be perpetrator that he didn't want to get involved in any shooting because he knew there was an ultimate penalty to pay if he did shoot somebody and killed him.

I am wondering whether or not, in your experience as a policeman, you have been able to get the same kind of feeling. Today there are more guys with loaded guns and shooting up the town, like the wild west, and whether or not that dovetails with capital punishment with respect to, in this case, felony murder.

Mr. Cawley. I don't have any statistics that would indicate whether or not more simulated guns are being used as opposed to real loaded guns. However, my sensing is there are many more loaded weapons being carried, rather than simulated weapons.

I would also like to just backtrack for a moment and speak about the 32 men currently assigned to this unit. This unit was instituted 5 years ago, as Chief Eisdorfer indicated. A year ago, at the beginning of this year, January 1 of 1972, the detective bureau was reorganized on a specialized crime basis. As a result of that reorganization there are detective district squads in each area of the city whose sole responsibility is to deal with the problem of robbery.

In many instances, over and above the service provided by stakeout unit operations, the detective bureau engages in the same type of plant activity, based upon locations that have experienced large numbers of robberies.

So we are not addressing the problem; we are centralizing it to any greater extent we are in the current commitment, but we have a large number of detective investigators that deal with the robbery problem.

Mr. Brasco. So you are saying your complement stakeout is much larger than 32?

Mr. Cawley. I am saying the stakeout unit per se, and by its form of operation, is a relatively small one, but the detective operation which has the bigger responsibility for dealing with the robbery problem in its district does employ and plant stakeout activities as part of its operational activity.

Mr. Brasco. Would there be any figure as to how much the combined units would be?

Mr. Cawley. I wouldn't have any statistics available as to how many stakeouts or plants the detective bureau undertakes.

Mr. Rangel. Do they work together with the central stakeout?

Mr. Cawley. There would be very few instances, unless I am wrong about this. The detective bureau would be instituting, by virtue of its analysis of the robbery problem in its district, its own stakeout for plant operation rather than stakeout. It doesn't stay in there on a stakeout for 30 days.

If it runs into a liquor store problem, for example, it identifies and makes the prediction perhaps the next robbery that will occur in a liquor store in this district will be one, two, or three, and they will

put the detective personnel in those liquor stores anticipating this might be where the next crime occurs.

Mr. Brasco. Do either of you gentlemen want to comment on capital punishment, with respect to select classes of homicide?

In this particular case, commission of armed robbery?

Mr. Cawley. We have capital punishment in New York on a very selective basis, as you know. The killing of a police officer, and one or two others. Many, many studies have been done over many, many years as to whether or not capital punishment in and of itself is a strong deterrent. There has never been any firm conclusion drawn, to my knowledge.

Mr. Brasco. I agree. I was asking from your experience as a police officer. Obviously, we are not going to get answers to questionnaires from guys who said, "I changed my mind because the law was too tough in that area."

I was trying to get it from your own experience. As I said mine was, formerly, there were many more starter pistols and unloaded weapons used in holdups. It seems to me today everybody is carrying a loaded gun.

Mr. Cawley. In answer to that, I think I mentioned to Mr. Wiggins, in my own view, it is the certainty of the punishment, the fact it will be administered, that is a much more eloquent factor in itself.

Mr. Wiggins. Chief Eisdorfer, wouldn't you agree most robberies are reported?

Mr. Eisdorfer. Yes.

Mr. Wiggins. It turns out that New York City has the highest rate of reported robberies of any city in this country. How do you account for that?

Mr. Eisdorfer. I think, populationwise, we have the greatest population.

Mr. Wiggins. I am talking about rate per 100,000 population.

Mr. Eisdorfer. Possibly it could be because we are close; we have a seaport. We are traders, possibly people obtain the weapons easier to do these crimes and can get them easier within the city of New York.

Mr. Wiggins. What is the weapon of choice for robbery?

Mr. Eisdorfer. Usually a handgun.

Mr. Wiggins. The opponents of handgun legislation are always pointing to the New York Sullivan law as an example of a strong but ineffective gun law. I am not sure I know the provisions of the Sullivan law, but I gather it requires a signature to obtain or possess a weapon at all.

Mr. Cawley. That is true.

Mr. Wiggins. Do you have an observation as to whether it is working, and if not—I think the answer is no—why not?

Mr. Eisdorfer. I think the ease with which these hand weapons are obtainable is the main reason why the Sullivan law isn't working.

Mr. Wiggins. Where do they get them?

Mr. Eisdorfer. The weapons come in from other States which have gun laws permitting the carrying of guns. They may come in from other areas which permit the manufacture, or the assembling of these weapons.

Also, I believe they may come in on the harbor, on boats, railroads, airplanes. There may be burglaries in this respect. That is how they get into this market.

Mr. Wiggins. Well, I suppose that the importation of handguns is a subject that Congress could address itself to, but do you really think that is going to have any impact on robberies in your city?

Mr. Eisdorfer. If it would be countrywide. If it would affect the whole country, I think it would have considerable impact throughout the United States.

Mr. Wiggins. I don't know for a fact that it is easy to possess handguns in Texas, but if one would believe their reputation at least, everybody packs a six-shooter down there. I notice the robberies in the city of Dallas are at the rate per hundred thousand of 195.3, whereas in the city of New York, as of the year 1971, the rate was 790. That is a dramatic difference, and I suspect that the obtaining of a weapon in Dallas is a relatively easy matter. I assume that.

Do you have any observations?

Mr. Eisdorfer. No.

Mr. Cawley. I would like to at least make a comment, Mr. Wiggins.

Mr. Wiggins. Yes.

Mr. Cawley. The statistical process of gathering nationwide crime sense is one way of truing to measure the crime problem and you can compare it with other jurisdictions. I don't think the system is completely flawless by any means. I am sure you are not suggesting that.

Mr. Wiggins. That is why I asked the question whether or not robberies are reported. I kind of think robberies, like homicide, are reported, and we start with a fairly common statistical base. That is my assumption. You can challenge it, of course.

Mr. Cawley. I would like to bring up a point. I don't care to challenge it. The statistics are done on resident population, unless I am mistaken. I would like to just interject the thought here that in addition to having 8 million residents in the city of New York, that during the course of the business day somewhere between another 2 and 3 million people probably come into the city.

I think that might be one reason why crimes are committed on a greater number of people, in terms of the base structure, and then when the number is arrived at, it is divided into a smaller base.

Mr. Wiggins. That is not, in fact, the case here. It could be, but it is not. For example, the population base of New York, for purposes of these statistics, is 11.6 million, which doubtless includes the greater New York area and not just the Manhattan area.

Let's take another city with which we are familiar. Washington, D.C., has a population within the confines of the District of Columbia of 800,000 or 900,000, but the statistical base upon which these percentages are computed is 2.9 million. I think that includes surrounding counties as well. What I am saying, Chief, is that if there is an imperfect base it is imperfect for the rest of the country as well, and they suffer as you do.

The difference is so dramatic in New York City with respect to robberies over other major areas that I am curious, and I welcome any explanation for it. Especially, given the reported strength of your gun law.

Mr. Cawley. Well, the gun law is strong. We do have, and we have spoken about it frequently, the problem of Saturday night specials and the availability of weapons on much too broad a base for anyone who cares to really pick one up for $20, or some of them retail

at $18. The totally inacceptable availability of handguns is one problem.

We do have a narcotic problem in New York City; there is no question about that. We have a large number of addicts that would probably give us a bigger potential pool of people that are ready to commit crime.

There are entirely too many robberies; there is no question about it. We are aware of it. We are making progress in that area. I can't really tell you why, but there are six times more robberies in New York than there might be elsewhere.

Mr. Wiggins. Can you tell me why the rate of robberies has almost doubled in New York in the last 4 years?

Mr. Cawley. Well, we are having a lot of difficulty with the total criminal justice system in New York. We pointed this out before. Our courts are clogged. A lot of the people we arrest go into the system and return to the system. We do have almost a breakdown at points in the criminal justice system that have to be addressed. I think it is a critical problem in New York and we have been trying to deal with it.

Mr. Wiggins. One would think there might be some rough correlation between homicide and robberies. At least you have a dangerous weapon involved in both cases. The homicide rate in New York is not out of line with the rest of the country. It has not doubled, for example, in the last 4 years, whereas, robberies have. Although I don't have an answer, apparently you don't, either.

Mr. Lynch. Mr. Wiggins, if I may, it is interesting to note that there was an incredible jump in 1965–66 in the New York robbery status, and I do recall—I believe you had a commissioner who came in in 1965, but I may be wrong on that—distinctly because that was the time when the National Crime Commission and the D.C. Crime Commission were looking at this problem, and that the New York Police Commissioner announced a new policy on reporting robberies and in a 1-year period it more than doubled.

Can you address that?

Mr. Cawley. I believe it was 1965, and it pertained to all reports of crime. I think at the time Commissioner Leary was appointed. He was very much concerned with the accuracy of the crime-reporting system and insisted that the system function properly and that all crime reports be recorded. And there was a substantial increase.

Mr. Lynch. It went from 83.9 in 1 year up to 213.5 the next, which is a remarkable increase. This would lead one to believe that a very substantial number of robberies prior thereto were going unreported.

Was there, in fact, a change not only in policy regarding reporting, but a change in the criteria for a robbery?

Mr. Cawley. Well, clearly, there was a policy statement, as I recall it—it has been some while ago—to the effect all crimes had to be reported and reported precisely as described by the victim.

There was also the hairline that existed in whether it was legally existent at that time, between the grand larceny classification and robbery.

Mr. Brasco (presiding). Why don't we take a 5-minute break?

[A brief recess was taken.]

Chairman Pepper. The committee will come to order.

Mr. Lynch, will you proceed?

Mr. Lynch. Mr. Chairman, are there further questions on the robbery stakeout squad. If not, we would like to move along. We have three other programs to discuss.

Chairman Pepper. Go right ahead.

Mr. Lynch. Chief Cawley. I wonder if you could call to the witness table the representatives from the neighborhood police team, from the auxiliary police, and from the crime prevention squad.

Chairman Pepper. As I understand it, you have three programs. We will defer the questions until Mr. Lynch presents the three programs and then we will open for questions.

Mr. Lynch. Chief Cawley. I wonder if you could ask Sergeant Crowley to give us a brief presentation describing the nature of operation of the new neighborhood police team concept.

Mr. Cawley. Fine. I have Sgt. Robert Crowley from the sixth precinct. He is a neighborhood police chief. Let me give a brief background of the program.

When Commissioner Murphy became police commissioner of New York City he instituted a neighborhood police team concept in the 77th precinct. That was the first. Since that time we have added appreciably to the number of neighborhood police teams throughout the city. We now have 70 operating in some 40 precincts. Basically, the concept has the twofold objective of crime control and improved police/community relations.

I have asked Sergeant Crowley, based on his firsthand knowledge and information, to acquaint you with that.

Sergeant Crowley.

Statement of Robert Crowley

Mr. Crowley. Basically, the idea behind the neighborhood police team is to take one first-line supervisor—in the case of our department that would be a sergeant—and assign him proportionately that percentage of the available precinct manpower in connection with the same percentage of crime in a given area.

As in my case, they have chosen two sectors—in that area there was 26 percent of the crime of the precinct. Therefore, I was assigned 26 percent of the available manpower in the precinct. My duties were to devise new methods of patrol, to attempt to reduce the crime through the community by involving the community in our efforts, to try and initiate their interest in their own problem and see what we could do as far as directing their efforts into reducing the crime problem.

I was allotted 40 men at the original inception of the precinct. Since then, I have been allotted an additional 4 units, so that I now have 44 patrol officers under my command.

We had, as I said, instituted different programs through community block associations. We have developed new techniques in patrol between the community and ourselves. We have been successful in reducing crime in that given area by approximately 50 percent over the past 22 months.

Mr. Lynch. Chief, in order to move along and expedite our proceedings here, I wonder if we could now have Inspector Rogan discuss briefly the crime prevention unit.

Mr. CAWLEY. Deputy Inspector Rogan is on my right. He is the commanding officer of the crime prevention squad.

In addition to having a crime prevention squad that operates, and is assigned orally to my office, there is a crime prevention patrolman assigned to each of the 72 patroled precincts throughout the city.

I will ask Inspector Rogan to give you some understanding of what the purposes are and what our programs are.

Statement of Joseph Rogan

Mr. ROGAN. With the thought in mind of the ability of the city to place a uniformed patrolman on the street—the cost is increasing year after year after year—I think it was felt that we must find a way to utilize every means of physical security. By that I mean hardware, alarm systems, all of those things that can in some way help to reduce the crime rate without actually committing more men.

In that regard, we do have 40 men located in our central office and 70-odd men in the various precincts of the city who have gained a certain level of expertise in use of alarm systems, locks, closed-circuit TV, and other methods of reducing crime which depend mainly on the hardware itself, other than the personal service.

In the past year we have conducted over 15,000 surveys in private businesses, and in 85 percent of those cases we found that their security was inadequate. In over 60 percent of the cases where we made recommendations, we had compliance from the owner of the business.

We also maintained a speaker's unit where we can send out a detective, converse him with a particular crime situation, be it robbery, burglary, rape, cargo theft, whatever it may be, and speak to a group whose interest is mainly in that area.

We also conduct at our police academy a security management course three times a year. This is intended for the civilian security director of a corporation or firm, in order to take the expertise that has been gathered on a nationwide level and keep all of these people up to date in the recent innovations of crime prevention.

Then we recently have been assigned to administer the city's block security program. That is a new program that is just in the developing stage.

We also encourage the precinct crime commission patrolmen with the help of the people in the neighborhood that organize programs that have a specific meaning to that neighborhood themselves. Sometimes centrally directed programs for the city at large may fail to meet local needs where those needs are particular.

One precinct may have, for instance, a very large incidence of auto larceny where another has a very high incidence of robbery. Through the methods of the use of the time penachrome we try to find the single crime in the precinct that is causing the most public concern and address that on the local area.

Mr. LYNCH. Chief, I wish you now would call on Auxiliary Police Inspector Siegel and Deputy Inspector Luhrs to describe this very sizable auxiliary police force and how it operates within the context of your overall department operation.

Mr. CAWLEY. I have Deputy Inspector Luhrs, commanding officer of the auxiliary police services section, and with him is Inspector Joseph Siegel, who is a member of the auxiliary police and has been for over 20 years. I will ask Inspector Luhrs to give you an understanding of the extent of the program, and then Inspector Siegel might tell you how he sees it from being a member of the auxiliary police.

Statement of Robert E. Luhrs

Mr. LUHRS. Mr. Chairman, gentlemen: What you heard today here deals with what the police departments themselves are doing to attack the crime problems. What I would like to address myself to is what the system is doing.

I think in New York you will find the largest and I believe the most successful auxiliary police force in the entire country. We are not new. The auxiliary police program has been with us since 1951. It is there for every city to have by Federal mandate. But in our city we have generated the force which has increased over twice in the last year and a half to a size now numbering 5,300 men and women.

There are over 600 women involved; there are over 450 young men between the ages of 17 and 21 involved. Our purpose is to be dressed in a uniform and qualify to participate in this program. And by uniformed patrol have the physical crime deterrent effect that a member of the force might have.

I might add that we are not policemen, that the auxiliary will never be a policeman. Our purpose is to serve in a nonenforcement situation.

Chairman PEPPER. Excuse me. Are they armed?

Mr. LUHRS. They are not armed, sir. Some are armed because they are licensed to carry a weapon for a purpose other than being an auxiliary policeman. They carry a night stick and they carry a walkie-talkie, which is tuned to the same frequency as our police communications system. But we have a group of men and women who are responding to community needs. We do not accept everyone. A person must enroll, must be fingerprinted, must take a 10-week course, must be qualified, and the fact he has a previous criminal record does not necessarily disqualify him. But then he must purchase a uniform which is identical to the police uniform I wear.

With some exceptions, the patch that he would wear shows the word "Auxiliary" and the shield is a seven-pointed star rather than our identifying shield.

He then is directed to patrol an area he knows is in his own community. He is responsible directly to the precinct commander. And I wouldn't care how many we had, unless the police department was fully in back of the program, and Police Commissioner Murphy is. And Chief Cawley is. And Chief Kahn is; and every high-ranking officer, down to the police commander, is directly responsible for generating this valuable community resource that he has and must use. There is no better crime prevention program than an individual citizen who performs voluntarily in an area he knows, among people he knows.

No one gets paid and we want no one to get paid. Because then we know they come to us for one purpose and one purpose only. It is an excellent program. We have 15 fully equipped emergency vehicles

responding to the needs of the community and serving as an adjunct to our emergency service division.

We are now in mounted patrol, using police department horses, which would normally not be used. We have a harbor patrol because our area is composed of extensive waterways and people patrol their own vessels in and out of the waterways as auxiliary policemen and policewomen.

Last month, gentlemen, our auxiliary gave 56.884 hours to the city of New York, receiving not one penny in return. This is a purely voluntary organization that has far-reaching effects. Anyone can do it; any city can do it. We will be willing to help any organization, anyone who wants to find out more about our program. I would be most happy to help them develop this force, which can really make an effect in the community.

I would like to add one thing more: We talk about the blacks being apathetic or the Spanish being apathetic, but 22 percent of our force is black. Whatever the ethnic composition of the precinct, that is the ethnic composition of the auxiliary force. About 15 percent are Hispanic and we give courses in Spanish to those who would better learn in their language. We have 100 Chinese who perform in uniform in the areas that they have knowledge of.

We have an excellent organization, a successful organization. We will not have a paper army. If you cannot give us the minimum number of hours we don't want you. And I think this is why we are successful. We are a disciplined, uniformed organization that performs in all enforcement functions.

Mr. Winn. What is the minimum number of hours you referred to?

Mr. Luhrs. They are required to perform 4 hours a week and they are permitted to perform a minimum of 20 hours a quarter if because of illness or job situations they cannot get to us.

But we know they do perform an average of 12 to 14 hours each month.

Mr. Cawley. Inspector Siegel will now give you the benefit of having been a member of an auxiliary for 20 years.

Statement of John Siegel

Mr. Siegel. I am glad to have the opportunity to come before this body after serving 20 years as a volunteer. I am speaking for the volunteers, not for myself.

For a good many years it was a thankless sort of job, where people were not paid and they had to buy their own uniforms, pay for their own transportation, and lay out moneys of their own to go out in uniform to patrol the city of New York.

It is only in the past 2½–3 years, that we received what we call the proper recognition for our efforts.

We are glad that Commissioner Murphy, and the mayor of the city of New York, and Chief Kahn and Chief Cawley have actually got behind this program.

I think we can best emphasize first the importance of the auxiliary police to the city of New York by a release that was made by Police Commissioner Murphy. This was as recently as November 1971. He announced an expansion of the department's use of civilian volunteers

in the fight against crime. The commissioner indicated that he felt the present auxiliary police program was not being used to its fullest potential, and stated that it is his intention to mesh the volunteer services of the auxiliaries into a regular operation of the department so they function as a new adjunct of the services rendered by the uniformed force.

Further, Commissioner Murphy said that it was incumbent upon the local field commanders—that is, the captains—to use the auxiliary police in imaginative and innovative ways. Commanding officers shall not take lightly their obligation to incorporate their valuable resource into the department's efforts to curb crime in the street.

This is a statement by the police commission, Commissioner Murphy. The auxiliary police are always available for that special service they could render as a volunteer. The volunteer, as you know, gentleman, is nothing new. We had voluntary firemen through the history of our country. Voluntary deputy chiefs where the police department can afford a well-paid police department. And the auxiliary police, by their uniforms being similar to those of the police department, create a great deterrent to crime on the streets by merely patroling in pairs with a club and uniform.

The fact they are not armed is not visible to the average person because they wear their jackets and coats and one doesn't know they haven't got a gun.

The community relationship that exists with the auxiliary police, and the public, and the police department is a tremendous factor for the police department and for the public because they meet in the police station, the stationhouses throughout the city, the auxiliary places in 70-odd precincts. They are well received, thanks to police department leaders.

The captain down to the lieutenant and sergeants and patrolman welcome the auxiliary police. They cooperate to the fullest extent and we have been the last couple of years issued walkie-talkies, which are actually a very important arm for the auxiliary policeman, because he presses the button and has the assistance which he needs in an emergency.

Incidentally, each year we have participated in several hundred arrests or aided in arrests in various parts of the city, and we have prevented unknown amounts of crime by our presence.

We have been issued the use of the police horses in recent months because the men who are patrolling in the parks, mounted, paid for their horses and they felt they should contribute the police horses instead of the men paying out of their own moneys. We have these men trained at the police remountable stable and are using the police horses on a regular patrol basis now.

The park units have been issued patrol cars as a pilot program, to have auxiliary police actually in the patrol cars that may not be used by the regular police or when not used by the regular police. So they are out in the field where they can be seen by the public.

I said in the beginning that I am glad of this opportunity to bring out the fact that for over 20 years we have had men besides myself serving that long, others 15 years, 12 years, without any obvious recognition of their service to the community. I think it is a grand thing that you have this committee asking to hear about the auxiliary police, the first time we are able to voice this out of this sort of basis.

I wish to thank the gentleman.

Mr. Cawley. If I may, I would like to give you a specific instance where we recently expanded the type of duties that auxiliary police officers can perform, and then show you how much savings you can realize from it.

We always police the St. Patrick's Day Parade. It is generally a large commitment because of the number of marchers and observers and the celebration that usually comes after. Somewhere in the neighborhood of 1,400 police officers. This past year, this past parade, we were able to invest just approximately 800 uniformed officers and used 400 auxiliary police officers, meaning that the 400 that we had previously committed on a good 8- to 10-hour tour on a parade situation were able to remain on patrol in the communities they were assigned to.

Chairman Pepper. Very good.

Anything further, Mr. Lynch?

Mr. Lynch. Sergeant Crowley, as a neighborhood police team sergeant I take it that in your neighborhood you have a considerable amount of authority; that in essence you act as a chief of police for that neighborhood; is that correct?

Mr. Crowley. That is correct.

Mr. Lynch. And you indicated to the committee that in your neighborhood you had 44 patrolmen, and in the past 22 months you had reduced the crime rate in that neighborhood by 50 percent.

Mr. Crowley. Yes, sir.

Mr. Lynch. How do you account for that? What did you do that a precinct commander would not have done?

Mr. Crowley. Well, you must understand, I still serve under the precinct commander. I consider myself a source of referral for his problems.

Mr. Lynch. How large is your area?

Mr. Crowley. It is 18 square blocks.

What we did in the first instance was to change all of the posts, after analyzing the crime situation, where we normally wouldn't have had this authority. This is the difference this program gives you. The first-line supervisor has the authority whereby the rules and procedures of our department are automatically suspended in that given area and I, therefore, had the authority to move on my own volition when I see the need to move in certain areas.

No. 1, we created all new posts after realizing I had a very high burglary rate. Cars were being broken into and property removed was extremely high.

Based on the simple fact that geographically you could park more cars on the side streets than on the main avenues, I moved into side-street patrol. That had an immediate effect on crime. At one time we had approximately 800 cars a year in that small area being broken into; the following year, we were down to 180.

We are still yet to hit a hundred in the past 10 months.

We have developed our own intelligence system within the team whereby every criminal complaint is registered within that area. I have one specific individual who will contact the complainant if the complainant has seen the perpetrator, and we will go into an in-depth consultation with that individual as to the modus operandi of the criminal.

What we are looking for is a repeater in the area. We have developed our own photo system. We felt the patrol force, as the uniform force and the first line needed to more to expand from within to help, and what we have done in this instance was develop our own photo system which the community, over a year, paid for the film and what not, whereby we could take an individual who had robbed and immediately bring him into our office at that time and question him, show him photos, where again he will receive the service by the investigator later on.

It is just based on the intimacy of a given neighborhood.

We tried to develop a causation factor in every major crime. I like to use in this case an instance where we had a very high crime rate in a given area. On assessing the area we found out there was a social service building that was forcing the individuals who were waiting to get into the building to stand on the street for 6- and 8-hour periods.

We felt this caused an awful lot of problems. We contacted the social services agency; we asked them to provide for a waiting room, which they did; and immediately the crime rate dropped down.

There are certain types of patrols we developed. Let us say we had a large transient hotel where you could get a room for $6, and in the immediate area of that hotel and within the hotel we had a very high crime rate. We developed a patrol to go right in the hotel four times a day where in that instance you might not catch many people in the act of crime, but you establish a police presence immediately, again, would show a reduction.

We had a problem with shoplifting and pickpockets within stores. We were able to develop through the State penal law an interpretation on the felony or burglary whereby someone reentered that building, that store, a second time; rather than charge him with the minor crime of petty larceny we were now legally able to charge him with burglary. The store cooperated by formulating a little card that they paid for, having the individual sign it, and we used that as corroboration in court to sustain the felony conviction.

We also have gone into a perpetrator trial, whereby, to eliminate the footman, the time he must spend within a precinct should he bring in a suspect, or in the arrest case, and he feels this individual might have committed other crimes, we have an individual file which we developed and can immediately tell if this man is wanted, based on his physical description.

Mr. Lynch. Are your men mostly on foot patrol or in patrol cars?

Mr. Crowley. In my instance, I utilize footmen. The team is really supposed to be flexible, according to the area it is assigned to patrol.

Mr. Lynch. You have 44 men in an 18-square-block area. Is that a higher proportion than a regular precinct captain would have in a similar area? Do you have more men, in other words?

Mr. Crowley. Yes. These men are taken directly from the precinct. It is a reapportionment.

Mr. Lynch. I understand that. But would a typical precinct commander in New York City—perhaps Chief Cawley could answer that better—be able to deploy 44 men in a given 18-square-block area? Is that high, normal, or low?

Mr. Cawley. The number of men that were assigned to the neighborhood police team by the precinct commander is dictated by the workload that existed within that particular area.

Mr. LYNCH. So there wouldn't necessarily be a higher saturation than had been the case in the past?

Mr. CAWLEY. It should be the same percentage assignment. That 44 men represented 5 or 6 percent of the total complement in that 18-block area that was the percentage of the problem there, to try to match up the number of people with the percentage of the problem.

Mr. BRASCO. Would counsel yield at that point?

It would seem to me then, Chief Cawley, that basically we are agreeing with the premise set forth by Congressman Rangel earlier this morning about the effectiveness of the foot patrolman; and it just seems to me no matter how you work it out statistically, that in this neighborhood police team concept you have in that 18-square-block area, particularly the area that Sergeant Crowley is talking about, more men than you ever had before in the institution of that patrol. Isn't that correct?

Mr. CAWLEY. Let me ask Sergeant Crowley to respond to that. He is closer to it. Is that a fact?

Mr. CROWLEY. At one time there were only 16 men covering those 2 sectors. That 18-block-square area represented 2 radio-car sectors. At one time there would have been 16 men assigned to those 2 cars.

Mr. BRASCO. Now you have 40?

Mr. CROWLEY. Possibly a few footmen.

Mr. BRASCO. Now you have 40?

Mr. CROWLEY. Yes. You have to understand, again it is based proportionately, 100 percent on the ratio of crime to men assigned. We did put in more men.

Mr. BRASCO. I understand that, but I think it speaks for the equation where you do have a high-crime area, if you are able to give it the special attention you are obviously giving this particular 18-square-block area with foot patrolmen in combination with auto patrol, that the crime significantly drops in the area. I think that is what we were talking about this morning. I am not quarreling on how you statistically base it, how many men go into the area; but it seems to me what you carve out of what is a high-crime area, or you go to work in terms of doing the job you just described, we get results.

Again, it is unfortunate we don't have enough of these teams operating; and I suppose it is because we just don't have enough policemen to go around.

Mr. RANGEL. But the chief said this morning that the most inefficient way to use a policeman is as a foot patrolman, and the sergeant is now talking about the dramatic decrease in crime as a result of his utilization of the foot patrol. Where is the conflict, Chief?

Mr. CAWLEY. Let me for a moment ask Sergeant Crowley.

How many cars are presently covering that particular area?

Mr. CROWLEY. Two, sir.

Mr. CAWLEY. And you now have how many more men than you had previously?

Mr. CROWLEY. Presently 28.

Mr. CAWLEY. And yet, I have to apologize for not being thoroughly conversant as to the percentage of men assigned to the sixth, and how many are in here. My understanding of the concept and the way we put it in, was that out of the total number of men assigned to the precinct, the precinct commander would determine where the neighborhood police team would be most effectively used, and then based upon

the existing workload in that area he would take that percentage of his resources and assign it within the particular area. That was the basic concept.

I think, while I am hard-pressed to try and explain whether the 30 more men that were assigned in there over and above what it would have been, I find it difficult to equate what was to be done with what was done.

Somehow, I figure it is not quite that bold, Mr. Congressman. There were 28 more than had been previously in there. If he is using more foot patrolmen because he has increased capability and he is driving down the crime, then that certainly proves the point that if you saturate an area with a number of foot patrolmen, coupled in with the use of radio and motor patrol cars, you will have a greater impact. That was the point you brought up this morning.

I am not sure—while Sergeant Crowley is talking about a 50-percent reduction in his neighborhood police team area—what the total reduction of crime might have been within the total precinct, and whether the other adjoining sectors might have suffered a little bit. I have to look at the overall statistics.

Mr. Rangel. That may be so. I don't even know the area Sergeant Crowley is involved in, but I am willing to take a gamble that there is a much closer relationship between the community within Sergeant Crowley's command as a result of these foot patrolmen than there could possibly be with that radio squad car, which I have to believe would attribute any decrease in crime, or certainly as it relates to conviction, since no matter how effective the policeman is you need the community support, especially witnesses, in order to be successful.

Mr. Cawley. There are, Mr. Congressman, disadvantages to motorized patrol. One is there is a definite lack of contact between the people and the men in the car. There is a better contact between the foot patrolman who is on the same post day after day. There is much to be said for that. There is a halfway position with the use of scooters. I think the point I was trying to make this morning was that I have a percentage of resources that I have to spend, if you will, and the most economic, practical, and efficient way that I have to spend that total number, covering the entire city at the moment, is to assign them for the most part to radio motor patrol.

Mr. Rangel. I just don't understand why Sergeant Crowley, who is a miniprecinct commander, has not made the same determination since he has redirected 40 men to put them in 40 squad cars.

Mr. Cawley. Well, there would be no need to put them in 40 squad cars, Mr. Congressman. What we try to do is on a total citywide basis, and I am sure the reason why there are only two radio cars working in that particular area is there are certain responses we must make to service calls and crime calls.

We must maintain certain manning levels so we are responding to the calls throughout the precinct.

I know one of the problems we had throughout the city with the neighborhood precinct concept: Because of the lack of service calls that come in the central communications facility we wind up oftentimes with something like 50 percent of our cars being outside of the neighborhood police team community they are working in. We are trying to work on that.

Mr. RANGEL. What kind of service calls? Are these really police service calls or those that can be handled by other than police personnel?

Mr. CAWLEY. They are calls that come into the 911 number and get processed out over the years. Calls coming from the citizen of the local precinct that get out for service, reports of past crimes, reports of aided cases. The wide range of service the public expects of his police.

Mr. LYNCH. Chief Cawley, let me clarify one thing. Sergeant Crowley has 44 patrolmen. I take it that is 24 hours a day?

Mr. CROWLEY. That is right.

Mr. LYNCH. You have approximating, a third except in the high-crime period of the day, basically on foot patrol. It would seem to me that in any other 18-square-block area in the city you might have one or two patrol cars patroling at any given time. Is that basically correct?

Chief CAWLEY. That would be basically correct, but I don't think Sergeant Crowley is saying he has 44 men working in that particular area at the same time throughout the entire tour.

Mr. LYNCH. I understand that.

Sergeant, from late afternoon up until midnight how many men might you have on the beat in that 18-square-block area, maximum?

Mr. CROWLEY. The maximum number I would have would be eight.

Mr. LYNCH. Approximately, how many people live in that area?

Mr. CROWLEY. Approximate 50,000.

Mr. LYNCH. Chief, I have one other question on this program that perhaps you could respond to.

I had the impression from Sargeant Crowley's testimony that he was at least on the verge of saying that he has a good deal more latitude in cutting bureaucratic corners than a precinct commander might ordinarily have. Is that the case? Have minichiefs of police, if you will, neighborhood police team sergeants, been freed of some departmental bureaucracies?

Mr. CAWLEY. Yes. The neighborhood police team has, or the team chief has, and so has the precinct commander. Consistent with the program I have mentioned earlier of policy change on the part of Commissioner Murphy, decentralizing the authority down to that precinct commander. We expect the precinct commander to make hard judgments and good evaluations and assessments of his problem and to respond to them, not to come up to the bureaucratic change, waiting for somebody at the top to say, "OK; you can do that."

But to do it and advise, this is what has been done.

Mr. LYNCH. Are you getting any kind of special funding for this program?

Mr. CAWLEY. The neighborhood police team?

Mr. LYNCH. Yes.

Mr. CAWLEY. I think perhaps at the outset we might have had some funding, but there is no current funding to my knowledge.

Mr. LYNCH. How will you go about evaluating its effectiveness, or lack of effectiveness?

Mr. CAWLEY. There has been a study conducted, and I think it is in the final stages of being drafted, by the Urban Institute. It was a 1-year study comparing some of the NPT programs and precincts in which the concept was activated, as compared with controlled bases.

Mr. LYNCH. When will that be completed; do you know?

Mr. Cawley. Frankly, I don't; but I had a conversation with Mr. Peter Block from the Urban Institute just within the past 2 weeks. I think it is in its final stages and could be available shortly.

Mr. Lynch. Could that be made available to us? It will be very helpful in preparing our final report.

Mr. Cawley. I see no reason why it should not be.

[The information requested was not received.]

Mr. Lynch. Mr. Rogan, in talking about the crime prevention squad, I had the impression that what you are really talking about is providing technical services to businesses, citizens, on a citywide basis: advising them, for instance, on burglar alarm systems and the like. Do you provide any kind of specialized crime prevention services to precinct commanders? Do you organize programs for them or give them technical advice and assistance to particular problems?

Mr. Rogan. The crime prevention patrolman is assigned to each patrol precinct and is under direct command of his precinct commander. I only exercise a staff supervision over him. These crime prevention patrolmen are trained: we have an 8-day session once a month, except for the summer months, 10 months a year. As a matter of fact, I say on balance, that the precinct crime prevention patrolmen have come up with more innovations than has the central squad.

Many of these programs have been done under the guidance of the precinct commanders. For instance, in one section of Queens one crime patrolman enlisted the aid of private taxicab companies that work in his area. He got a bank to install a direct line between the four private cab company dispatchers and the stationhouse. These cabdrivers now are actively calling in suspicious people or reports of crime. They are very active in finding lost children.

This happens to be what you call an amusement-type area. This would probably not work in midtown Manhattan, but in the area where this patrolman is involved it does work.

In another situation we had the rooftop marking program, where you had the situation of helicopters more and more coming into use, and they find that the communication between them and ground units leave a lot to be desired because of the difficulty in transmitting locations. The patrolmen started the rooftop marking program. They have come up with a number of innovations and most are under the guidance of their precinct commander.

Mr. Lynch. How do you judge how effective a given program is? What, to date, have been the results of the number of surveys? I believe you said 15,000 surveys of private businesses. When you do a survey, I assume the purpose of it is to advise the store proprietor he needs better security equipment, et cetera.

Mr. Rogan. Yes.

Mr. Lynch. Do those people take your advice, and do you do any kind of followup?

Mr. Rogan. We have found, as I stated before, that in 80 to 85 percent of the surveys we do there is a glaring lack of security in the premises involved. We resurvey 25 percent of the cases and do find a rate of about 70 percent compliance with the recommendations.

As this program has not yet finished a complete year, it is very difficult at this point to give a precise figure. In one of the operations, Operation Identification, we initially enlisted 1,800—and I know that

is an infinitesimal small figure when you take the city as a whole—households in the operation identification program. Most of these people had previously been subject to burglaries.

To date, the last figures I have, of the 1,800 participants only 3 had a recurring burglary and in 2 of these cases it was a family situation where the husband left and came back and stole something. Actually, out of 1,800 cases we had one actual matter-of-fact burglary. I realize the base is so small that we can't really count too much on this statistic.

Mr. LYNCH. The base is small but I take it that would be a much lower repeat rate than would normally be the case?

Mr. ROGAN. Yes. And I have great hopes for the program and hope to extend it citywide very, very soon.

Mr. LYNCH. Inspector Luhrs, you gave us some facts about the size of the auxiliary police force operating within the department. Could you tell us to what extent auxiliary manpower, in fact, free sworn officer manpower for street-level enforcement duties? In other words, Mr. Siegel indicated that last month some 56,884 hours' service were donated by the auxiliary policemen. Does that mean 56,884 NYPD patrolman hours were saved for more pertinent enforcement functions?

Mr. LUHRS. I don't think that would be the right analogy. Whatever number of policemen are in the precinct are performing services as you heard today. They are still there performing the services, but there are many areas which are uncovered or would need to be covered and I think our auxiliary forces serve in that capacity as an adjunct. We do not replace policemen and I don't think we should measure what the auxiliary does in saving the police department from hiring a policeman.

I think our way of looking at it is that the need is great, the community needs are there, and now we must generate the individual community member to respond to the community needs which the police department is not going to solve. There are many situations within each community that will always be there. I think, rather than the individual coming out and complaining the police are not doing their task or doing their job, we offer them an opportunity to come in and help the police do the task.

Mr. LYNCH. Is there a particular kind of activity which an auxiliary policeman ought to perform?

Mr. LUHRS. He does perform foot patrol now in pairs. We have vertical patrols involved in going through buildings with a member of the force; foot patrols, unused radio cars driven to location by regular men and manned by an auxiliary, and other auxiliary police going out in other situations. Horizontal and vertical patrols. They are out there for 4 hours. They are out there to give the individual the feeling of the presence of the policeman. They are out there to assist the community.

They are going to reduce tensions and fears. I think we will continue to grow and grow and grow until the level of acceptance is reached where an individual feels that he is then comfortable in the area in which he is living.

Mr. BRASCO. Would counsel yield?

Mr. Cawley, the testimony that all of you have given to us today, as far as I am concerned, is particularly exciting. I think they are

steps in the right direction. I have, again, personal experience with the neighborhood police team. I don't think there is much disagreement here in the community with the initial steps you have taken, but being a native New Yorker I know the rank-and-file patrolman talk about the low morale on the job and how he is upset and deeply concerned about what I and my colleagues might consider new innovations to fight crime.

Has there been any lack of expansion of these particular programs described here today by virtue of the rank-and-file patrolmen and their associations not cooperating with what one might call the institution of new ideas with respect to crime fighting?

Mr. CAWLEY. Mr. Congressman, change is never easily accepted by anyone. You can always anticipate whenever you go with new programs and new approaches that they are not going to be accepted by everyone. I am happy to say I firmly believe the bulk of the police officers in New York City accept the programs that have been put in. We have been very successful, for example, with anticrime at the precinct level. That is done on a volunteer basis, a selective volunteer. We found more volunteers than we used because we are very careful who we put into those assignments. We have men volunteering for crime prevention work.

We have men volunteering for neighborhood police team sort of duties. We have men volunteering for resident agents' work, which is extremely difficult.

Dealing with the problem of morale is extremely difficult. What is good morale? I measure a man's performance by what he accomplishes. I can't give you the absolute statistics, but I will give you the general trend because it is an accurate one: Last year the number of arrests made by the members of the uniformed service was well above what it had been the year before. They participated to a much greater extent in the traffic enforcement program. The number of parking violations summons were higher. The number of moving violations were higher. They have been asked to participate in the execution of outstanding warrants from the court.

Mr. BRASCO. I am not quarreling with that. I recall from speaking to members of the department and, indeed, the colloquy in the New York newspapers that each and every one of these programs that were instituted met with resistance, that members of the P.B.A. got on TV and in the press talking about the quota system, talking about the deterioration of the morale in the department with respect to particular programs where change was instituted.

I suppose you answered the question when you said that change is not easily accepted. It seems to me the basic criticism of the commissioner, who I think is doing a good job, is by virtue of the fact he is attempting to change systems in the department that have not been effective in the past.

Mr. CAWLEY. There has been some criticism of programs when they were instituted, both in the press and by the P.B.A. leadership, by some of the men. Our efforts have been geared toward getting and receiving greater productivity, if you will, from those people we do employ.

I regret to tell you that in some studies that were done there were cases where an officer might be employed for a 2-year period and

never issue a summons nor make an arrest. When a man is working in a very busy community and men working alongside of him are making arrests, they are serving summonses. I think it is a perfectly legitimate mandated responsibility on the part of management to ask some hard questions about whether the officer is earning his day's pay.

To the extent we began asking some hard questions about—how are you earning a day's pay—there was some reaction to it. But, again, I think it was a very small percentage, in spite of the fact it might have been reported otherwise. I think the performance we have achieved in the past years, every year, indicates the men were perfectly willing and did participate in most of our programs.

Chairman PEPPER. Anything further?

Mr. LYNCH. No further questions, Mr. Chairman.

Chairman PEPPER. Any questions by the members?

Mr. WINN. I don't have any questions, but I would like to compliment you, Mr. Siegel, on your 20 years' experience. I have a lot of questions on that but I think you have given a good explanation. I don't understand what legal authority this auxiliary has because we have civil rights groups these days that challenge everything a policeman does anyway.

How are you protected by the contribution of your time and energies?

Mr. SIEGEL. Inspector Luhrs would like me to pass.

Mr. LUHRS. May I respond to that, sir?

The auxiliary has a legal basis by a Federal mandate in 1951, and the New York State Emergency Act of 1946, I believe it is. The auxiliary, itself, is protected by workmen's compensation, which requires this department to have workmen's compensation for each such auxiliary and that is part of our local law. The auxiliary is protected for medical coverage, for loss of income, just as all workmen's compensation cases might be. So we do have that coverage.

Mr. WINN. And you have the right to arrest?

Mr. LUHRS. You have the citizen's right to arrest. But what we also do is tell the auxiliary not to make an arrest. He is to back off and not have confrontation but call for a professional man and let him make the arrest.

Mr. WINN. That answers my question.

Mr. SIEGEL. May I read this paragraph?

The auxiliary police corps was created under the New York State Defense Emergency Act of 1951 to help the regular police department in case of a C.D. emergency that would be brought on by an enemy attack. Related laws passed between 1951 and 1959, enabled them to be used in other emergencies and placed them under the police department for training and supervision.

Mr. WINN. Mr. Rogan, does your group work as public relations with the community? Other than education, I am talking about, the installations of these burglary systems?

Mr. ROGAN. Not directly. Naturally, there is a community relationship.

Mr. WINN. Which one of the groups, then, would be involved, because I would imagine it would fall somewhere in this to educate the people that the police are there to help them rather than the reputation that seems to be brought down that has lasted for years. How does that develop?

Mr. Rogan. The department does have certain specialists in community relations and is really decentralized all the way down to the precinct level where the person primarily responsible for community relations is the patrolman on the street.

Mr. Winn. That is right; but what I am asking is how do you all of a sudden take the man who has been on the street 25 years, or 15 years, or 10 years, and say, all of a sudden, he is not the bad guy, he is a good guy? He wants to help you.

Mr. Rogan. Most of the patrolmen on the street that length of time have a firm belief that to the people who live on their beat he is a good guy, and all. I don't see any problem there.

Mr. Cawley. If I may. We have a deputy commissioner who is specifically charged with community affairs. He is involved in an ongoing basis with the development of programs that promote this relationship between the community and the police service. It is his personnel. They are decentralized, they work for the precinct commander, but he structures the central programs. And our community relations personnel attend the community council meetings, business groups; Inspector Rogan's personnel always address business groups, community groups—continually.

Mr. Winn. He said that. That is why I thought maybe it fell under his jurisdiction.

Mr. Cawley. It is kind of a twofold approach, this community affairs. This is very much a crime prevention program. It is tailored to do that.

Mr. Winn. His?

Mr. Cawley. Yes, Inspector Rogan's.

Mr. Winn. His neighborhood crime prevention?

Mr. Cawley. Through the educational process and through doing surveys and showing people how to improve their ability to protect their own property.

Mr. Winn. As you mentioned, this has worked real well because the statistics you gave are very impressive. Somebody, I think, said something about the number of women.

Mr. Luhrs. Yes, sir.

Mr. Winn. One hundred?

Mr. Luhrs. Over 600. Women are permitted to patrol.

Mr. Winn. They are permitted to patrol?

Mr. Luhrs. Yes, sir.

Mr. Winn. You mean street patrol? Not school safety patrol?

Mr. Luhrs. No, sir. They patrol the streets with two other uniformed auxiliaries.

Mr. Winn. They have the power to arrest, but usually call for help?

Mr. Luhrs. But many of their talents are used indoors in clerical responsibilities.

Mr. Winn. I see.

I thank you, Mr. Chairman.

Mr. Brasco. Mr. Chairman, one last question of the chief. Why do we need three separate police departments in the city of New York?

Mr. Cawley. I didn't know we had three.

Mr. Brasco. Transit and housing and your department. It seems to me it would be more efficient as an operation if it was all consolidated under one.

Mr. Cawley. That is a subject I know has been carefully studied over a period of years. Quite frankly, I haven't seriously given it any great amount of thought. The transit authority, of course, is kind of a quasi-State organization under the NTA, but the housing authority is part of the city administration. I don't know their numbers at the present time; 1,500 is a figure that comes to my mind, or thereabouts.

Mr. Brasco. Combined?

Mr. Cawley. About 1,500 in housing. Transit is much larger, though I don't have that number; and the housing authority is specifically assigned to patrol within those project areas. Now, whether or not there is substantial benefit to be realized from a merger of the two agencies is something that would have to be given careful thought as to the pluses and minuses.

Mr. Brasco. But you don't have any opinion as to whether or not it would be good?

Mr. Cawley. I could probably sit and come up with some pluses and minuses, but I would have to give it some careful thought as to whether that would be the best approach to dealing with the problems of the housing.

Mr. Brasco. As I understood it, the bulk of those organizations would like to merge. I may be wrong.

Mr. Cawley. I am not sure whether that is a fact or not.

Mr. Brasco. The PBA hasn't thought too kindly of the merger.

Mr. Cawley. You might find it interesting dichotomy that where the patrolman level might want to merge, whereas the upper levels may not be, because of a number of practical reasons. But I think it is something that would have to be given a lot of study before I could give a response.

Mr. Brasco. In closing, I suggest we ought to do that. I have a personal thought that if we had jurisdiction under one head—I don't mean the administration's superagency series in total—but if we had these crime units combined, I think they might be more effective.

Thank you.

Chairman Pepper. Chief, before this part of your presentation is concluded, give me a view of the compensation paid to the members of the police force of New York City, the scale and level of pay, from a new man and up.

Mr. Cawley. They recently concluded a retroactive contract negotiation, so I don't think I can give you the precise figure. But I believe the starting salary probably comes in somewhere around $13,000 at this point.

Chairman Pepper. That is the starting?

Mr. Cawley. Yes.

Chairman Pepper. Of a patrolman?

Mr. Cawley. I know the top salary at the end of 3 years is in the neighborhood of $16,000. That may include some longevity, 5-year increments.

Chairman Pepper. The patrolman?

Mr. Cawley. Patrolman is near $16,000.

Chairman Pepper. What is the next level of authority over him?

Mr. Cawley. The next level would be sergeant.

Chairman Pepper. What does that pay?

Mr. CAWLEY. Probably in the range of near $20,000. A lieutenant would be the next layer, getting somewhere around $23,000 to $24,000. The captain is the next layer and I give you the figure rather than the increments: A captain by virtue of a conclusion of contract less than 6 weeks ago, is $30,000 a year. It is a high-priced executive.

The deputy inspector is probably about $32,000; the inspector is in the range of $33,000; and the deputy chief would be $34,500. The next rank level, if I may, is assistant chief. That salary has not been established as yet. The rank level above that is mine. There are four three-star chiefs in our department and I am one of them. That salary has not been established. And there is one four-star chief, who is the chief inspector in charge of the uniformed services in total. But the last established salary of the deputy chief is $34,500.

Chairman PEPPER. How does that scale rank with the other major cities of the country?

Mr. CAWLEY. I have not compared it recently, but I think it wouldn't come off second best, Mr. Chairman.

Chairman PEPPER. I was thinking, that is pretty good.

Mr. BRASCO. Where do you take those examinations?

Mr. CAWLEY. I think it is too late, Congressman. You waited too long.

Chairman PEPPER. I am delighted to hear the salary schedules you have recited here today. I wish it were possible for some program to permit police officers, generally, over the country to get something like that because I think they are entitled to it.

I had a bill pending that a police officer would get an income tax exemption on the first $5,000 of his income, a way by which the Federal Government, without any direct administrative expense, could add to the compensation of the policeman and fireman both. I think they ought to get more compensation.

Thank you very much, gentlemen. You have all been very helpful and we commend you on the initiative and innovative imagination that you have displayed in these programs. We hope you are going to keep on pushing forward, trying better programs, and will be able to greatly reduce the crime we now have.

We will take a 5-minute recess for convenience of the reporter.

[A brief recess was taken.]

Chairman PEPPER. The committee will come to order, please.

Mr. LYNCH. Chief Cawley, the last item the committee would like to discuss with you in regard to the New York City Police Department is the so-called Williamsburg hostage incident. I wonder if you, Chief Eisdorfer, or Inspector Freeman could briefly describe for us how that incident took place, when it happened, what the initial confrontation was, and how the police department reacted to it.

Mr. CAWLEY. I would like to ask Chief Eisdorfer to give you the chronology of that incident from the beginning point to conclusion, and then any questions that you might have with respect to it we would be happy to respond.

Mr. EISDORFER. The initial incident started on a rainy Friday evening at about 5:30 on a cold January night; January 19, at 5:30 a call was received at police headquarters in our communications system that a robbery was in progress on Broadway.

The exact address, I believe, was 927 Broadway in Brooklyn. This area is part of Bedford-Stuy. It is a heavily populated area. Broadway

is a business location, comprised of stores, with side streets containing tenements, four- five-, and six-story tenements.

The initial call said a robbery was in progress. The premise was called John and Al Sporting Goods Store, selling rifles, ammunition, Coleman stoves, winter clothing, hunting gear, fishing gear, boats, and outdoor garments.

At this time there were approximately 12 customers in the store. There were two owners in the store. The arriving patrolman, first radio car on the scene, found the front door closed. The premise was lighted up. They motioned to the owner through the glass door and the owner motioned them away, saying that the premise was closed. They thought it was very odd. They saw a man standing close to the owner with a rifle in his hand. The rifle was not pointed at anybody, but they felt since the alarm was transmitted, something was wrong. They retreated to the outside.

This store had one entrance and one exit. The exit was on a side street. It was a corner store. Just at about this time, the sergeant also responded to the scene with another radio car. So we now had three cars close to the scene with approximately six men.

At this time, a man with his hands up exited from the side exit. Behind him appeared men with rifles. The officers confronted these men from across the street. The men with the rifles from the store started to shoot at the officers. The officers returned the fire. The man that was holding his hands up dropped to the floor and crawled away.

The sergeant sent an officer after him and it appears that he was one of the owners of the store. The criminals then retreated into the store and shut the door behind them. The door appeared to be a steel door.

So what confronted us at this time was a store comprised of three stories, a building, actually, containing sporting goods. Incidentally, we retrieved the owner unharmed. At this first initial contact we believe we even injured and shot one of the perpetrators. The owner told us there were four perpetrators.

At this time, the sergeant called for the emergency service division. The emergency service is a unit which has been trained with assault teams to contain an area. This division, besides consisting of the emergency service division, also has the special events squad which is a group of men working at daytime in high-crime areas for special events, plus tactical patrol force working in the evening from 6 at night on toward the morning. Also, working in high-crime areas.

The sergeant sized up the situation as a hostage situation and called the emergency service division, which had been trained to handle these situations. The first emergency service lieutenant and truck arrived at the scene at about 5:45. The lieutenant that responded to the scene, who also sized up the situation and called for additional help, verified it was a hostage situation, that there were 12 hostages, approximately 4 criminals inside holding them hostage, and he asked for help.

At this time, I was in Manhattan. Inspector Freeman was also in Manhattan, at different locations, and we all responded to the scene.

Mr. WINN. How did they arrive at the fact there were 12 hostages?

Mr. EISDORFER. It appears the criminals herded all of the hostages down to the main floor after this. Prior to trying to attempt to escape they tied them all together on the main floor.

Mr. CAWLEY. If I might interrupt for just a moment, because at this point I think it is important for Chief Eisdorfer to give you some information about the hostage training program that we have instituted in the department, as a result of an earlier hostage situation that occurred in a bank.

We learned several lessons from that that might give you some insight as to why the sergeant sized it up to be a hostage situation, where he then called for the special operations division personnel.

Chairman PEPPER. How many people do you have in that group?

Mr. EISDORFER. We have approximately 350 men in this specially trained group. Of course, not all are working at the same time. But we contained this condition with much less specially trained groups.

In September of last year we had experienced a hostage situation involving a bank, plus what we felt was happening throughout the world in political and terrorist hostage situations, and we decided to set up guidelines. We felt that whether it was an aborted crime or whether it was a political hostage situation, fundamentally we felt it was a police problem and as such we had enough to go on to set up guidelines to contain this action; and, hopefully, through to a successful conclusion.

Of course we knew that a terrorist situation would involve some political considerations, but nevertheless, until that situation arrives we felt as policemen we should be there and contain it and should be in control. This situation fell into exactly our plans with reference to an aborted crime.

Also to implement our guidelines and implement our plans we did set up a hostage training school. This school was set up in an abandoned area, Floyd Bennett Field, where due to the good graces of the Navy we were permitted to use their abandoned buildings in which we set up a situation in which we had a hostage situation, and which the hostages moved in transit to another location, and in which we had a third location where we had the same similar situation as the first location.

In our guidelines we broke down our planning into three phases: phase I, the original location; phase II, the transit; phase III, to the new location.

We coordinated all of the units. We have trained detective negotiators so that they would be trained to negotiate. We made use of our department psychologist and our department surgeon to set up a profile for us on the type of person who would hold hostages so we would know the type of people we are dealing with and how to handle them.

We gave this course to 500 members of the force of the rank of captain and above, covering the period of about 3 months. In fact, we had just completed this course 2 weeks before this hostage situation occurred.

The situation, as I said, was a moving actual situation, in which the officers, 20 officers at a time, were seated on a bus which had communication with the scene, in which we were able to observe the actual situation, hear what was happening on a system of communications and, also, at the same time move with the play role situation to any new location.

This training scene was stopped at critical points and the superiors were asked to evaluate the situation as to what they would do and what action they would take.

Chairman PEPPER. Did you communicate with the hostages on the inside?

Mr. EISDORFER. At the actual situation we communicated with the hostages on the inside. We set up some system of communication. On the actual situation in Brooklyn we had the bullhorns through which we could communicate. We also moved in walkie-talkies, so they could use a walkie-talkie on a special wavelength, and finally we moved in a direct-line telephone in which one of the hostages, one of the people on the scene, a doctor who was used to treat one of the injured hostages, brought in with their permission a telephone, just two telephone systems, just among ourselves. A closed-line system. That is how we did that.

Mr. BRASCO. That was an injured perpetrator, wasn't it? Not a hostage?

Mr. EISDORFER. Yes.

Mr. CAWLEY. I think the overview of the training school was to teach all of the responding commanders to any type situation of this nature that the critical issue was one of control, organize your resources in a controlled setting, to control response and to maintain rigid command decision over firepower. I think that is essentially what we tried to get to each of the commanders.

Chairman PEPPER. Who was the highest officer in charge of that operation, for the police? What was his title, his rank?

Mr. CAWLEY. I spent quite a bit of time there. It was decided on—we can come back to the details and I would like to include them for you—somewhere around 10 o'clock Friday night the decision was made because I was present as the chief of patrol, the chief inspector, most of the ranking commanders had responded to the scene of the headquarters that was located some 75 feet away from the sporting goods store, that it was essential that we divide the responsibility into 12-hour time frames, so we would have rested commanders calling those decisions.

As a result of that, I went home somewhere around 12:30, I guess it was, Saturday morning and returned at 7 o'clock that Saturday morning again, and then did a 12-hour tour, 12 to 7 a.m., to 7 p.m., at which time Chief Card, the chief inspector, came in, and Kidwell and I returned for 12.

We divided the number of commanders that we thought were needed, we created teams and worked together as a 12-hour team. Those commanders that were not felt to be necessary, we sent them back. We did not permit people to remain on the scene we didn't feel we had an absolute need for.

Chairman PEPPER. How long did this operation last?

Mr. CAWLEY. From the time of the holdup attempt to the time the four gunmen emerged from the store was 47 hours.

Chairman PEPPER. How did you eventually work it out?

Mr. CAWLEY. Well, to back up for a moment, then, after the aborted stickup of the sporting goods store—incidentally, the information that came back later was they were not there to stick the store up for

the money, but rather to procure arms—the four gunmen turned out to be of the Muslem sect, Hanifi, which was having some difficulty apparently with the orthodox sect, and they felt the need to arm themselves.

In the first exchange of gunfire that Chief Eisdorfer described to you, when the owner came out the side door, one of our patrolmen was wounded. Then the gunfire continued from the front of the store, after some of the emergency service personnel arrived, and that is when Patrolman Stephen Gilroy was shot and killed.

We also had Patrolman Frank Carpentia, who attempted to move a radio vehicle in front of the body of Patrolman Gilroy. He was shot in the knee. Through the grace of God and good medical attention and 20 transfusions of blood, I believe, he survived and is home recuperating.

From that point on I think it is important to know once we organized and placed the control of the field operation in either Chief Eisdorfer—he had direct control, but I then later, as the field commander, and the chief inspector, consulting with the field commanders and Inspector Freeman, who was on the street making strategic adjustments of personnel, there were some 40-odd shots from inside the sporting goods store at the rescue vehicle that we employed and at windows and radios on cars on the outside.

But after the initial exchange until the time of surrender, there was not one shot fired by a New York City police officer.

I think that was achieved by virtue of making—going back to the hostage training and thinking through how to deal with that type of problem, the decision was made that the immediate vicinity of the sporting goods store would be policed and covered and sniper posts at points established by Chief Eisdorfer or Inspector Freeman, manned by the emergency service division personnel.

Mr. LYNCH. Chief, you did receive requests from patrolmen, did you not, during this incident, asking they be allowed to fire at targets within the sports store? Senior commanders were asked that, were they not?

Mr. CAWLEY. The men who were pinned down, waiting to be rescued, we had some six of them in front of the store, did not, to my knowledge—well, ask Chief Eisdorfer to respond to that. He is probably more conversant in it—did not request authorization to fire into the store.

Mr. LYNCH. That wasn't the point of the question. I guess my question wasn't too clear. It was my understanding that on several occasions officers had requested permission to shoot when they saw one or more of the perpetrators in the store. They were denied that permission on the premise that such action would be permitted if, and only if, all perpetrators were present at the same time.

Mr. EISDORFER. Yes. This happened early Friday evening when we received word from one of the assault teams placed across the street in one of the adjacent restaurants inquiring to ask whether they could fire. We advised them; we directed that they not fire unless we could get all at the same time. Since that was an impossibility we did not fire. In other words, there was no firing at individual targets, at targets of opportunity. We refused to go along with that; and it appears as if—that is the way we originally set up our plan.

Mr. LYNCH. How many policemen were on the scene surrounding that sports store, roughly?

Mr. Eisdorfer. Roughly, at the most, we only had 10 teams of 2 men, 20 patrolmen holding down that whole area, surrounding that sports store. Of course, around the parameter, I would say an area of five blocks away, we formed a circle and had a perimeter around this to keep people out and the transportation out, and so forth. We had approximately 130 to 140 holding this down all the time. So, actually, we admittedly, by holding the perimeter down and holding the assault teams down, containing this action, we enabled the city and the rest of the police department to function normally.

In other words, our service throughout the city was normal except for my division's containment within this area. That was our original plan.

Mr. Lynch. How many senior commanders would have been on the scene at any given time?

Mr. Cawley. Before I respond to that, may I, and I apologize for not introducing Deputy Inspector Arthur Freeman on my left, who was very much a part of the Williamsburg scene and made a large number of critical decisions. He was a commander that rotated every 12 hours with Chief Eisdorfer and was very instrumental in establishing the assault positions and the sniper control position covering that store.

I would like him, if it is agreeable to you, to briefly describe how the posts were selected and the policies that we established in terms of manning those posts. I think it would be helpful and I would be happy to have him respond to that.

Statement of Arthur A. Freeman

Mr. Freeman. We have spoken to many police officers from various cities throughout the country for the past year and a half on our exchange program, and we find this particular problem of confrontation with barricaded situations, holding hostages, is a fairly new ball game.

We respond to barricades and snipers and utilize the men first on the scene. Now, we find with the seizure of the hostages, whether terrorist groups, fanatical groups, or aborted robbery, we find now that we have a situation that so-called bogs down. They seize hostages and the initial response by the patrol in the precinct area now is involved in a little more of a unique or new type of situation.

What we did last September when we formulated these guidelines, we wanted to spell out the particular duties of each unit that would respond to these confrontations. And speaking to these people from around the country, they had the same particular problem. Our problem is not to get many people to the scene; it is to get the people to the scene to control, contain, and evacuate the unit parameter with as few men as possible.

In our guidelines we spelled out the particular duties of the patrol force, emergency service of New York City, detectives, communications; each unit would have a play in this particular operation. The patrolmen that responded initially would size up the situation and they would contain the perpetrator. If he was holding a hostage, we would take no overt act that would endanger the hostage's life.

We find from experience the perpetrator that does seize a hostage, he doesn't kill one of them if he is holding several at the outset.

Chances are he won't take their lives, chances are. We find out that sets on our side.

The first unit to get there, we spell their duties out in the guidelines, to keep him within a parameter, control that particular area and evacuate the people that are in danger. When we say "control," we mean the superior present at that stage controls every shot that may be fired. The officers will report what they see, but the immediate superior at that stage will direct the operation.

He must control every position. Then we go further and say that the detective that would respond have a function. Then the emergency service that responds, they have a function. And it is spelled out. The emergency service being a unit that has the firepower, protective gear, bulletproof vest, and so on, we say that when they get to the scene they will relieve the initial response of the patrolman at the particular scene, lock this perpetrator in, contain him, play for time, don't do anything that may cause damage or harm to a hostage.

Now, these teams put around the parameter are only teams of two men—the superior. And the complete reason for this is to lock them in and have control of that in the parameter. To have control of the firepower. No independent action. We call them containing teams. They are properly suited and armed and have radios with one frequency, radio band, we can talk within a parameter, direct, person to person. We control them; we contain them. We evacuate.

We have a team that we refer to as an assault team. This is containing team, two men, superior, properly armed, suited. We spell out everything that may happen in this particular stage. The perpetrator may come out of the store, building, or office with a hostage. No one takes any action unless an assault team is directing.

All possibilities that may take place are decided upon; preplans for every contingency, and it is spelled out. We have a detective assigned to a particular incident and their job is the same. It is spelled out as drivers, particular cars if cars are needed to move in a particular operation in that location, negotiators.

Mr. Brasco. Inspector, being a resident of Brooklyn, and in communication with the news media, TV, I think I understand and appreciate your dilemma. As I understand it, there was some pressure from the rank-and-file members of the department, and maybe on up, to return fire, particularly after the hostages were taken out of the building, I think, notwithstanding those pressures and the ultimate outcome of the situation, that the department did a fine job.

I contract this situation with the kind of shooting match that took place in New Orleans at approximately the same time. There we could have had a real slaughter situation.

My question is: Aside from that particular action in terms of restraint and, of course, final outcome, I am wondering if we could just reverse it so that I could get, and the committee could get, some insights for the record, as to the plans you intended to employ, if you are at liberty to talk about them.

Suppose the hostages were not able to get out of the building, as they did, through a side door or an entrance on the roof that one of the owners knew about, what would have been the plan at that time?

Mr. Cawley. I would like to respond to that, if I may.

There were a number of contingency plans developed attempting to deal with any eventuality, hoping at all times, of course, we could pursue the course we decided upon very early; that is, we would practice a policy of firm restraint and, hopefully, continue to negotiate and eventually talk them out of the building. In the event that failed the plans were based upon the safety of the hostages.

I can appreciate your wanting to reverse it, but perhaps if we went the other way you might understand why we were pretty confident we might be able to talk them out. There were a number of early indications that we might be successful if we just practiced a great deal of patience and restraint.

We were ready to deal with the other. It would have been a very unfortunate course of action if we were forced to do it. The building was almost a fortress. The side door was made with a steel plate. The interior of the building was structured in such a way—there was a balcony overlooked the front door—in that there was no way of police officers coming through the front without being fired upon from that balcony.

We developed other contingency plans should the occasion arise where they might have killed a hostage and thrown one out and said, "That is the first and there will be another one in a half hour." If that came to pass, then, obviously, there would have to be a very quick strategy and policy decision and determination of how quickly you go in and how best you go in. You could not very well sit back and have that occur.

As to what we had in mind in the long run: One of the factors that really encouraged the escape attempt was the preliminary expiration of one of those contingency plans. We began to test the structure of the building trying to see where we might put in, if you will, and get a vantage point that would look down on the gunmen who were looking down on us. As we started to probe, I think for the first time, some 43 hours later, they lost their cool, if you will, and made their first major mistake. They ran together, the three of them, and left the hostages alone. The hostages having banded at that point is where Mr. Riccio, knowing there was a false door, rushed them up to the rooftop, which gave us several anxious moments at the top there, as one, Mr. Riccio I think it was, emerged with a gun, not knowing whether it was a hostage or gunman.

We had a captain sitting on the top of that position who practiced the restraint and cool we were looking for. He quickly assessed the situation, determined it was the nine hostages, dropped the ladder, and we took them off the roof. And once the hostages were out the gunmen fired several shots up through the ceiling in their frustration, but we had the hostages.

In any event, the new ballgame occurs when the nine hostages are no longer being held, and there is no immediate need at this point to risk the lives of police officers attempting to enter the building, as long as we were confident in making some progression in the negotiations. And we were very confident we were doing that.

I would like to go back to Friday night to clarify a point. It all sounds like it is very smooth, and I would like to think it was, but, of course, at the beginning point of an incident of this nature in which police officers are shot and robberies are in progress, a lot of radio

calls are responding, there is quite a bit of confusion, as you can well appreciate. As Chief Eisdorfer described it, it was a busy business street. There was an elevator overhead that further complicated it with the rumblings of the plane.

There was an air of general confusion, as there always is initially. The sergeant came on the scene and began to pull it back very quickly. Notifications were made to the proper offices and people responded to that scene. I would say it took us some 3 hours before we were able to put all of our patrol precinct personnel back into their assignments and then start to look at the control of that particular incident with the specialized units.

Chairman PEPPER. What was the conclusion of it? How did you get them out?

Mr. CAWLEY. One of the indications that negotiations might prove successful was when they released their first hostage. We then found out one of the gunmen had been wounded. They made two basic requests. One was for food and the other was for a doctor.

Accompanying that hostage was a message from one of the gunmen who had drafted a letter, and part of it—I don't have it with us, I am sure—but, in essence, he said everybody was prepared to die and go to paradise. There was a basic inconsistency with wanting to go there. The fellow who was possibly halfway there, they didn't want to hurry him in there. So we were kind of optimistic, perhaps they would listen to reason.

We used this rescue vehicle. We attempted to put them under psychological pressure by continually calling for them to surrender and to turn the hostages loose so they wouldn't have a very comfortable moment. They would always have to live with concern for what we were going to do next. We kept up that pressure for several hours.

During the early morning hours—and I am just giving you the overview—we used that rescue vehicle as a means of having a minister go in, roll up near the front of the sporting goods store and attempt to reason with them and ask them to come out.

Incidentally, I think it is accurate to say that every time the vehicle was used it was greeted by gunfire.

Mr. BRASCO. A bulletproof vehicle?

Mr. CAWLEY. Yes.

Also, during the early morning hours of Saturday, we had several muslem priests come and volunteer their services, to go in and speak with them. Two, in fact, went into the vehicle. They agreed to have one meet with them. The meeting lasted some 5 minutes and was unsuccessful.

Chairman PEPPER. Describe the rescue vehicle.

Mr. CAWLEY. We have a specially prepared vehicle that is an armored vehicle that we put together, I guess, some 5 years ago. Maybe I ought to pass this to Chief Eisdorfer and he might be able to give you some kind of a better idea of the description of what it looks like.

Mr. EISDORFER. It is a 21-ton vehicle, tracked, armored proof, and it is able to hold approximately 12 to 15 men inside. It opens up through the middle, in the rear, in between the tracks, and if it goes over somebody—using part of the vehicle as a front—we could take these people into the vehicle and extricate them safely from the scene.

That is what it was used for. We had six policemen pinned down, plus a few civilians, before we could get them out. Once we did get

them out, we moved the vehicle, right to the front of the store. It does have a loudspeaker system and we were able to get our ideas across.

Chairman PEPPER. It is bulletproof?

Mr. EISDORFER. It is bulletproof. We didn't have any armor on, in other words, to shoot or anything like that; no. It is a very effective weapon. Psychologically, it did scare them, it did unnerve them, and I think that played an important role in our final decision.

Mr. LYNCH. Chief, I wonder if you could tell us to what extent you and Inspector Freeman, who were both on the scene along with Chief Cawley, attribute the fortunate outcome to the hostage training which you had, I believe, in September of 1972. Did that training play an important part in this incident?

Mr. EISDORFER. I would say it played a very important part in the incident. I think it played practically a complete role. We weren't prepared for this type of incident. Our men weren't trained. Time was on our side and we felt sooner or later the criminals must make an error. They must make a mistake. They made that mistake. We were there and we were ready to take every opportunity that we would have.

Mr. LYNCH. And the training you had, the training you described, you weren't talking about classroom lectures you were talking about "war game" type situations.

Mr. EISDORFER. Field problem; right.

Mr. BRASCO. Counsel, if I may.

Getting back, if I might, to the point where the hostages were released, I suspect that was probably the time when the most restraint on the part of the department in understanding the situation had to come into play.

Again, I feel the department acquitted itself very well under the circumstances, because in the final analysis you had to play it by ear and, as Inspector Eisdorfer indicated, you have to look for the breaks when they come and if they come, and apparently they did.

But to be specific, these men ultimately came out as a result of your negotiation team, the doctor, and assurances that they wouldn't be mistreated on their way out; and they weren't. But how long, now absent the hostages being in that building, was the department prepared to stay outside? Was there, again, the possibility that action had to be taken to forcibly extricate the defendants from the sporting goods shop?

Mr. CAWLEY. Once the hostages escaped, Congressman?

Mr. BRASCO. Yes.

Mr. CAWLEY. Once the hostages escaped, I, certainly—and I am sure I am speaking for the police commissioner as well as the other responsible people—felt no obligation to go in there at the risk of police lives. How long would I have sat there? It is very difficult to say. But I am a very patient man and I would not have sent police officers into what I knew to be an impossible situation, where, in my judgment and in discussing it with staff at the time, I might have lost 8 to 10 police officers.

Mr. BRASCO. I am very pleased you made that statement and that judgment. I think that was the correct determination to make. I was just wondering if there was any cutoff plan as a result of the training that might be implemented under those circumstances where you have no hostages, but people on the inside who refuse to come out.

Mr. CAWLEY. There are no plans that you can formulate that would say in any given situation, be willing to stay 24 hours in one situation and in another, 48. It would very much depend upon the circumstances, the progress being made with any other efforts underway.

At the time the hostages escaped from the building we had the mother, brother, and uncle of the man we thought to be the leader of the four gunmen inside, at which time we put her—she volunteered—into the rescue vehicle. She went on the public address system and told her son she was there and wanted to talk to him.

She then got on the telephone and there were very meaningful discussions between the mother, son, brother, and the uncle, and the longer those discussions were kept going the more optimistic we became. And, thank God, within 4 hours they did emerge.

Chairman PEPPER. Did you have to make any commitment to them that they would not be prosecuted?

Mr. CAWLEY. No; we did not make any commitment to them. Mr. Chairman. Earlier, on Saturday, when prospects were dim and there was very little progress being made and very little place to go, we had Dr. Tom Mathew, who eventually did come down and enter the sporting goods store, we had two attorneys, Mr. Katz and Mr. Leftcort, both of whom had represented Black Panthers in the past. They came down and volunteered to attempt to communicate with the four gunmen and see if they could convince them to come out, and they would have the best of legal representation.

They did talk to one of the gunmen on the inside via walkie-talkie, but at no point in their discussion was there any agreement or understanding we would not prosecute them according to the laws of our State.

Chairman PEPPER. So they came out. The only promise being you wouldn't shoot them as they came out. You would take them in custody.

Mr. CAWLEY. We promised them the man who was injured would receive medical treatment. They would be treated professionally. We would bring them to the precinct station and they would be interrogated.

The district attorney from Kings County was present, as was several members of the staff. They assured them of that as well, and that was it. There were no other basic commitments made to them.

Chairman PEPPER. Have they been tried so far?

Mr. CAWLEY. They have been indicted. They have not been tried as yet.

One of the other interesting innovations which was put in during the course of this scene, and I think is well worth making part of the record, was the creation of a "think tank" on the part of the police commissioner that consisted of the various capabilities by our ranking commanders and deputy commissioners, who met on the 24-hour basis on 12-hour periods as we were working. They were available to me in the field, as well as Chief Cod when he came in behind me, if I had any problems I wanted to toss in there for kicking around and possible developments.

For example, when we were thinking about the contingency plans, someone that would be able to make a contact with the department of buildings, which is tough to do on Saturday and Sunday, would be able to give us an engineer, deputy commissioner of administration. And that team concept, thinking through the problem in the station-

house, which is about a mile and a half from the scene itself, without having to do the thinking underneath the sounds of gunfire, and able to think things through perhaps in, like, other than a field setting, I think, was a very important contribution.

I think it is important you know we put that concept in.

Chairman PEPPER. Excellent. I think it was excellent cooperation.

Mr. CAWLEY. Thank you.

Mr. LYNCH. Chief Cawley, you had communications capability with any one of the 10 2-man teams surrounding the sports store; is that correct?

Mr. CAWLEY. Not completely. Let me attempt to explain the organization that we put in.

I was designated, during my 12-hour segment, as field commander. Chief Eisdorfer was on-the-seat commander, if you will. It was he that was in continual touch with the assault positions and sniper's post. I had an assistant chief inspector from the uniformed service present as my immediate contact man with Chief Eisdorfer, so there was the continual conferring, so there was some idea of how to handle that.

Mr. LYNCH. But a senior commander did have communication capability with all of the various teams around the store?

Mr. CAWLEY. Yes. Continually and periodically whenever the gunfire came out of the building and on occasion came out for no apparent reason, other than I guess to keep us alert. The command would buzz over the radio from Inspector Freeman or Chief Eisdorfer to hold your fire and just try to create a climate, as difficult as it might be, in that kind of a setting of trying to keep it calm and poised and just wait—have some respect for our judgment, where the commanders will make the good judgments for you, we will tell you when you should and shouldn't use that weapon.

Mr. LYNCH. Has the New York Police Department provided hostage training, similar to that which it has given to its own men, to any other department, or have you been requested to provide that kind of training?

Mr. FREEMAN. We have continually throughout the year. The emergency service men go to a school for 5 days, Monday through Friday. It is an 8-hour day in classroom. Since September and October of last year we have made Monday barricade, sniper, hostage, consultations. That is the entire day.

Because of this incident in Brooklyn, publicity, many departments have requested to attend or send some of their planning officers to our school. We have been doing that on a small scale. We have been sending two men from different departments each Monday. One day for the hostage situation. During our course in September and October of last year we did have representatives from about 12 major cities attend our course with our captains. They sat in.

It appears the cities are scrambling to get an overall operation that can coordinate a major task force of dissimilar units. We tell them, you don't have to have 30,000 people in the department to do this, you only need 4, 5, 6, or even 3 containing teams. We say you control the immediate parameter with as few men as possible, with radio communication, under one field commander with subcommanders working under his direction, coordinating the different units that do respond.

Very basically, that is it. That is a hostage operation. Each one knows what they are doing. Each unit knows their job—which unit will be the containing, affirmative, assault team, and so on.

Mr. LYNCH. I have only one final question, Chief Cawley. You mentioned the commissioner had established a so-called think tank composed of senior people in the department which operated away from the scene and away from the gunfire. Did the think tank provide you with any valuable advice during this incident?

Mr. CAWLEY. They did. Saturday evening, at the end of, I think it was 6 o'clock, I attended a briefing sessions in the 90th precinct in which the police commissioner was present and all of the members who were going to participate as think tank members, if you will. It was their job to be receptive to our problems in the field.

I would telephone the men and ask them to give it some thought, that when they had some suggestion I might consider as being useful, that I would very much appreciate getting that call back. That meeting lasted some hour and a half. It was an updating, a briefing session, in addition to the beginning of the think tank.

Friday evening on the telephones, the police commissioner and top members were communicating regularly with the command post. When I returned at 7 o'clock on Sunday morning I attended a briefing session with the think tank members. I think it was from 9 to 11, at which time a lot of different suggestions were put in, such as, without getting too involved, putting in beeper systems into cars that might be necessary if there was a decision made that we would move the gunmen, if that were one of the alternatives we would be faced with. Those beepers were tied into helicopters if we had to take them out on the highways.

Decisions made about closing up schools, should we have to make a move for Monday and stay still another night. Coordinating the notification with the transit authority, the municipal agencies that were involved.

All in all, the people who fit in that environment and are not dealing with the pressure of the moment that occurs in the field setting, are capable of giving a great deal more thought to what might be tried. Clearly, certainly clearly understood from the outset, the ultimate decision would rest with the field commander, based on all of the inputs.

It is a by ear operation. There comes a time when decisions must be made very quickly, and it has to be done based upon as much information as you have, which is what the "think tank" was useful in doing: Giving you more alternatives to take into account before that decision had to be made.

Mr. LYNCH. I have no further questions.

Mr. NOLDE. Chief Cawley, do you have a policy regarding interviewing the media in situations like this, particularly television?

Mr. CAWLEY. We have a deputy commissioner of public information. It is a special post. And there is an office of press information, known as public information. The deputy commissioner of public information was on the scene starting Friday night. We respect his judgments. He makes the assessment as to how to best deal with the press.

We discuss with him what the press should be told and what it should not be told in the interest of operation efficiency.

We also appreciate the need for the press and the news media to report the operations of the police service in dealing with the problem.

Mr. Nolde. In other words, you attempt to establish what the facts are and get it out to the media in a way that is objective as opposed to rumors flying?

Mr. Cawley. Right, Mr. Nolde. It is very much a controlled situation. We establish liaison with the press, we establish a press area, and that area is selected considering both their need for being close enough to have some feel for that situation so they can report on it. On the other side of that, so we are comfortable with knowing we are not putting them into a position of jeopardy.

Certainly, in a possible shootout situation, they were removed to a place we felt comfortable with.

Mr. Nolde. So in this particular situation the media didn't pose any problems to add to the incendiary nature of the situation?

Mr. Cawley. No. We had them placed some 2 blocks away from the location, with somebody that kept them updated in terms of what was going on. The only thing we ever ask of the press in a situation of that nature is that they be responsible. There were certain pieces of information we would rather not have released at the particular moment because of tactical advantages we might have.

I think, in all honesty, we had one little problem concerning one of the storekeepers that was trapped in across the street. I think some enterprising and very energetic member of the media did manage to find out the phone number in there and was talking to him directly. But it did not pose any major problem to us.

Once we heard the radio station interviewing this fellow live, we quickly found out, obviously, which station, and had a pretty good idea which door, and appealed to the station to discontinue it.

Chairman Pepper. Gentleman, just this. Your testimony about this magnificent training program you have and about the splendid coordination of all of the personnel that were engaged in dealing with this problem, and about this special vehicle, brings back to my mind the Attica situation. Several of the members of our committee went up to Attica on Friday of the tragic week and we stayed there 2 days. Later on officials from Attica testified, as did inmates and other people, before our committee.

I am no military authority, but it occurred to me at that time that if there had been a gunship, say, like the Marines have, with two or three or four trained men in that armored gunship, instead of the helicopter that came over and pumped the gas and had the ship been manned maybe by military personnel or competent and well-trained police personnel, law-enforcement personnel, and if they had suddenly appeared over that scene in that courtyard and called out to them over a loud speaker, "We have got you covered. We can see where the hostages are and if any hostage is shot, we will shoot every man around the hostage who was shot, or who is cut with a knife."

I believe it would have so surprised all of those inmates if they had seen those guns sticking out of that gunship and had heard it up there and heard those competent men in uniform.

I think it is entirely possible that those men would have been intimidated and they could have held them under guns until the people came in from the outside with weapons and covered them from

the ground. I didn't disparage or discredit in any way the dedication and the diligence and best manner in which the people in charge up there conducted the operation, but I spoke to a Marine general not long ago about such an operation as that. Would it have been feasible? He said, "Yes, it would have been feasible." I don't know whether it would have worked or not, but it would have been feasible under that particular circumstance.

Do you care to make any comment about that sort of thing?

Mr. CAWLEY. We have used the vehicle not as an offensive machine, but rather as we used it in Williamsburg, as a rescue vehicle. It enabled us to take out six police officers pinned down. It also enabled us to take out of the stores a number of customers as well as owners on both sides of the street.

It did give us a substantial psychological edge, I believe.

Chairman PEPPER. It looked like a tank to the men on the inside?

Mr. CAWLEY. It resembles it; but it is not what it looks like, but how you use it. We did use it strictly on a rescue operation. It was not used offensively. It is very difficult to comment on anybody's action in a given situation of this sort because there are so many considerations that come into play. I think one must make the decision on the instant events as they unfold.

Chairman PEPPER. Gentlemen, again we want to thank you in the warmest way for what you have given us here today; for helping us to make a record which we hope will be helpful to other police departments in the country. Some others who have had similar problems are going to be testifying here and we will be interested to see what sort of training programs they have and how they coordinated there activities, and the like.

Thank you again. We are very proud you are on the police force of one of our great cities.

Mr. CAWLEY. Mr. Chairman, I want to thank you for the opportunity of informing you about the new innovations we put into effect in New York and the opportunity of reading into the record what I consider to be an outstanding example of police professionalism as displayed in Williamsburg.

Thank you very much.

Chairman PEPPER. Thank you very much.

The committee will adjourn until 10 o'clock tomorrow morning, when we will meet in this room.

(Whereupon, at 6 p.m., the committee adjourned, to reconvene at 10 a.m., on Tuesday, April 10, 1973.)

STREET CRIME IN AMERICA
(The Police Response)

TUESDAY, APRIL 10, 1973

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON CRIME,
Washington, D.C.

The committee met, pursuant to notice at 10:25 a.m., in room 311, Cannon House Office Building, the Honorable Claude Pepper (chairman) presiding.

Present: Representatives Pepper, Brasco, Mann, Rangel, Wiggins, Winn, Sandman, and Keating.

Also present: Chris Nolde, chief counsel; Richard Lynch, deputy chief counsel; and Leroy Bedell, hearing officer.

Chairman PEPPER. The committee will come to order, please.

During the morning we will hear from the New Orleans Police Department regarding the Howard Johnson-Essex incident. During the afternoon we will have testimony from Indianapolis regarding its fleet plan and its civilian-oriented police program. Also, we will hear from Cincinnati regarding its community sector police program.

The first presentation this morning will be by the police department of the city of New Orleans.

Mr. Lynch, will you proceed.

Mr. LYNCH. Yes, Mr. Chairman.

I am happy to introduce to you, Mr. Chairman, and to the members of this committee, Mr. Giarrusso, superintendent of police of the New Orleans Police Department. As you know, that is a major police agency with a complement of some 2,000 people. Superintendent Giarrusso is a veteran of 23 years of police service and holds an LL. B. degree from Loyola University.

Superintendent Giarrusso, I wonder if you could at this time introduce the members of your department who are here to testify with you this morning.

PANEL OF NEW ORLEANS (LA.) POLICE DEPARTMENT OFFICIALS:
GIARRUSSO, CLARENCE B., SUPERINTENDENT;
KASTNER, JOHN H., DETECTIVE;
MARTIN, RINAL L., SERGEANT;
POISSENOT, LLOYD J., MAJOR; AND
WOODFORK, WARREN G., SERGEANT;
ACCOMPANIED BY WILLIAM D. WALKER, REPORTER, WWL–TV

Mr. GIARRUSSO. Yes, sir. Mr. Pepper, members of the committee, I would like to introduce Maj. Lloyd J. Poissenot, the commanding officer of the patrol division of the New Orleans Police Department.

John H. Kastner, a patrolman, who conducted the investigation from the very beginning of the Howard Johnson incident. Sgt. Rinal L. Martin, who commands what we call the urban squad in New Orleans. We believe this was an innovative response to a great need that existed at that particular time. Sgt. Warren G. Woodfork, who commands what we call the felony action squad in New Orleans.

Chairman PEPPER. Superintendent Giarrusso, we are very pleased to have you and your associates here today.

Mr. GIARRUSSO. Thank you, sir.

Mr. LYNCH. Superintendent Giarrusso, as you know, we are very interested in hearing testimony from you regarding the New Orleans Howard Johnson, so-called Essex incident. From the viewpoint of this committee it seems that this would be an examination of, in essence, a new kind of crime. We have had crimes of terror before, going back to the Starkweather episode, the episode in Illinois where the young man, Richard Speck, murdered seven or eight nurses. But within the past several years we have seen crimes that involve some political overtones, crimes of terror, involving people from radical groups. That appears to be the case in the incident in your city.

I wonder if at this time you could briefly describe to this committee the events surrounding that incident, the police department's response to it, and how it ended.

Mr. GIARRUSSO. Yes, sir; I will be happy to. I have a report from which I have deleted those things I consider extraneous for this meeting and if you don't mind, I would like to read it.

Chairman PEPPER. You may proceed.

Mr. GIARRUSSO. This report deals with the Howard Johnson incident.

An investigation by the New Orleans Police Department, which began December 31, 1972, developed evidence which proved conclusively that a rifle used on December 31, 1972, and January 7, 1973, the instrument used to kill nine persons and wound nine others, was one registered in the name and recovered beside the body of Mark J. Essex. While the evidence collected was persuasive that all rounds of ammunition fired from the rifle on these two dates were fired by Essex, it was not definitely determined if Essex did or did not have one or more accomplices or coconspirators in the criminal acts committed on those two dates.

A reconstruction of the events in the period December 31, 1972, and January 7, 1973, in which Essex was known to be involved, based on the evidence collected during the investigation and, further, on certain assumptions, indicates that on or about December 31, 1972, Essex, either alone or with accomplice(s), under cover of darkness, took up a position in vacant lots adjacent to Perdido Street and to the rear of New Orleans Police Department central lockup, which is actual headquarters, and at approximately 10:55 p.m., fired seven rounds of .44 caliber magnum ammunition into the sallyport of central lockup, killing Police Cadet Alfred Harrell and wounding Lt. Horace Perez.

Following the firings, Essex took a route from the lots, across the I–10 expressway, to a building housing the Burkart Manufacturing Co. plant.

In gaining entrance to the Burkart Manufacturing Co., Essex set off an ADT alarm system. Either when entering the plant through a window, or within the plant, Essex inflicted a superficial wound on his person.

Patrolmen Edwin Hosli and Harold Blappert responded to the alarm. As Patrolman Hosli prepared to release a K–9 dog, at approximately 11:15 p.m., he was shot from behind and seriously wounded with a .44 caliber magnum bullet. Hosli succumbed on March 5, 1973.

Following the shooting of Patrolman Hosli, Essex fled the Burkart Building to a church located on South Lopez Street.

On January 2, at approximately 6 p.m., Essex purchased a razor and blades at Joe's Grocery, located in the 4200 block of Erato Street.

Essex's whereabouts or actions from the evening of January 3 to January 7 at approximately 10 a.m., were not known.

On January 7, 1973, at approximately 10:15 a.m., Essex entered Joe's Grocery, ordered the grocer, "You come here," and shot him in the chest with a .44-caliber magnum bullet.

Essex, evidently having no prearranged escape plan, ran from the store to 1506 South White Street, where he observed a car owned and occupied by Marvin Albert, with the engine idling. He ordered Albert from the car, at rifle point, got into the car and proceeded in the direction of Melpomene and Broad Streets.

At approximately 10:40 a.m., the stolen car driven by Essex was involved in a hit-and-run accident at the intersection of Washington Avenue and Dupre Street. The victim copied the license number of the car.

Essex, in the stolen vehicle, was next observed by a witness entering, at a high rate of speed, the parking garage of the downtown Howard Johnson. Next he was observed in the vicinity of the fourth floor of the garage by other persons as he abandoned the car, and entered the south or Gravier Street stairwell of the motel.

Essex asked two employees on the eighth floor to let him in the room accommodations part of the motel. They refused his request and observed him running up the stairs. He was next observed in the stairwell on the ninth floor, where he asked an employee on duty to let him in, and again his request was refused. Essex then proceeded to the 18th floor and gained entrance to the room accommodations section.

Upon gaining entrance to the 18th-floor level, it was assumed Essex attempted to start a fire and that Dr. Robert Stegall, a guest of the motel, observed Essex's arson attempt and intervened. A struggle between Essex and Dr. Stegall followed and Essex shot Dr. Stegall through the heart with a .44 magnum bullet. Elizabeth Stegall, wife of Robert Stegall, while cradling her fatally wounded husband, was executed by Essex when he placed the barrel of the rifle near the back of her head and fired. The autopsy report conclusively shows that Elizabeth and Robert Stegall were individually killed. Essex either lost or intentionally left a red, green, and black flag near the bodies of the Stegalls.

Essex was next reported on the 11th floor. He gained entrance by blasting the lock off the door leading to that level and attempted to set fires on that level.

Frank Schneider, assistant manager of the motel, who had gone to the 11th floor to investigate reports that a man with a gun was on that level, was shot in the back of the head by Essex with a .44-caliber magnum bullet.

Essex then proceeded to the 10th floor and was met by Walter Collins, manager of the motel, who also had gone to investigate reports of a man with a gun. Collins was shot by Essex with a .44 caliber

magnum bullet and succumbed from this inflicted wound on January 26, 1973.

Essex then went onto the roof of the eighth floor meeting room and then to the eighth floor patio area. Here he shot Robert Beamish with a .44 caliber magnum bullet and set fires to rooms on that floor level. From this level, he shot and wounded Fire Lieut. Tim Ursin, Patrolman Charles Arnold, Patrolman Kenneth Solis, Sgt. Emanuel Palmisano, and fatally wounded Patrolman Phil Coleman.

In an attempt to escape from the motel, Essex returned to the fourth floor parking garage level, where he had abandoned the stolen vehicle. Police officers were in the area of the vehicle. Essex fired one shot through the glass section of the fourth street level door and went back up the stairwell.

Essex was next observed on the 16th floor level of the motel. From this level, he shot and killed Patrolman Paul Persigo and wounded Joe Anderson and Chris Caton. He also set fires on this level.

Essex was next observed on the 17th floor level where he continued to systematically set fires in guestrooms and the corridor. He entered the Perdido Street stairwell and attempted to reach the roof level. Deputy Superintendent Louis Sirgo, leading a search party for the sniper, or snipers, and attempting to rescue two policemen who were trapped in an elevator on the 18th floor level, was shot in the back and killed in the stairwell between the 15th and 16th floors.

Essex went onto the roof of the motel at approximately 1 p.m.

Patrolman Lawrence Arthur, suspecting that a sniper was on the roof, opened the door on the Perdido Street side entrance and was shot by Essex.

Essex subsequently positioned himself in a cubicle on the Gravier Street side of the motel adjacent to the doorway entrance. In this sheltered and protected position, he could not readily be seen from any of the observation positions police officers had gained on high buildings in the area. Periodically shooting and shouting, Essex remained at this location.

Due to the frenzied activities of Essex, in starting fires and shooting from various levels, and information provided by witnesses, it was not definitely known if there were one or more persons committing those criminal acts. At one point, witnesses reported that guests and/or employees of the motel were being held as hostages.

The decision was made to systematically secure each floor of the motel. Smoke and fumes from the several fires, and the need for extraordinary caution for both the protection of guests, police officers, and firemen, contributed to make this operation painstakingly slow.

The decision was made to utilize a military helicopter with police riflemen to fly over the room area and provide a more advantageous position for firing at Essex and/or others. Shots were fired from and into the cubicle.

At approximately 8:50 p.m., when the helicopter was on its third flight over the roof, Essex ran from the cubicle, firing at the helicopter and was shot.

Reports from several observation points were to the effect that a second subject could, at times, be seen on the roof. While these reports were not definitely confirmed, they were from acceptably reliable sources and dictated that extreme caution be exercised in and around the motel.

At approximately 2 p.m., Monday, January 8, police officers entered the roof area from both the Perdido and Gravier Street sides and searched the boiler room—the only access to this room was from the roof. No one was found in the boiler room or on the roof area. Systematic searches were made of other areas of the motel and they, too, were negative.

In a room on the 11th floor, four live .44 caliber magnum cartridges were found. A jacket, identified as one belonging to Essex, was found on the eighth floor. The jacket was reversible, dark blue on one side and beige on the other. It contained a razor similar to the one purchased by Essex at Joe's Grocery on January 2.

Interviews with witnesses who had seen Essex at close range in the several situations described collaborated generally on his physical appearance. There were conflicts in the description of his dress, particularly the color of his clothing, some of which may be attributed to the reversible jacket. One victim of the shooting, Robert Beamish, described the gunman who shot him at close range on the eighth floor patio as having a goatee, which Essex did not have.

In each of these above instances Essex was alone. At no time did any witness observe Essex in the company of another person.

The investigation involved the thorough search of areas where it is known that Mark Essex was present, the exchange of information between local and Federal law enforcement officials, other criminal laboratory testing and verification of a number of objects, and interviews with more than 1,000 persons.

Mr. LYNCH. Thank you, Superintendent.

I wonder if you could tell us what emergency plan your department had in effect prior to the Essex incident.

Mr. GIARRUSSO. We had plans to deal with natural disasters, emergency situations, large crowds that do go to the city, and to deal with armed militants; however, I might add at this stage of the game that we did not have any plan at that time to deal with a Howard Johnson affair per se.

Mr. LYNCH. What kind of a hostage or sniper training had your department received? Had any special squads received hostage or sniper training?

Mr. GIARRUSSO. Yes. Prior to that we had a group which did deal with emergency situations, and people who were trained to cope with this type of affair. However, we had never been confronted with a situation dealing with multiple incidents, such as occurred at the Howard Johnson affair.

For example, there were firings from different levels of the motel: there were fires set on different levels of the motel, which led us to believe at that time that there could have been more than one person.

We had to worry about the guests in the motel, as well as civilians around the motel, who were being slain by a sniper.

Mr. LYNCH. Deputy Superintendent Sirgo was the ranking officer on the scene at the time he was killed; is that correct?

Mr. GIARRUSSO. I was the highest ranking officer.

Mr. LYNCH. You were present?

Mr. GIARRUSSO. Yes.

Mr. LYNCH. What time did you arrive at the scene of the incident, Superintendent?

Mr. GIARRUSSO. There is some confusion about the actual time that I arrived. On the other hand, I was one of the first high-ranking officers that did arrive on the scene. I was on my way to the airport. There were other officers, many other officers that preceded me there.

Mr. LYNCH. I wonder if you could tell the committee how many other law enforcement agencies participated in attempting to bring the situation under control. Was it solely the New Orleans Police Department or were other law enforcement agencies present?

Mr. GIARRUSSO. No, sir; there was a response from, I think, at least five or six other jurisdictions that surround New Orleans.

Mr. LYNCH. Their appearance was in response to what? Had you requested their assistance?

Mr. GIARRUSSO. No, I hadn't. The media had announced to the public what was going on at the hotel and many of them voluntarily arrived at the hotel.

Mr. LYNCH. Were these individuals officers, or were they contingents under command of senior officials that arrived from other agencies?

Mr. GIARRUSSO. In some instances it was individual officers and in others they were led by a commanding officer. For example, State police arrived with the superintendent of State police.

Mr. LYNCH. Did those officials report to you or did they proceed to take independent action?

Mr. GIARRUSSO. Unfortunately, in most instances, independent action was taken initially by these people, because there was a lack of communication with these people.

Mr. LYNCH. Why was there a lack of communication? Did you not have the appropriate gear? What was the reason for the lack of communication?

Mr. GIARRUSSO. Quite simply, we didn't have the appropriate gear at that time. We didn't have enough portable radios that were necessary in this type of operation, but we did get those radios that were available, and when we did set up communications with these people I admit they made positive contributions.

Mr. LYNCH. How did you handle that situation? It seems to me that it presented you with an additional problem, having other police personnel in and around the vicinity, not capable of communicating with them individually. What action did you take?

Mr. GIARRUSSO. Actually, they complicated and compounded a very difficult situation initially. We sent men out to tell them to go near police automobiles with New Orleans Police Department radios, so that they could listen to what was being said and the commands that were given, so there would be unified responses to the firings that were emanating from the motel at that time. So, I don't know the time, but after communications were established with these people things did aline, and we did move successfully with them.

Mr. LYNCH. Superintendent, you indicated to one of our investigators that at one time during this incident a number of civilians showed up offering their services, and that some of those civilians were armed. Would you tell the committee how that came about?

Mr. GIARRUSSO. There was an unauthorized and unsolicited announcement by a radio station in the city that the police were in need of marksmen with high-powered scopes to assist them. Of course, needless

to say, this was untrue, and several people did show up at the Howard Johnson Motel so armed. This presented somewhat of a problem to us, because we had to then tell them we didn't need them and ask them to leave what was then a very dangerous area.

Mr. Lynch. Were you able to determine what newsman or what news agency had broadcast that request?

Mr. Giarrusso. We were. On the other hand, when it was investigated, Officer Kastner reported to me that that radio station denied doing it.

Mr. Lynch. Based on that unsolicited call for help, which must have complicated further the command and control situation, what do you as a law enforcement official feel would be appropriate restrictions? Should there be restrictions on civilians and especially on the news media in the area around a situation such as the one that was confronting you?

Mr. Giarrusso. I believe that it is necessary, if there is a repetition of the Howard Johnson affair, to isolate the area to protect civilians that are in that area. On the other hand, I do not believe it is necessary to restrict the media. The media made positive contributions to the community at that time.

For example, as a result of media cooperation we were able to minimize the amount of civilian traffic in the area. In addition to that, the media did neutralize many rumors which were rampant at that time.

Mr. Lynch. What were those rumors, Superintendent?

Mr. Giarrusso. They ran the gamut all the way from multiple snipers in the building to other people, other snipers, attempting to break through the police lines and reinforce the ones that were in the motel.

Mr. Lynch. Did you have policemen on the scene who were in civilian clothes?

Mr. Giarrusso. Yes, we did. Unfortunately, many of our police responded in civilian clothes. They may have created some confusion to outsiders. We know who they were, and will take measures to prevent that in the future.

Mr. Lynch. What measures are those?

Mr. Giarrusso. I would not have anyone but police in uniform in and around such an area again. I want them to be in uniform, and furthermore, I would not permit the large number of police to respond that did respond to that situation. We have a specially trained group of approximately 100 men who would respond to a repetition of that situation or similar situation.

Mr. Lynch. Could you tell us approximately how many police officers were on the scene prior to the time that you were able to establish complete communication with the other law enforcement agencies which were present? Could you give us an estimate?

Mr. Giarrusso. It is only a very rough estimate. I would say approximately 400 at one time, until we began to send men home.

Mr. Lynch. How many men did you send home, sir?

Mr. Giarrusso. I don't know. Major Poissenot was assigned that task, so we could have relief the following day, when we saw the thing may go into the following day.

Mr. LYNCH. You indicate that you have a special force of 100 men. Have those men been specially trained subsequent to this incident?

Mr. GIARRUSSO. Subsequent to the Howard Johnson incident we recognized that the carnival was about 6 weeks away, and we would have a very short period of time to train men should people from other sections of the State and/or the country decide to return to New Orleans and pick up work that had been started there by an extremist. We did develop some special training for these situations.

We developed what we considered to be assault teams and confinement teams, to isolate any area along the parade route that one or more persons may decide to use as a grouping ground.

Mr. LYNCH. Superintendent, you indicated that there were police officers on the scene who were dressed in civilian clothes. Were any of those officers in civilian clothes actually inside the hotel?

Mr. GIARRUSSO. Yes, sir, in the motel.

Mr. LYNCH. I believe that you indicated to one of our investigators, a week or so ago, that at various times people appeared at windows of the motel and that reports were coming down that there were additional snipers. Could those people have been law enforcement officers?

Mr. GIARRUSSO. It is possible; however, I do not believe this was the case. I think what actually occurred was that some of the people who were in the motel, locked in their rooms, would leave their rooms and periodically go to the balcony which faced the street, seeking help or waving cloths or garments of some type trying to attract attention.

This created some confusion among the police at that particular time as well. I don't believe that our officers created any problem. I can remember Sergeant Woodfork being at the command desk when he arrived, and I told him to remain there because one bit of information dealt with the fact that one of the snipers had a goatee, and I certainly didn't want him out there being shot at.

There were situations like this that did require immediate responses, intuitive responses, from the police.

Mr. LYNCH. When did the police commence firing at Essex? Was he fired upon when he was first seen on the roof, or were rounds fired prior to that?

Mr. GIARRUSSO. There were rounds fired prior to his entrance to the roof level, yes, sir. I don't remember exactly. When he was on the patio level, some of the policemen fired shots at him. That is where the swimming pool is located.

Mr. LYNCH. Did individual officers have the authority to fire at will, so to speak, or was the authority to fire reserved to commanders?

Mr. GIARRUSSO. Initially, prior to setting up communications with the men who had assumed positions in and around the building, I believe the men fired at will. When we did establish communications, I can remember talking to some of the people who had talked to some policemen, who had talked to some of the guests who had come down into the lobby of the motel where the command post was.

Mr. LYNCH. I was interested in finding out who had given the policemen authority to fire and when they were firing.

Mr. GIARRUSSO. Yes, sir. At that time they were firing in response to somebody that either had fired at them or after having seen Essex. When communications were established I set up certain priorities,

the first of which was the safety of the guests in the hotel, because we had word at that time that hostages had been taken.

Mr. LYNCH. Where did you get that word from?

Mr. GIARRUSSO. Some of the guests who had trickled down to the main floor. There was a great deal of confusion among the guests.

Mr. LYNCH. Were those people evacuated from the building or did they remain in the building?

Mr. GIARRUSSO. No, sir. They were not evacuated that night for safety reasons. We kept them in the main floor of the motel.

Mr. LYNCH. And upper floors, I assume police officers were located to insulate the civilians from the possibility of Essex coming down?

Mr. GIARRUSSO. When we began a systematic search of the motel we sealed it off, floor by floor and room by room.

Mr. LYNCH. Superintendent, is it a departmental regulation that officers keep track of the number of rounds that they fire, and, if so, can you tell us approximately how many rounds were fired by New Orleans Police Department personnel?

Mr. GIARRUSSO. I would not even guess or attempt to guess the number of rounds that were fired. I am sure there were many rounds that were fired.

Mr. LYNCH. It is our understanding at one time you called in a helicopter equipped with high-powered arms of various kinds. When was that done and what was the purpose behind that?

Mr. GIARRUSSO. The helicopter was called in after the sniper had assumed the position on the roof of the hotel which enabled him to conceal himself from fire from anyone. I would describe it as a bunker. It was a concrete shelter on the roof of the motel from which we could not dislodge him. At that time a decision was made to seek help from the military in terms of acquiring an armored helicopter from them.

Mr. LYNCH. Was that helicopter manned by military personnel or by policemen?

Mr. GIARRUSSO. No, sir. It was piloted by a military man. On the other hand, the police manned the helicopter with police weapons.

Mr. LYNCH. What kind of weapons were those?

Mr. GIARRUSSO. Most of the weapons in the helicopter were AR–15, automatic weapons.

Mr. LYNCH. And that fires a high-caliber projectile, does it not?

Mr. GIARRUSSO. I don't know.

Mr. LYNCH. Is it armor piercing?

Mr. GIARRUSSO. No.

Mr. LYNCH. Was it able to penetrate the concrete bunker, as you call it?

Mr. GIARRUSSO. No, sir. They could not penetrate the bunker. The purpose of asking them to come in with the helicopter was to pour fire into the openings, hoping that one of the bullets would ricochet and injure the fellow or neutralize him.

Mr. LYNCH. Did that in fact happen?

Mr. GIARRUSSO. We don't know whether or not it did.

Mr. LYNCH. To the best of your knowledge, were any New Orleans police officers or any other law enforcement personnel wounded by shots from that helicopter?

Mr. GIARRUSSO. Yes, sir. In addition to the nine killed and the nine wounded, I think that we wounded six of our own as a result of ricochet bullets.

Mr. LYNCH. Were those bullets fired from the helicopter, or don't you know?

Mr. GIARRUSSO. I am confident they were bullets fired from the helicopter.

Mr. LYNCH. These were men on floors beneath the roof?

Mr. GIARRUSSO. They were men in the stairwells leading to the roof. They had sealed off the roof. And as a result of being there, of course, in order to seal off that floor, we were determined not to let him down again. Some of the shots went through the door, ricocheted, and hit several of the men.

Mr. LYNCH. I wonder if you could enumerate for us what kind of weapons your men employed during this incident, in addition to weapons carried on the helicopter?

Mr. GIARRUSSO. Revolvers, carbine rifles, and on one occasion we managed to get some high-powered rifles from sporting good stores in order to penetrate some of the concrete that he was hiding behind. They did make a hole about 1 foot wide in the concrete, in order to then fire into it, hoping ricocheted bullets would strike him or neutralize him.

Mr. LYNCH. Subsequent to the time you were able to shoot and, in fact, to kill Mr. Essex, had you had occasion to look into his background and his criminal record? And, if so, tell us if he did have a record.

Mr. GIARRUSSO. He did not have a criminal record. We did, since the operation, look into his background and his background indicated that he was an average youth who had attended school and, of course, was in the service. Subsequent to that, he returned home and then went to New Orleans where he was employed in one of the Federal programs there.

Mr. LYNCH. Did he have a record of belonging to any militant groups, or was there anything in his background that would indicate he might be a likely person to take part in an incident like this?

Mr. GIARRUSSO. We have no hard evidence linking him with any militant or extremist groups. There is some evidence in New Orleans of people he had talked with or worked with that, I guess, I would consider, as a policeman, some extremists. But as a member of a group, no; we haven't been able to get any rosters of organizations linking his name with that particular group.

Mr. LYNCH. Do you and the New Orleans Police Department maintain any kind of intelligence system to gather information about militant groups in the New Orleans area?

Mr. GIARRUSSO. Yes, sir, we do.

Mr. LYNCH. What kind of information do you develop? How do you use it?

Mr. GIARRUSSO. Well, information is developed through intelligence groups, and there are various ways to gather intelligence on people who are considered extremists or terrorists in our society. One method is to infiltrate the groups, the other is, of course, to purchase information from those who are in it. Another method is surveillance of the people as a result of prior knowledge of them. We engage in all of these methods.

Mr. LYNCH. The reason I asked the question, Superintendent, is that I am wondering if it would be helpful for chiefs of major city police departments such as yours to receive regularly, on a national basis, intelligence data similar to the kind of data the Secret Service maintains on people who may be dangerous to the life of the President. Would there, in your judgment, be value in receiving information on a cooperative basis from other agencies for instance, that people with known violent tendencies are on their way to your city? Do you get that kind of information now from other police agencies?

Mr. GIARRUSSO. To some extent, but the information that we receive, as far as I know, has largely been confined to organized crime. There isn't the amount of information that should be sent to and received from other cities dealing with terrorists and extremists. There is a need for a national depository, a data collecting bank if you will, to gather this information and disseminate it to the departments throughout the country.

Mr. LYNCH. In other words, your judgment would be that you would want to have that kind of information. But if I understand you correctly, even if you had it, it would not have given you anything on Mr. Essex and it would not in any way have been able to prevent this particular incident?

Mr. GIARRUSSO. I don't believe it would have, because we dealt with an individual here as opposed to two or more people. This was the significant difference. On the other hand, if this particular individual had traveled around enough prior to engaging in this incident, intelligence may have been gathered against him for the New Orleans Police Department, or departments throughout the country, who may have had to cope with him.

Actually there should be a psychological profile developed on these people.

Mr. LYNCH. Superintendent, I am sure you have been asked by chiefs of police in various parts of the country about this incident, and I wonder if you could tell us what advice, if any, you have given to other departments based on your experience in the Howard Johnson incident? Have you given advice to other departments as to how they might better handle similar situations?

Mr. GIARRUSSO. I have verbalized advice to other chiefs of police in Louisiana, not to departments throughout the country. We are in the process of putting something together for other police chiefs when I meet with them in May—the major city police chiefs meet in May—some of the do's and don'ts of the situation. It has not been compiled yet for the simple reason the investigation has not been completed. There are many, many administrative do's and don't's that I intend to set down and verbalize to chiefs who are interested, from other sections of the country.

Mr. LYNCH. Could you preview some of those for us?

Mr. GIARRUSSO. Yes. I think if I had to return to a similar situation the first thing I would do is I would have a few secretaries there who would take notes of everything that was said and done. A historian, if you will, that is absolutely essential for the following subsequent investigation.

The next thing, I would not permit people to randomly report to such an area. I would set up a staging area for the surrounding juris-

dictions. There is need for people from surrounding jurisdictions if you are going to isolate an area.

I think it is absolutely essential that communications be established among the policemen who are there. This is an absolute essential, and it was the one stumbling block with which I was faced when I arrived on the scene.

I think there is a great deal of interest administratively by a chief as to where he will set up a command post. Setting up a command post is very important in my opinion; where you are going to operate from, with whom you will operate in that command post.

I would try to get more portable radios so that each man who is participating will know what is going on, so there are unified responses to a command that is given.

There must be trained personnel, specially trained personnel, specially equipped personnel. We have since then trained people especially for this type of operation and they are equipped for this type of operation. The training should not be limited to firepower only. I think there is a great need to deal with the training that touches the other end of the spectrum. For example, there should be men there who are qualified to talk with someone and ask him to come out. We did this, but we didn't do it as professionally as we should have or could do right now, as a result of some of the training.

Mr. LYNCH. Based on your reflections about the incident, and with the understanding that you lost your deputy superintendent, Mr. Sirgo, who was a close personal friend as well, is there any way in your judgment that some of the fatalities that occurred could have been prevented?

Mr. GIARRUSSO. The civilians that were involved were defenseless and unarmed. I don't believe anything could have been done for the civilians, because these people were going about their normal everyday chores of life by either walking or talking in a hotel and certainly not expecting someone to ruthlessly shoot them down—murder them.

Those involved as police, who knows? In retrospect I can say I should have done this and I should have done that, but I do not know whether or not any of the action we have taken since then would have prevented those men who were killed or wounded; there would not have been as many men probably wounded or injured.

In addition to the wounded, we had about 11 men who were injured as a result of smoke inhalation, for example. I think we need that type of equipment and we have that type of equipment to cope. We sent men in there, and lo and behold they should have worn gas masks and oxygen masks to keep the men there. After stationing them on floors, we found they had to move because of the smoke, either up or down. I think we are prepared for a repetition of a situation which would involve both shootings and fires simultaneously.

I think that one other thing that this committee should know is that we have developed what we believe to be, we call it for lack of a better name, an emergency package which we ask the people in the high-rise buildings in the city of New Orleans to have for us during the carnival season at that time, not knowing whether or not there would be a repetition of the incident.

It is very important to have the plans to a high-rise building when you enter there. One of the first things that I asked for when I entered

the motel was "Where are the plans," from the manager of the hotel, and he didn't have them. Fortunately he had several people sit down and draw one floor before me and when he gave it to me he said, "These are the plans, all of the floors are the same." This helped us immensely.

You need the plans. This emergency package should contain the plans of the building.

There should be keys in this emergency package that open all doors. If at all possible, the elevators should be made available for the firemen and police only.

In addition to that, we would like to have a photograph of the roof of the building. This would enable us to take certain measures that we were unable to take last time.

If this package were placed in most high rise buildings we believe it would substantially contribute to a reduction in the number of people who are killed and/or injured, and an effective police operation.

Mr. LYNCH. Have you or other city officials recommended that this be handled by enacting an ordinance or other appropriate law in your jurisdiction?

Mr. GIARRUSSO. No; nothing has been done along those lines. The only thing we have done up to now is make arrangements with the people at city hall to have all plans for high rise buildings available to us should we need them on a moment's notice, with present plans calling for a motorcycleman to pick up the plans for that particular building and deliver them wherever they would be needed at that time.

We intend to ask for compliance by the people who own the high rise buildings, rather than do it by ordinance. Ordinance is a new thought. I hadn't thought of it.

Mr. LYNCH. Have you, in fact, developed within your department new written emergency plans for the handling of this and similar kinds of incidents?

Mr. GIARRUSSO. Yes, sir; we have.

Mr. LYNCH. I wonder if you could make those available to the committee? Could you send us a copy?

Mr. GIARRUSSO. No; we have, in terms of planning, a specially trained group which would respond to this type of situation, if that is what you mean. Do I have plans that are written? No, I don't other than I will show you I have several pages, typewritten pages, of material describing the acts to be taken by certain people. But it isn't formalized to the extent that I would like to say here that I would offer this as a recommendation for all people.

Mr. LYNCH. I have no further questions, Mr. Chairman.

Chairman PEPPER. Superintendent, I want to commend you on the clarity and the directness of your testimony here today. It has been very interesting and very helpful.

Was Essex finally killed by gunfire from your ground officers or from the gunship?

Mr. GIARRUSSO. We are confident he was killed by the gunfire from the helicopter. There were other people stationed in adjoining buildings overlooking the roof, and they did fire. Who fired first, I don't know. I do believe, in retrospect, that it was the men who were in the helicopter.

Chairman PEPPER. That was of particular interest to me because several members of this committee went up to Attica on Friday, the

week following that tragedy, and after talking there for 2 days to officials and inmates, and different ones who had a part in that episode, were told a helicopter came over the area, the walled-in area down below—a courtyard in which the hostages were confined and rebellious prisoners were concentrating—and dropped tear gas. Then the plan was for the snipers to be strategically located around so they could shoot those rebellious inmates who had knives at the throats of some of the hostages, in an effort to save the hostages before they were killed.

I was interested in your use of the armored helicopter in this incident and the value you derived from it.

Mr. GIARRUSSO. We needed the helicopter and, of course, the department doesn't have one so we asked for an armored helicopter and the Marine Corps responded with both a pilot and a helicopter—an armored helicopter. But an armored helicopter consists of armor around the engine of the helicopter and that is all.

The men in the helicopter are exposed to any shots that are fired.

Actually, Essex fired at the copter, and the shot passed near the head of the Marine Corps colonel pilot, who incidentally is a very talented and brave man. He continually exposed himself to fire from that man.

But the armored helicopters aren't armored. Only the engines are armored.

Chairman PEPPER. I thought there was armor around the body of the ship. I want to find out about that. I didn't think they would go into the situation that they had if only the engine were armored. They would be too vulnerable, it seems to me, to groundfire.

Anyway, if there were ships of armor that would protect the men in the ships who were firing, it would be of value, would it not?

Mr. GIARRUSSO. It was the vehicle that enabled us to finally quell the disturbance at Howard Johnsons.

Chairman PEPPER. Thank you.

Mr. Brasco?

Mr. BRASCO. Mr. Giarrusso, yesterday we heard from members of the New York City Police Department who described a similar situation, where 4 people took over a sporting goods shop in Brooklyn and held some 12 hostages. Fortunately, that worked out better and they didn't have the same tragedy, but I appreciate that in New York they had hostage training because of a prior experience with hostages being held during the course of a commission of a bank holdup.

I appreciate that in all of these situations you have to look for the breaks and play it by ear and with established guidelines wait to take advantage of the opportunities as they develop.

But my specific question is this, with respect to this incident: It seemed to me that one of the differences that you were working with in New Orleans that they didn't have in New York is that whatever motivated Essex apparently brought him to the brink of what I, as a layman, might characterize as an insane kind of action. Apparently, he had no intention of escape. He had no concern for his own safety or whether he would live or die.

The situation in New York was different in that the police, because they were asked for a doctor to take care of one wounded accomplice, knew the gunmen were concerned about their lives, thus, they had something to build on.

With that in mind, it would seem to me at some point it might have been evident to somebody in your group that you might be dealing with an insane man. Did that possibility come up at all?

Mr. GIARRUSSO. That possibility exists. There are levels and degrees of sanity, and I don't know how insane he was, if he were at all insane. Some of his acts seemed to be perfectly rational as far as I am concerned, particularly when you look at the casualty toll.

However, we traced him to a room that he occupied prior to going on this affair, and imprinted along the walls were all sorts of revolutionary slogans. There was a great deal of revolutionary and extremist material in the room. So we did have a psychiatrist, a psychologist, and a sociologist go into the room and they are compiling a report based on what they have seen in the room and whatever information we can give to them about it.

This group is on their own; there is no money involved. We contacted Tulane University. These people are employees of Tulane University, with one exception, and he is a man in government. It should prove interesting. I know that initially when they went to the room, which was shortly after the incident, they returned to the office and asked for information on him, which I refused to give because I did not want to color any of the scientific or objective intelligence gathered by them.

They agreed that they would form a skeleton with what they saw there and then try to put meat on the bones of that skeleton with the information that we obtained subsequent to that.

Mr. BRASCO. That is not my question. The reason I really asked the question, Mr. Giarrusso, is apparent. I don't know whether or not you will even prove or disprove this man's sanity or lack thereof, but it just seems to me his actions, as viewed by a layman, could be characterized as insane.

I asked from the point of view, with that in mind, would you again take the position of pressing an individual under those circumstances. In other words, returning his fire, having people in and around the building? Because it was apparent, from reading the testimony and listening to you that as he was pressed he ran from floor to floor shooting anybody and anything that was moving.

With that basic background, were any decisions made as to how these cases might be handled in the future? Would you again press the individual or just secure the area and play a waiting game?

Mr. GIARRUSSO. Mr. Brasco, we did. We did attempt to talk with him once; he was isolated on the roof. A man went up with a bullhorn and asked him to come down and told him, he would be taken prisoner, et cetera. This was completely ignored by him, or unheard by him. But we have reason to believe that he did hear, because we did send a man up there with an electric horn to talk with him.

But not to evade the rest of your question. If there is a madman or a rational person running through a hotel killing people, I think the only responsible response that a police official can make is to neutralize him in any way that is possible. And if it means shooting him, then he gets shot. Why should we expose innocent civilians to continued fire by someone, be he a madman or a genius? The public is entitled to greater protection.

Mr. BRASCO. I don't question that.

Chairman PEPPER. May I interrupt? I think perhaps I was in error. Maybe you contemplated that all of these gentlemen would make their own contribution and we would have the whole picture before us

before we began to inquire. Would the superintendent like to present his associates to give aspects of this matter or are they here for questions?

Mr. Lynch. I believe that Chief Giarrusso would like to have the rest of the gentlemen who are at the table with him, describe certain anticrime programs implemented by his department.

Chairman Pepper. You go right ahead and do that.

Mr. Brasco. I will finish this as quickly as possible.

The reason I ask is not to fix blame or be critical. I understand exactly what your position was. But in your testimony you say Essex did confront some people in the hotel, and unless I misunderstood the testimony, asked them to let him to certain floors. And those people were not shot. I don't know his motivation or reasoning, but it seems to me the shooting began when apparently he first began to feel the pressure of people closing in on him.

I appreciate it is a difficult thing to gage and this was your first such incident. However, I am asking you to be the Monday morning quarterback and estimate whether or not pressure on the man was helpful under the conditions that developed?

That was the only reason I asked the question.

Chairman Pepper. I learn now from our deputy chief counsel that the other gentlemen accompanying the superintendent will tell about different programs they have. They will not talk primarily about this episode.

Mr. Giarrusso. While it is true, although the men were there, all of the men seated at the table were there, they are here because of different programs we consider innovative programs in response to street crimes that we have employed.

Chairman Pepper. But they are not going to talk primarily about this episode?

Mr. Giarrusso. No, sir.

Chairman Pepper. Very well. Let's question about this episode and then go back to these gentlemen.

Mr. Wiggins?

Mr. Wiggins. Mr. Superintendent, would you please describe the red, green, and black flag which was found on the 18th floor?

Mr. Giarrusso. It is a flag that is multicolored—red, green, and black—and the areas occupied by the red, green, and black are equal in space that they occupy. There have been various names attached to it, but I don't care to attach any name to the flag for the simple reason I don't know this man is in any way connected with that group.

Now, there are revolutionary groups and extremist groups to whom this flag symbolizes something. If I described the flag, the only thing I can do is tell you it is a multicolored flag.

Mr. Wiggins. All right. What is the significance of the flag?

Mr. Giarrusso. I don't know what the significance was in terms of his carrying the flag.

Mr. Wiggins. No; the significance of the flag.

Mr. Giarrusso. I have talked and I have been confronted with that flag in New Orleans in terms of some, what I consider, militant students, insisting that the flag be hoisted and flown at a particular school. It is called by some a "black revolutionary flag."

Mr. Wiggins. Was the flag commercially manufactured or handmade?

Mr. GIARRUSSO. I don't know. I really don't know. I would say it was commercially manufactured.

Mr. WIGGINS. Where did Mr. Essex get it?

Mr. GIARRUSSO. I don't know that.

Mr. WIGGINS. Have you investigated that?

Mr. GIARRUSSO. No, sir.

Mr. WIGGINS. I suggest you might inquire into the source of the flag.

You indicated that there were certain revolutionary materials in his apartment. Where did he get those revolutionary materials?

Mr. GIARRUSSO. This, I don't know. It is similar to the underground material with which most big cities are faced. It is there and one doesn't know where it comes from.

Mr. WIGGINS. Have you investigated the source of the material you found in his apartment?

Mr. GIARRUSSO. Yes, sir. That has been done. I believe Officer Kastner can tell you what he did along those lines, as well as the man who was primarily concerned with that, the commander of the intelligence division, who is not here. But source material was checked by the intelligence division.

Mr. WIGGINS. Mr. Kastner, can you answer the question of where Mr. Essex obtained the material?

Mr. KASTNER. There were various publications of revolutionary groups, or so-called revolutionary groups, which were traced to having been purchased in New Orleans, readily available on street corners by persons who advocate these publications, and sell them right on the street corners. We found five inside his apartment which are easily purchased on the streets in New Orleans.

Mr. WIGGINS. That answers my question. Back to you, Mr. Superintendent. What kind of rifle was Mr. Essex carrying?

Mr. GIARRUSSO. A .44 caliber rifle. He had magnum ammunition, which I understand is a little more potent than the ammunition normally used.

Mr. WIGGINS. When you describe the .44 magnum, you are referring to his rifle and not a .44 magnum pistol?

Mr. GIARRUSSO. That is right.

Mr. WIGGINS. He carried one weapon, a rifle?

Mr. GIARRUSSO. He carried but one weapon on January 7. On New Year's Eve night, he did leave a .38 caliber pistol in the vacant lot that adjoined police headquarters.

Mr. WIGGINS. Did the rifle have semiautomatic or automatic fire capability?

Mr. GIARRUSSO. I think someone more qualified can tell you.

Mr. KASTNER. It is a Ruhr rifle, .44 caliber, semiautomatic, holds one round in the chamber and four rounds in the magazine.

Mr. WIGGINS. In other words, you can fire simply upon squeezing the trigger repeatedly?

Mr. KASTNER. Right; yes, sir.

Mr. WIGGINS. Where did he get the rifle?

Mr. KASTNER. Purchased from a store in Emporia; A Montgomery Ward Department Store in Emporia, Kans.

Mr. WIGGINS. It was lawfully purchased.

Mr. KASTNER. Yes, sir.

Mr. WIGGINS. Did your officers wear either bulletproof vests, or flak jackets of any sort during this episode?

Mr. GIARRUSSO. Some of them did. Those who had the vests that we had available for them did wear them. We didn't have enough vests to go around.

Mr. WIGGINS. Are they part of your police inventory?

Mr. GIARRUSSO. Part of them were our inventory and most came from the military.

Mr. WIGGINS. Referring to the AR–15 fired from the helicopter: Is that weapon a part of your inventory?

Mr. GIARRUSSO. Part of our inventory.

Mr. WIGGINS. You did not mention in your testimony that you used gas or attempted to use gas. Did you, and if not, why not?

Mr. GIARRUSSO. We did attempt to use gas. However, he was on the roof of a building which was 19 or 20 stories high. Our first attempt was with gas and the wind blew the gas away. It was very ineffective.

Mr. WIGGINS. Do you have multiple capabilities in terms of your weaponry to deal with persons in a confined location? For example, do you have something like a W.P. grenade or similar type of weapon?

Mr. GIARRUSSO. Yes: we do have grenades and we do have multiple capability. On the other hand, budgetary limitations prevent us from getting the weapons that we would need. It would seem to me, really, to be a waste of taxpayers' dollars because the military and the other organizations in and around there work rather closely with the police and we can get what they have if we need it.

Mr. WIGGINS. How may AR–15's do you have in your inventory?

Mr. GIARRUSSO. I don't know, sir.

Mr. WIGGINS. The Marine helicopter that was furnished, was that furnished pursuant to a prior plan?

Mr. GIARRUSSO. No, sir; it wasn't.

Mr. WIGGINS. How long did it take you to get a response to your request?

Mr. GIARRUSSO. I imagine a few hours.

Mr. WIGGINS. Was the Marine helicopter working on a common radio net with the police?

Mr. GIARRUSSO. No, sir. We put two of our radios in the helicopter. Two, in the event one failed.

Mr. WIGGINS. Did your hand-carried radios operate from the interior of the building? Were you able to receive and send from the inside of the concrete building?

Mr. GIARRUSSO. Fortunately, we are in a transitional phase in that we are getting new equipment, radio equipment, communications equipment, and the equipment we had there had just been up a short period of time and the receiver was on an adjoining building. It was quite near and it enabled us to communicate readily in the building with the limited number of portable radios that we had.

Mr. WIGGINS. Now, do you have a plan with the military units in your vicinity to obtain such equipment as you may need from them?

Mr. GIARRUSSO. No, sir; but I have talked with the people who are in charge of those bases, and they have indicated to me, other than written guarantees, that we would get what we needed if it was within their power to grant to us whatever we needed.

Mr. Wiggins. Do you have any type of armored personnel carriers to get police into the building, for example, if the streets were under fire?

Mr. Giarrusso. Yes, sir. We have an armored personnel carrier which we use extensively out there for the purpose of getting people under cover, and various other chores, other than getting people into the building.

Mr. Wiggins. Is that part of your inventory?

Mr. Giarrusso. Yes, sir; it is.

Mr. Wiggins. I am going to ask you a difficult question, but it is one that Congress may have to cope with. What is an extremist about whom intelligence should be gathered and disseminated, as you indicated would be helpful in your testimony?

Mr. Giarrusso. From the top of my head, I would say an extremist is a person who advocates overthrowing our form of government by force, and one who just doesn't care how many innocent people he would kill, symbolically, along the way.

Mr. Wiggins. Can you name any groups that fall into that category?

Mr. Giarrusso. Not without intelligence records available. And I would hate to compromise what I consider security information at a public hearing.

Mr. Wiggins. I wouldn't want you to. Many of the so-called extremists groups are motivated by political considerations. There has been much discussion here in Washington about the desirability of collecting intelligence data on politically motivated persons, however outrageous their beliefs may be. You would draw the line on those groups which would tend to overthrow our Government by force or other unlawful means. Is that your suggestion?

Mr. Giarrusso. At present, yes; because within the constitutional framework within which we live it is difficult to even move against these people. Unfortunately, we, the police, have to respond after they have engaged in some bloodletting, rather than prior thereto so that we could have prevented it.

I, as a policeman, believe there are ways we can thwart some of those people, and I don't mind telling you I am a firm believer of infiltrating these groups; and we have successfully infiltrated them at home. To do other than that means to live in a city of wall-to-wall police and we can't afford that, and I don't believe our society is ready for this type of operation.

Some people who are supersensitive about this say it shouldn't be done, that we are invading the rights of privacy of these people, which places police and society in the position of only responding to those violent acts in which they engage. We can't do those things that are necessary to prevent them from injuring people and actually destroying our society.

Mr. Wiggins. Do your police officers have available, as part of your inventory, steel helmets?

Mr. Giarrusso. Yes, sir; we have some available. You are talking about the tin hats?

Mr. Wiggins. Military type.

Mr. Giarrusso. Yes, we do have some of those, of World War II vintage; and we do have the regular helmets that are worn by them.

Mr. Wiggins. Crash helmets?

Mr. GIARRUSSO. Yes, sir.

Mr. WIGGINS. Can you give us any suggestions as to any equipment you felt you should have had in your inventory but did not have?

Mr. GIARRUSSO. Yes, sir. Immediately after the Howard Johnson affair, we purchased "second chance" vests. These vests will stop most bullets. It is actually a cloth material that the men can wear under their jackets. If equipped with certain plates placed in the jacket they will stop very high-powered rifles. Certainly, they would have stopped the rifle the men faced out there that day.

Mr. WIGGINS. I don't think the manufacturer would like to have this jacket tested with a .44 magnum rifle, but that is beside the point.

Mr. GIARRUSSO. In addition to the morale building it does for the men.

Mr. WIGGINS. Thank you.

Chairman PEPPER. Mr. Rangel.

Mr. RANGEL. Thank you, Mr. Chairman.

From your testimony, Mr. Superintendent, I gather the intelligence of Essex can only allow you to believe that you were dealing with a very emotionally disturbed individual?

Mr. GIARRUSSO. I don't know the degree of emotional disturbance; I don't believe I am qualified to say that, but I would say in a very general way I would consider it abnormal behavior as opposed to that which we normally engage in during the course of a day.

Mr. RANGEL. I really meant, from a layman's point of view, someone doing these types of acts certainly would be considered to be disturbed.

Mr. GIARRUSSO. Yes, sir.

Mr. RANGEL. Well, to put it another way: Your testimony indicates that there is no evidence of him being a part of some larger conspiracy.

Mr. GIARRUSSO. We have not been able to develop any hard facts which would indicate that. That is correct, sir.

Mr. RANGEL. As a matter of fact, you might say that with Lee Oswald certainly there was more intelligence on him than you were able to find on Essex, in terms of attempting to set up some data banks for these types of people.

Mr. GIARRUSSO. We didn't have the machinery the Federal Government put into motion to investigate Lee Oswald.

Mr. RANGEL. But you do have machinery now to investigate who Essex was and, in reading your testimony, there was no evidence that this would be the type of person where intelligence would have been able to assist you in avoiding this tragedy?

Mr. GIARRUSSO. Only because it was an individual, Mr. Rangel. If it had been a group, it may have been different.

Mr. RANGEL. Any testimony in connection with any revolutionary groups or any intelligence data banks certainly would not be relative to this case involving Essex?

Mr. GIARRUSSO. I would not make that unqualified statement; no, sir.

Mr. RANGEL. But you have not been able to find any evidence to connect him with any group?

Mr. GIARRUSSO. We have not developed what I would consider hard evidentiary facts which would be admissible in a court of law as evidence.

Mr. RANGEL. This flag Congressman Wiggins made inquiry about, have you seen this flag before in the city of New Orleans?

Mr. GIARRUSSO. I have seen similar flags; yes, sir.

Mr. RANGEL. Have you seen decals on automobiles being driven by black people?

Mr. GIARRUSSO. I haven't; but there may be some.

Mr. RANGEL. But there is no reason to associate this red, green, and black flag with any organized revolutionary group?

Mr. GIARRUSSO. No, sir. Well now, you mean in relation to the flag Essex had?

Mr. RANGEL. No, in connection with the flag that was found somewhere near the people allegedly killed by Essex. You never found Essex with a flag, did you?

Mr. GIARRUSSO. No. But one of the people in the hotel, when he entered the hotel, saw this flag, or what appeared to be this flag, attached to the end of the barrel of the rifle.

Mr. RANGEL. My question is—and any of your colleagues can answer—have you ever seen this type of flag or replica of the flag being used or in the possession of responsible citizens?

Mr. GIARRUSSO. I would say "Yes." It depends upon the group that you are talking about. Certainly, to many responsible citizens in our community, this flag symbolizes something for them.

Mr. BRASCO. Would you gentleman yield at that point?

Mr. RANGEL. I am happy to.

Mr. BRASCO. We have been talking about this flag. Is this the red, black, and green flag that we are talking about?

Mr. GIARRUSSO. Yes, sir.

Mr. BRASCO. I don't know that I understand exactly what it is, but I always thought it was one's identification with a mother country. I thought it had something to do with that.

Mr. GIARRUSSO. It does.

Mr. BRASCO. Pretty much like flying an Italian flag in New York. That is why Congressman Rangel is asking about it. Many people have these flags on their cars. I have seen them in red, white, and green, which is the Italian flag, and then the American flag, and what I call the African flag and the American flag. So it has no significance as far as I can see in New York.

Thank you.

Mr. RANGEL. Mr. Superintendent, this committee certainly is in no position to be critical of anything that has been done by the New Orleans Police Department. We are just hoping that out of this we might be able to assist others in avoiding similar-type tragedies.

In connection with the unauthorized marksmen, were you able to ascertain who they were?

Mr. GIARRUSSO. No. At the time we were much too busy to seek their identity. I know I talked with one personally, and I was too busy to bother about his name or identification. He said, "Well, I am here." I wondered how he got into the hotel, to tell you the truth.

Mr. RANGEL. There was a point where you were concerned about the safety of Sergeant Woodfork. I am assuming you were not concerned about his brother officers shooting him because of his beard?

Mr. GIARRUSSO. This possibility exists for the simple reason that at that time we had manned locations surrounding the building and I didn't want him to go out and expose himself. You know, in this cool, calm atmosphere, I can't recreate the tension the men were under at that particular time, particularly when so many had fallen.

That possibility is quite possible that because he had a goatee, and there had been word broadcast one of them had a goatee. I didn't want him injured.

Mr. RANGEL. How could you reach the conclusion regarding the number of people actually wounded and killed by Essex, in view of the fact there were so many unauthorized firearms at the scene?

Mr. GIARRUSSO. There were nine people killed and nine people wounded by his rifle, as a result of (1) Us establishing this through ballistics and of the shell cases that had been extracted, the extractor marks on the cases.

Now, there were six other policemen who were injured that I attributed to ricochet shots from elsewhere and we did not in any way connect this with the gun and/or the sniper that was at the hotel. Those that are there are the ones we can positively connect with the gun.

Mr. RANGEL. By ballistics?

Mr. GIARRUSSO. Ballistics or by the extractor marks on the shell casings.

Mr. RANGEL. But it can be attributed to the gun found on the roof top of Howard Johnson's?

Mr. GIARRUSSO. Yes, sir.

Mr. RANGEL. And is this information confidential, the report of being able to attach the wounded that are charged to Essex and those that were slain. Is that information considered confidential by your department?

Mr. GIARRUSSO. No, sir; not before this group. I am sure I didn't make myself clear. Those people who were actually wounded by, let's say by, police bullets were not counted in the toll of people who were wounded by Essex. It is separate, apart, and distinct from that.

Mr. RANGEL. I understand that. But we have had a tragic experience in New York State where a lot of deaths in Attica were attributed to some prisoners and, in fact, after ballistic investigation, all of the deaths of gunshot were then attributed to law enforcement. And as you describe so many people that you don't know, voluntarily coming there to just shoot and help out, plus so many law enforcement people with a variety of weapons, I assume, that unless you have ballistic data, I don't see how you are able to separate those that were shot by citizens, foreign law enforcement officers, or perhaps, tragically, your own law enforcement personnel.

It just seems to us who saw it over television to be a rather confused situation, and we certainly don't know what should have been done and perhaps everything that should have been done was done. But I just don't see how we can be so accurate in determining who killed whom, or who shot whom, when everybody was shooting.

Mr. GIARRUSSO. I will be happy to sit down with you when you have a great deal of time and go into detail with you about each killing, each wounding, and show you how those that we enumerated here, nine and nine, are connected with the rifle that was found by the body of Mark Essex.

Mr. RANGEL. If it is not confidential, I would appreciate if you could send the ballistic information to the committee, so that we would know what the factual situation is.

Mr. GIARRUSSO. All right. I am not certain I understand exactly what you want.

Mr. RANGEL. Your report indicates that you are not even certain that there was one or more people on that roof involved with Essex; that you don't have information to prove conclusively that he was alone.

Mr. GIARRUSSO. Yes, sir.

Mr. RANGEL. So I don't know how it is done from a law enforcement point of view, but I assume, if somebody is shot or killed you do try to determine the firearm which fired the fatal bullet.

Mr. GIARRUSSO. Yes, sir.

Mr. RANGEL. And I assume from your testimony that you have been successful in doing just that.

Mr. GIARRUSSO. Well, let's take the couple that were killed on the 18th floor, and I believe they were killed first, Dr. and Mrs. Stegall. I believe we have ballistics from Dr. Stegall which show he was killed by the rifle that was carried by Essex. Concerning the wife, the bullet went through her brain and out her eye.

We were unable to find that bullet because of debris, et cetera, there. I think it is fair to deduce that he killed both Dr. and Mrs. Stegall because there were other witnesses on the floor who said that they heard the woman shout, "Please don't kill my husband." There was another witness who saw the husband actually engaged in a struggle with him.

There was no one else up there that we knew of. When the police did arrive on the 18th floor, this woman was lying on her husband.

Now, there is no other way we can connect her death with the rifle, other than the facts surrounding it. Whether or not he could have been charged in court and the evidence would have been admissible under the rigid evidentiary rules of criminal evidence, I don't know, but I think it is a fair deduction that he killed both of them, while we had ballistics from one only.

Mr. RANGEL. Based on what you have testified, I am certain that no one in or out of law enforcement would disagree with you there. It just bothers me when some parts of the testimony describe an assailant as having a beard, and it seems so easy to attribute, since only one body of a perpetrator was found, all of the deaths to that person and that gun, with the exception of ballistic evidence which, of course, may not have been made available.

Mr. GIARRUSSO. Do I understand you correctly, Mr. Rangel, that you don't understand how we can prove or believe that there is only one person? Is that what you are saying, sir?

Mr. RANGEL. Mr. Superintendent, I am not trying to try this case ex post facto. It just seems to me that you are attributing all of the wounded and all of the slaying, with the exception of six police officers, to a particular weapon that was found next to the body of Essex.

Mr. GIARRUSSO. Essentially; yes, sir.

Mr. RANGEL. So we can just discount anybody else shooting but Essex?

Mr. GIARRUSSO. I think we can discount the shooting of the nine killed and the nine injured. I think we can discount it if we say anyone else did it. We can connect Essex with those nine deaths and with the nine injured, ballistically.

Mr. RANGEL. So we haven't completely disregarded the testimony of that individual that described someone with a gun having a beard?

Mr. GIARRUSSO. No, sir. Mr. Beamish, the man who was shot, did identify him as having had a beard. On the other hand, there were witnesses on that floor who gave an accurate description, other than the one that was given by the victim of the shooting, and none described the perpetrator as having a beard at that particular time.

Now, if you read through this, the back part of the report, I will tell you I sincerely believe that Mr. Beamish, the victim, was honest and he really believed that man had a goatee. If you want to attribute it to hallucination or what have you, I really don't know. We did not recover the pellet that injured Mr. Beamish.

We did not find any other shells, .44 magnum shells, on the patio where Beamish was shot.

Mr. RANGEL. This weapon Essex purchased, to your knowledge were any other people carrying a similar type weapon in the area during this tragic event?

Mr. GIARRUSSO. It is quite possible. It is quite possible because there were multiple-type weapons there. I am sure there was a .44 caliber rifle.

Mr. RANGEL. But your investigation proved conclusively that the number of people that were killed, nine killed and nine shot, it is attributed to the Essex weapon as opposed to other similar-type weapons?

Mr. GIARRUSSO. Yes, sir.

Mr. RANGEL. This news agency that contributed to the chaos, have you been able to identify what radio station that was?

Mr. GIARRUSSO. We narrowed it to a radio station and Officer Kastner told me they denied doing it.

Mr. RANGEL. In the course of the investigation, were you able to determine whether or not they were telling the truth?

Mr. GIARRUSSO. We don't believe they were telling the truth because we had witnesses who said they heard it on the radio and went there in response to a radio plea for marksmen with scopes.

Mr. RANGEL. You don't believe this type of broadcast would be criminal in nature?

Mr. GIARRUSSO. I don't know whether it would be criminal in nature, or whether we had an overly zealous radio announcer. I do know in the future we would work more closely with the media so there wouldn't be a repetition of this.

Mr. RANGEL. But many of the reports issued by this station in connection with multiple snipers, certainly that information was released by the police department; was it not?

Mr. GIARRUSSO. About multiple snipers? Yes, I assumed—I told the men we would assume there was more than one person.

Mr. RANGEL. Would that not be included among inaccurate reporting, as relates to more than one sniper?

Mr. GIARRUSSO. That assumption was made long after these people arrived with the rifles, though. It is one I publicly announced over our radio systems, that we would assume there was more than one. This was subsequent to the announcement over the radio. I don't know why it was done. I am not excited about it. It is over with and it didn't cause anyone to get injured. It did cause some concern for the safety of the people who did arrive, and those that we had to escort out of there. But that was the limit of it.

Mr. RANGEL. Well, an adventure like this, isn't it just luck that these people, experienced or inexperienced, did not kill or wound somebody, since you had no way of identifying who they were?

Mr. GIARRUSSO. You are correct, sir. We can speculate anything we want, but I don't know.

Mr. RANGEL. But if another event were to occur and other radio stations would say "police officers are in trouble and we need marksmen," it appears if it was in New York City or any other city that this indeed would be a very dangerous thing to do, especially when the law-enforcement officers could not identify who they were in view of the fact many local police officers were responding to a legitimate call from your department.

Mr. GIARRUSSO. I concur with you, sir.

Mr. RANGEL. In conclusion, Mr. Superintendent, your testimony as relates to a data bank, or infiltration of revolutionary groups, or compiling data on individuals to make it available to law enforcement's agencies, all of these worthwhile things, if you support that idea, certainly do not relate to some one like Essex. Is that true?

Mr. GIARRUSSO. It would apply to Essex were Essex working in concert with one or more people. I think we should tackle the problem of an individual doing the things that that man did. I think to this extent, we can parallel it with what has been done with the airlines. They have developed psychological profiles of the people who do engage in hijacking. Since this is true, I think that we can do the same thing, which would enable us to predetermine some of the people who are going to engage in isolated cases, individualized cases, involving mass murders.

Mr. RANGEL. I couldn't agree with you more, but there has been absolutely no evidence, based on your subsequent examination of the life and trials and the tribulations of Essex, that would allow you as a law-enforcement officer to believe any type of file on him would have been of any assistance to you?

Mr. GIARRUSSO. As I said earlier—that isn't true, because now it isn't accurate.

Mr. RANGEL. Let me word it another way, Mr. Superintendent. If you knew earlier everything that you know about Essex now, could your police force have done anything to have prevented this tragedy?

Mr. GIARRUSSO. I don't know about the one that occurred New Year's Eve, but we may have been able to take some preventive measures which did affect the one that occurred on January 7 if we had the information we had reference to. We may have.

Mr. BRASCO. Would my colleague yield?

Mr. RANGEL. I yield.

Mr. BRASCO. Not to second guess you, but if you had seen, say, his room——

Mr. GIARRUSSO. That is what I had in the back of my mind.

Mr. BRASCO. I think that is what you are talking about. If you had seen his room prior to this incident you might have had opportunity and reason to monitor his activities in your city.

Mr. GIARRUSSO. Yes, sir.

Mr. WIGGINS. Would you yield to me?

Mr. BRASCO. Certainly.

Mr. WIGGINS. What would you have done?

Mr. GIARRUSSO. I think, initially, I would have set up some surveillances around his building to watch the man more closely.

Mr. WIGGINS. Are you telling me that if you come into possession of information that a given individual likes revolutionary slogans, likes to read revolutionary literature, you would maintain that person under surveillance?

Mr. GIARRUSSO. No, I don't believe that we could do that; no, sir. We need better evidence than that.

Mr. BRASCO. Would the gentleman yield?

Mr. WIGGINS. Yes.

Mr. BRASCO. I think, Mr. Wiggins was talking about a national situation. I don't know that we need any national authority for local police authorities like yourself to investigate reasonably and would indeed be unhappy as a citizen if I thought the police chief in my community had available information that might have been disclosed by viewing this man's room and that he didn't do something about it. At least to make an effort to find out who the guy is and what he is all about.

Mr. WIGGINS. Is that what you would intend to do?

Mr. GIARRUSSO. No. If we deal with it hypothetically, Mr. Wiggins, I think I will give a general answer to the hypothetical you pose. If we talk about this case in retrospect——

Mr. WIGGINS. I don't want to talk about this case. Hypothetically, we are talking about before the fact; we are talking simply about information in your possession which might call you to be suspicious of an individual. I am asking you what your department would do about it.

Mr. GIARRUSSO. I am not going to say what the department would do. It would have to do what I would say. I am trying to tell you I am going to answer what I would do about it. I think that data should be gathered which then should be evaluated. Evaluated, and then certain movements made.

If I may deal with an actual situation by way of example, there is a person at home who—for 6 or 8 months—said that he was going to kill several policemen, since the Howard Johnson incident. This person has filed notice. We have had phone calls. He has told other people that he intends to do it. I can tell you what I have ordered done since learning that and, incidentally, he is a psychiatric patient.

I can't have someone follow him around every day. We have notified the policeman he intends to kill, "You have got to be careful."

In addition to that, each time we received a threat, I have it documented, and then his mother is notified and his attorney is notified that this threat was received this date, and the sources of the threat. And he is the source of the threat.

I can't follow him and I don't know what else we can do, other than put the policeman on notice.

Mr. WIGGINS. If we had a system of disseminating intelligence information to you about suspected types of individuals, I doubt it would be efficacious in preventing incidents. It would perhaps be helpful in investigation after the incident, if you did not apprehend the suspect at that time. You would have a list of potential suspects for further investigation. It is of value to the police, I understand that. But I

think it is holding up a false promise if you think it is going to stop some psychotic from shooting police officers.

Mr. GIARRUSSO. I concur with that. In other words, let me tell you how a cop would intuitively respond to that situation. If we take *x* and he has propensities along the lines we described, and I had that information, and it is the intervening acts which enable a cop to respond in that, if someone had been seen with a rifle fitting this description it certainly would put us on notice that certain action should be put into effect to do whatever is possible, either neutralize him or thwart him in his attempt to kill or maim anyone.

It is what happens in between. I don't believe anyone can predict with any degree of accuracy he would do A, B, C, and D. I couldn't; I am not talking for other people. I don't believe I can, and I have been a policeman long enough to know there are certain things you do. You respond. Some of these are intuitive responses; some are responses after making an evaluation of the situation as you see it.

I don't believe anyone would more closely guard the rights of the individuals in our society and do those things that are constitutionally protected. I would fight for those rights. I do recognize there are terrorist groups in our society and I don't believe we should stand by and wring our hands and say, "What are we going to do?"

I think certain positive steps should be taken. If they are wrong, we find out if they are wrong and change them, but we should not just sit there.

Mr. WIGGINS. Under our system it is going to be very difficult to do anything about those terrorist groups until they, in fact, commit an act of terror. Simply because they have a propensity or likelihood to do so, we are, under our system, almost powerless to deal with them.

Mr. BRASCO. Mr. Chairman, a quorum call.

Chairman PEPPER. We will take a brief recess while we answer the quorum call and then we will return.

Do you consider now it would have been desirable to call the National Guard or the military guard to come to the aid of this?

Mr. GIARRUSSO. No, sir. I don't believe that this was a situation which required the National Guard or the military, other than to give us hardware that was needed and/or to complement some of the acts we were taking as a result of our inability to cope with that situation.

Chairman PEPPER. Thank you, Superintendent. We will be back in just a few minutes.

[A brief recess was taken.]

Chairman PEPPER. The committee will come to order.

Mr. LYNCH. Detective Kastner indicated to me he had some photographs that would be of interest to the committee.

I wonder if you would bring the photographs up to the bench.

Those photographs, Mr. Chairman, are principally photographs of Mr. Essex's room, which the police department discovered after the incident. They are germane in that they respond principally to questions asked by Mr. Wiggins earlier this morning.

[See material received for the record at the end of Mr. Giarrusso's testimony.]

Mr. LYNCH. Chief, you indicated that the local television station performed a certain service, as it were, in quelling some of the rumors which cropped up during the course of this incident. I wonder if you could elaborate on that, please.

Mr. GIARRUSSO. I think the media made a positive contribution to the incident, in that, for one thing, they did keep the traffic out of the area, both pedestrian as well as automobile. In addition to that, they did serve to neutralize rumors that were running rampant at the time, and, third, they did keep the public informed; and the public has the right to know what is going on when something like this occurs.

They were currently abreast of the affairs. I know they made quite a contribution, although at the time I did not know the magnitude of the coverage by the media.

Mr. LYNCH. There is a representative from WWL–TV of New Orleans here today, Mr. Dave Walker. Did you work with him during the course of this incident, Superintendent?

Mr. GIARRUSSO. No, sir. On the contrary, I would say Mr. Dave Walker and I worked at opposite ends of the pole for the simple reason that subsequent to the affair, Mr. Walker made several reports, which I believe he received from the policemen, and I thought it was hindering the investigation at that time.

But in deference to him, I think he is a very good reporter and he did the job that he had to do, as objectively as he is capable of doing it.

I don't have any misgivings about Mr. Walker's coverage. But we didn't work together; no, sir.

Mr. LYNCH. And Mr. Walker did, in fact, conduct—or his station conducted—an independent investigation of this incident; is that correct?

Mr. GIARRUSSO. Yes, sir. It is my understanding that he did.

Mr. LYNCH. Mr. Chairman, I think it would be useful at this time if we called Mr. Walker of WWL–TV to very briefly describe what his station did during this incident.

Mr. Walker, I wonder if you could describe your activities surrounding the incident and also would you advise the committee as to the communication which your station received from Mark Essex.

Statement of William D. Walker

Mr. WALKER. The coverage began by myself sometime between 11:30 and 12 noon on Sunday, the 7th. It extended to a period of about 10 o'clock as far as live coverage. This is a position where we had television cameras located directly across and to the front of the Howard Johnson's in the Warwick Hotel. And another camera stationed above the Howard Johnson's on the back of the New Orleans Building.

Both cameras were live for some 14 hours, one of the cameras in the Warwick Hotel, which provided live coverage of the incident itself, from about 2 o'clock in the afternoon on Sunday, the 7th.

Subsequent to the coverage itself and provided with certain information I did conduct what I hope was an independent investigation of the incident, particularly as it concerned the number of people involved, because it was suspected, I think by all of us, during the period of the confrontation in Howard Johnson's that there was more than one individual involved.

I believe there is sufficient information available at this point to indicate otherwise; that there was only one man who actually fired shots from Howard Johnson's.

Mr. LYNCH. I believe you told me, Mr. Walker, that you had received, or your television station had received, a letter or a written communication of some form from Mark Essex. Would you describe that?

Mr. WALKER. Yes. This envelope was postdated January 2, 1973. The letter itself began with a salutation of "Africa Greets You."

"On January 1, 1973, the downtown New Orleans Police Department will be attacked. Reason—many. But the death of two innocent brothers will be avenged."

It ended, "MATA."

As I said, the envelope to the letter was postdated January 2, indicating to us, and I believe also to the police department, if I am correct, that the letter could have been mailed as late or as early as sometime Friday night, December 30, prior to the incident at police headquarters.

We had a holiday; there was no mail pickup. We have some situations in the city where the mail is not picked up in the boxes until on a Monday or Sunday night following a weekend. The letter was turned over to the New Orleans Police Department, obviously after the incident occurred, and in fact after the Howard Johnson's incident itself.

The letter was addressed simply to "WWL Television" rather than to "News Department" or any individual. Those letters, as a matter of course, generally are disregarded.

There has been a lot of concern on the part of people as to whether or not had that letter been delivered either before the New Year's Eve incident or, in fact, before the Howard Johnson's incident, whether or not it might have aided the police department.

I think it is the general consensus of most people involved that it probably would not have.

Mr. LYNCH. When did you make it available to the police department?

Mr. WALKER. It was made available, I believe, on the 12th. It was made available on the 12th, following the incident at Howard Johnson's on the 7th.

Mr. LYNCH. Do you know how the police department—I guess we could ask Superintendent Giarrusso to answer this—was able to identify that as being from Mark Essex?

Mr. WALKER. It was my understanding it has been. They can verify that. The reason the letter was turned over, I saw it sometime on the 11th, the morning of the 12th, and the reason it was turned over, I suspect, was because of the way the letter was signed, "MATA." I had visited the apartment where Mark Essex lived.

Chairman PEPPER. How was that?

Mr. WALKER. It is signed "MATA."

Mr. LYNCH. "M-A-T-A."

Mr. WALKER. I am not sure, I think this is a Spanish word meaning to kill. There is also, according to the source that we had, it might possibly be a derivation of Swahili, indicating an instrument to kill.

I had seen that same word on the wall of the apartment of Mark Essex, and that is the reason it was turned over to the New Orleans Police Department.

Mr. LYNCH. I have no questions of the witness, Mr. Chairman.

Chairman PEPPER. Mr. Walker, I suspect you would agree it is desirable in an emergency like this for close cooperation and coordination to be maintained between the police authorities and the media?

Mr. WALKER. Yes, sir. I think there has to be a liaison. We should, I say, probably feel pretty good about our situation in New Orleans, simply because of the access. I say we have 90 percent access to police operations and information. That remaining 10 percent, we are always trying to get, but it is generally of an intelligence nature and sometimes hard to acquire. But that level of cooperation, I think, if nothing else, during this period of time I think people were at home watching the incident on television as opposed to being on the streets in the downtown area interfering with police operations.

Chairman PEPPER. This letter, of course, didn't give the address of the sender?

Mr. WALKER. No, sir; it did not. I learned the address on the 8th, following an anonymous telephone call to our office from a female, who asked if we wanted to know the present and last address of Mark Essex. Of course, we did. We checked it out. That information was turned over to the police department.

Chairman PEPPER. Did the letter reveal any fingerprints?

Mr. WALKER. That is something I suspect the police department would have to answer. I believe I am privy to that, but I think the answer would be better to come from them.

Chairman PEPPER. Can you state whether it did or not, Chief?

Mr. GIARRUSSO. It was checked but there were no prints. No prints identifiable as such.

Chairman PEPPER. So that if it had been turned over to you from Mr. Walker's television station, it would have been difficult for you to identify and locate the sender within a reasonable time; would it not?

Mr. GIARRUSSO. Unquestionably; yes.

Chairman PEPPER. But at least it would have advised you there was such a person in the neighborhood who was a potentially dangerous person.

Mr. GIARRUSSO. Yes, sir.

Chairman PEPPER. Thank you very much.

Mr. LYNCH. Mr. Chairman, at this time Chief Giarrusso would like to introduce several members of his panel to describe to the committee the history of the urban squad in New Orleans and also to describe the new felony action squad.

Superintendent.

Mr. GIARRUSSO. Mr. Chairman, Sgt. Warren Woodfork, to my immediate right, is the commanding officer of the felony action squad. The felony action squad is a concept that was developed and conceived by him approximately 9 months ago. Its purpose, its primary purpose, is to deal with the crime in the street.

Subsequent to its announcement there was a great deal of controversy in New Orleans because there were groups of people who said that its intention was to kill blacks only, and certainly it wasn't intended to kill anyone; it was intended to surpress crime in the streets.

I think Sergeant Woodfork is very capable of taking it from there.

Chairman PEPPER. Very good. We are pleased to have you, Sergeant Woodfork. You may make your statement.

Statement of Warren Woodfork

Mr. WOODFORK. As the superintendent has said, the felony action squad is a group of volunteer police officers selected by the superintendent. They are plainclothes officers. I explain that by saying a little different from the traditional plainclothes officers.

These officers attire in contemporary clothing and they utilize nontraditional-type police vehicles. It is principally designed to attack what we define as street crimes, such as armed robberies, purse snatchings, rapes, illegal carrying of weapons, auto thefts, or any other offense that relies on public streets or sidewalks for successful perpetration.

I guess, basically, you could say that psychological warfare is the principal weapon in the felony action squad. We believe that perpetrators of crime, or the criminal elements, develop reluctance to commit crimes when they can't easily identify the law enforcement agencies, which makes an apprehension inevitable. It is requisite to commit a crime.

Basically, I say initially, we could measure our success through the number of apprehensions that we make. Most of the arrests that the felony action squad makes involve arresting people during the commission of a crime or immediately thereafter. All of this is to eventually create an atmosphere whereby anyone who perpetrates a crime feels it is just too risky not being able to readily identify the law enforcement agency where we would have an atmosphere of little or no crime.

Chairman PEPPER. Have you found that unit to be effective, to be helpful, in suppressing the street crime?

Mr. WOODFORK. Yes, sir, very much so. We have been in operation approximately 6 months. I think after a year we will be able to show some more concrete evidence. But I would say by the number of apprehensions, it has met with a great deal of success. Contrary to some of the beliefs that they would meet with a lot of resistance in making arrests, that people would be killed, and what-have-you, in a brief 6-month period only one fatality has resulted and that involved a man immediately involved in an armed robbery, whereby he was robbing another person with a gun and he ended up being fatally wounded.

Other than that, I don't think we have had any more problems than the guys in uniform have in effecting an arrest.

Chairman PEPPER. Very good. Thank you.

Mr. LYNCH. Superintendent, I wonder if you could now have one of the members of your panel describe the urban squad and what it is that squad does.

Mr. GIARRUSSO. Yes, sir.

Mr. Chairman, the urban squad in the city of New Orleans was developed by Sgt. Rinal Martin. His purpose was to deal with sensitive areas where there had been a great deal of distrust and fear, that existed both between the residents of a certain area of the city of New Orleans and the police themselves.

I think there was a mutual fear that existed at that time. It was after there had been a confrontation with a group known as "the

Panthers" in the city of New Orleans that this squad was formed. It was formed to fill the vacuum that began to divide the community at that time. Its concept is that the police actually render services to the public.

I believe that what has been done is the genesis of a new type of police work that we will be looking at over the next 10 or 15 years, in that police, volunteer police, have gone into an area where they were disliked and distrusted and they have actually made friends and have efficiently served the public, so much so now that there is a demand for similar types of squads to service other sections of the city.

The area in which they went was, I would consider, the only true ghetto in the city of New Orleans. They operated very effectively there.

Sergeant Martin can take it from there, sir.

Statement of Rinal Martin

Mr. MARTIN. Mr. Chairman, the urban squad was started approximately 2 years ago. It was organized on February 1, 1971. We took responsibility for the Desiree project area on February 27, after two confrontations, as the superintendent said.

Before going into this area these officers were specially trained. We had what we called stress training. Also, they were volunteer officers. Their records were analyzed for attitudes, performance, and awareness of social problems.

We met with community leaders and had civil meetings, and prior to going into that area we had a whole day of rap sessions with residents of the area to explain what we were going to do when we moved into the area with more police.

We were moving into this area as a service rather than an oppressive force, which happens a lot of times when you increase police service in an area. If the residents don't know what you are doing they misinterpret your goals or your motives.

As a result of this and getting to know the people, and regaining confidence and getting cooperation with the people and the leaders, we have been able to effectively reduce crime in this area, and the people have services.

When we first started in this area the people were so fearful that they wouldn't turn off their lights at night. The lights in the home stayed on all night. And as a contrast, the lights in the streets and courtyards were constantly being shot out or broken by bricks and bottles.

Two years later, in the same area, we have just the opposite. We have effective lighting in the streets, in the courts that are able to stay lit, and the lights in the homes are now put out. People can go to sleep without their lights.

That is about the genesis of the squad.

Chairman PEPPER. Very good. Proceed with the next witness.

Mr. LYNCH. Mr. Giarrusso, do the other two officers here this morning have some testimony to give relative to programs in which they are participating?

Mr. GIARRUSSO. Only Major Poissenot. Mr. Kastner is my strong right arm for reference on the Howard Johnson affair. Major Poissenot is the commanding officer of the patrol division of the police department in the city of New Orleans. As such, he has innovated on many occasions, and redeployed personnel so that we have successfully reduced crime over the past 2 years.

To mention a few of the things he has done: He has been actively participating with citizens, with organizations such as Women Against Crime. There are times when he must go to extremes, and he has in the past removed all motorcycle men from the streets and put them in areas to combat burglaries and armed robberies. In 30 or 40 seconds he can explain these things to you.

Statement of Lloyd Poissenot

Mr. POISSENOT. Mr. Chairman, the patrol division, comprises the eight police precincts, the urban squad, the felony action squad, communication centers, emergency division, and armored division, approximately 700 people.

We have been working somewhat at a deficit. We don't have full manpower.

Chairman PEPPER. Excuse me just a minute. How many police do you have per thousand population in the city of New Orleans?

Mr. GIARRUSSO. We have 1,500 commissioned personnel and approximately 500 civilian personnel.

Mr. LYNCH. I think the chairman would like to know how many you have per capita.

Mr. GIARRUSSO. I believe it is 2.1 per thousand, but I would have to sit down and compute it for you. The last time I looked at it, it was about 2.1 per thousand.

Chairman PEPPER. What is it, Mr. Lynch, here in the District?

Mr. LYNCH. I believe the indication yesterday, Mr. Chairman, was approximately 6.6.

Chairman PEPPER. Approximately 6.6 per thousand in the District of Columbia. Of course, no doubt that has had something to do with the reduction in crime. You would be pleased to have that large a percentage, wouldn't you?

Mr. GIARRUSSO. Yes, sir.

Chairman PEPPER. If you had the Federal Government behind you, maybe you could get a little bit more money.

Mr. POISSENOT. Because we have a shortage of personnel at the time, we had been able to get some overtime and the overtime has been provided in the forms of task force cars. These are cars that are either marked cars or unmarked cars, that are manned in both combinations, uniformed police officers in the marked cars, occasionally uniformed men in the unmarked cars.

Also, we have the unmarked car with the plainclothes officer doing followup work.

These have been very efficient, and we have gotten a lot of success from them.

We are constantly trying to change and alter our beat coverage. Foot-beat coverage, for example, is a very high luxury, so we work combinations of foot beats and riding beats, so the men can do both a little more effectively.

By being able to put these people by statistical reference where the crime is occurring, or where we think it is occurring, we have been able in many cases to do a pretty good job.

We do need and do hope we could get some additional funding. We would, of course, be very happy to have the increase in manpower that would take our forces up to what its expected coverage should be. But in the meantime, I think by innovative process we are beginning to see some light; we are doing an effective job in trying to reduce the on-the-street type of crime.

Chairman Pepper. We are very pleased to hear of these imaginative procedures and innovations you have inaugurated, Superintendent, in your great city of New Orleans. What this committee is concerned about is what can be done further to reduce crime in this country, to restore a greater degree of safety to our people than they now have.

I would like to ask you a question or two. Do you in the police department have any sense of frustration or disappointment on account of the inability of the prosecuting attorney's offices and the courts to handle cases as rapidly as you feel they should be handled?

Mr. Giarrusso. I believe this is the facet of the problem with which police departments are confronted throughout the Nation, but I can talk with a little more authority about the city of New Orleans.

Yes, we are confronted with this problem; in that the criminal justice system as such is fragmented and has little coordination among the forces of criminal justice; namely, the police, the district attorney, the judges, the probation and parole officers, and the jails. There is a different approach, each is a separate entity, and as such we are working at cross purposes on occasions.

Unrelated to that, when we talk about problems, in my opinion, is something that is very important to our city. It is the number of youths that are committing crimes of violence. I don't have any ready answers for it, but I think that pointing out the problem as it exists among the juveniles, in the city of New Orleans anyhow, is one that we are concerned about, one where legal limitations prevent us from taking effective action to protect the public.

We have ideas that cretainly are inconsistent with some of the constitutional rights that people have. We would like to see some changes made in the criminal justice system, in that people would be tried much faster rather than getting out on bond, knowing that a case is made against them and several other crimes are committed, because they know they are going to go up ultimately on one of the cases, but they will not be tried on all of them. This is fairly common knowledge among the criminal element in the community.

Chairman Pepper. What about the correctional institutions, the penal institutions? Do you have a high rate of recidivism in those institutions?

Mr. Giarrusso. Our figures show something like 85 percent of those in the parish or county jail, as it is more commonly known, runs about 85 percent. The rate of recidivism runs about 85 percent. I don't believe in an iron glove approach to that. I do sincerely believe a large percentage of these people are rehabilitative.

On the other hand, I believe there is a marginal group in our society that medical science and other disciplines don't have an answer for yet, and they should be separated from society for the sake of society.

Chairman PEPPER. Do you have a large State penal institution such as we have in Raiford, Fla., which is your main State penal institution?

Mr. GIARRUSSO. Yes; we do have a State penitentiary.

Chairman PEPPER. Where is that located?

Mr. GIARRUSSO. At Angola, La. It is a large penal farm.

Chairman PEPPER. It is in a rural area?

Mr. GIARRUSSO. Yes, sir; it is.

Chairman PEPPER. And the population of it is 2,000 or 3,000?

Mr. GIARRUSSO. Something in the neighborhood thereof; yes, sir.

Chairman PEPPER. That seems to have been the pattern in the building of these institutions around the country. Personally, I know about Attica, which is a little town, small village, in New York; Raiford, Fla., is a small town. You are telling me yours is located in a rural area.

The idea seems to have been, years ago, to put them out in those rural areas. And now the trend seems to be the other way, put them in the city, make them very much smaller, 200 or 300 population, and make available halfway houses and employment for those who are eligible for that, and the like.

Do you have any institutions like that in Louisiana; any modern-type penal institutions?

Mr. GIARRUSSO. We have no such modern-type institution. However, the one jail that we do have in our city is one that is currently housing about 1,100 people. The capacity of that jail is about 700. With Federal funds they are now building another jail, a new jail, a modern institution, which will house, I believe, a total of 480 people, which seems inconsistent with the amount of crime that is being committed.

I don't know what they are going to do with the remainder of the citizens when they move them. We are under Federal court order to cease and desist using that jail in 1975, which is 2 years hence.

Chairman PEPPER. Is that all, Mr. Lynch?

Mr. LYNCH. Yes.

Chairman PEPPER. Do you have any questions, Mr. Nolde?

Mr. NOLDE. No, thank you, Mr. Chairman.

Chairman PEPPER. Superintendent, we want to thank you and your associates for coming here today and giving us this very valuable and helpful information. We are very grateful to you.

Thank you very much.

Mr. GIARRUSSO. Mr. Chairman, thank you.

Chairman PEPPER. Chief, is it agreeable if we incorporate into the record at this hearing the photographs of the walls of the room where Mark Essex was living, the participant in the Howard Johnson incident?

Mr. GIARRUSSO. Whatever is the desire of this committee.

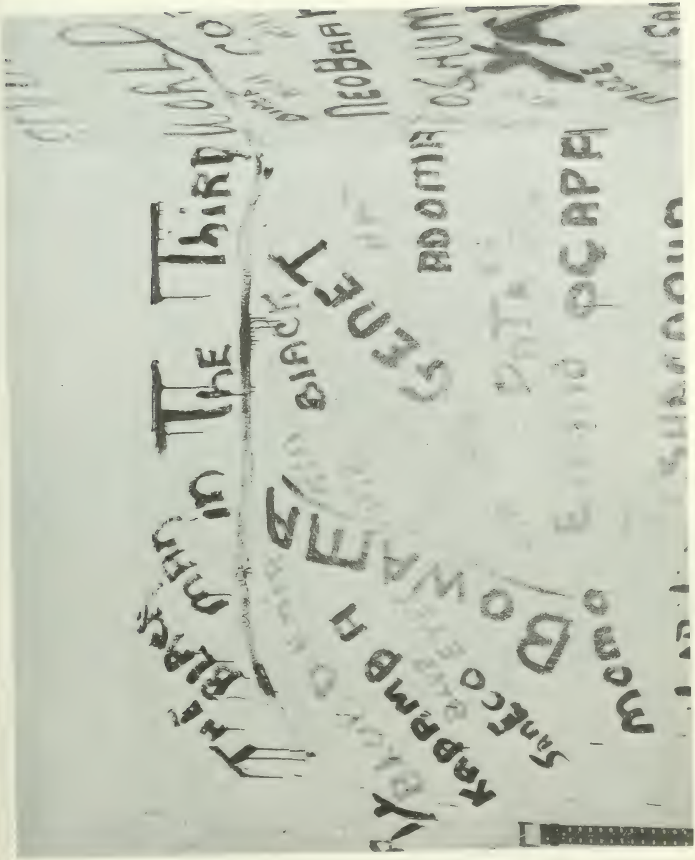
Chairman PEPPER. I think it will be very interesting to have them in the record, because what you see in these pictures is very revealing as to what was in the mind of this man.

Thank you again.

Mr. GIARRUSSO. Thank you very much.

[The photographs referred to follow:]

OSHUMBA
XAMBJ
CARA
CARA
NURU
CARCOVA
CUSAWA
TV Stand



THE BLACK MAN
IN
THE THIRD WORLD
DODO
PANGOLIN

Revolutionary
Justice
is
Black Justice

LABILIA
SHARAQUA
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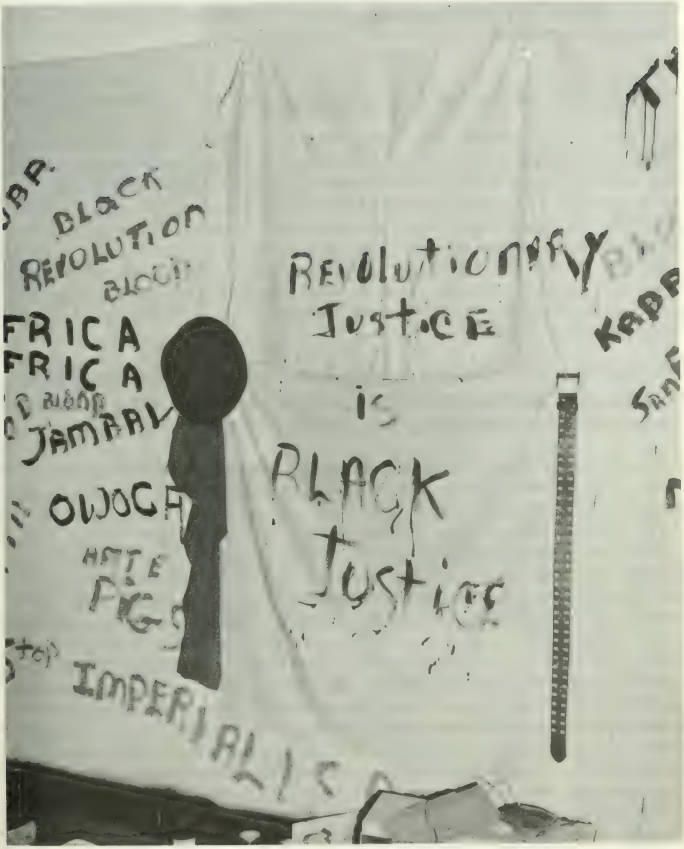
RADIANT HEATER
RADIANT HEATER
TV Stand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Chairman PEPPER. We will take a recess until 2 o'clock.

[Whereupon, at 1:35 p.m., the committee recessed, to reconvene at 2 p.m., this same day.]

AFTERNOON SESSION

Mr. RANGEL (presiding). The Select Committee on Crime will come to order.

We have as witnesses, Chief Winston Churchill of the Indianapolis Police Department and Capt. W. R. Greene, commander, homicide and robbery branch of the Indianapolis Police Department.

On behalf of the chairman and the committee I thank you for taking time off from your busy schedules to help us to determine what the Congress can do in order to make our streets more safe.

If you have statements, you may enter them in whole or in part in the record, and if you have testimony that deals with it, you can give it either by reading your prepared statement or by testifying to anything you would like to testify to.

STATEMENT OF WINSTON L. CHURCHILL, CHIEF, INDIANAPOLIS (IND.) POLICE DEPARTMENT, ACCOMPANIED BY WILLIAM ROBERT GREENE, CAPTAIN, HOMICIDE AND ROBBERY DIVISION

Mr. RANGEL. Chief Churchill, do you have a prepared statement?

Mr. CHURCHILL. Not a prepared written statement, sir, but I am prepared to speak to the committee.

Mr. RANGEL. Thank you.

Mr. CHURCHILL. We consider it a very definite honor to be asked to come to testify before this committee. We feel that Indianapolis has made great progress in our effort to reduce crime in our community. We feel that there are some specific reasons why this progress has been made.

We feel that in the final analysis, the police department does not control crime in the community. In truth, the citizens themselves control crime. I feel there would no longer be prostitutes walking the streets in any city if it were not for those who hire them. By the same token, there cannot be a gambling establishment that could continue to operate if it were not for those who go in there to gamble.

A burglar and thief would not be able to exist if it weren't for those who eagerly keep at his heels to buy what he has stolen. Therefore, it is mandatory on the part of the police department that we establish a very close liaison and working relationship with the community so that by this effort the community might know they control crime.

By the same token, we must work hand in hand to make the community understand that by their efforts and their cooperation with the police department, will this success be achieved. The communities themselves are the key.

The police department has tried many innovative procedures and plans, some of which have failed; but one important one has succeeded in bringing the policeman and the community closer together. Prior to 1967, the Indianapolis Police Department, like most police departments in the country, purchased an automobile as a patrol car, which at that time was required to operate 24 hours a day.

In the wintertime the engine was seldom shut off. We devised a plan whereby every patrol officer could have his own assigned car. This required increasing the size of our fleet by four times, thus putting more police cars on the streets of our city than we had ever known before. I am satisfied that the people of our community like the plan and they feel a degree of comfort in seeing these vehicles on the streets.

By the same token, I am satisfied that the criminal element in Indianapolis feels very uncomfortable with this vast number of vehicles on the street.

The police department has prepared considerable literature to be distributed to various cities. A copy of that literature has been given to each of you on this committee. But that primarily deals with what the police department has done in making a patrol car available to every individual officer. He not only uses that vehicle during his tour of duty but he takes it home with him and keeps it for the remainder of the day. He is allowed to drive the vehicle to the store, to church, wherever he might see fit to take it during his off-duty hours.

It may even sound amusing, but if an officer is not married, we allow him to date in that vehicle. So there is a high visibility of police in the city of Indianapolis.

More importantly, we should tell you how we did this, because I would stress that at the very start of this explanation that not 1 cent of Federal money was used to put this plan in operation. Each year in the police department's budget we allotted funds for a certain number of vehicles. Our whole premise was based on the idea we wanted to save time in the police department, that time was important, and often we would realize on the day shift alone vehicles had to be taken out of service to be gassed, to be washed, to be serviced, and all of this time a police officer was standing idly by while that piece of equipment was being worked on.

Two, we were forced to be aware that a vehicle working in the northern part of the city would well have to check out of service 30 minutes early so the officer might have time to drive to headquarters, exchange the equipment and driver, and the new police officer drive 30 minutes back to his district before reporting for service. So we realized that we were losing a minimum of 1 hour per shift, per car, per day, because of the vehicle shortage.

We took the money that we had allotted in our budget for automobiles and asked the city council to grant us an advance of $650,000 so that we could purchase in one lump sum a new patrol fleet. Now, this was not easily done. But we prepared figures which are available in our handouts to show that we were in a position, having gone through many tests, to show that it was a sound program.

Mr. RANGEL. How many vehicles are we talking about?

Mr. CHURCHILL. We are talking about a total patrol fleet of 455 vehicles, totally equipped.

But we realized when we saved 8 man-hours that we received in return a police officer, already trained and uniformed and ready to go on the street. The time we saved with these vehicles amounted to the salaries of 70 new police officers for our department. The spinoffs

of this program have been so broad, many that we did not even envision.

The national standards now for robbery will tell us that the average robbery in the United States amounts to $94; the average burglary amounts to $136; the average larceny in the country, $71; and the average vehicle theft, $1,100. Since putting these cars into service in our city we have had a reduction in 1 year of 329 robberies. That 329 multiplied by the $94 national average saved the city, our citizens, $30,926.

We have reduced burglary by 1,105 cases; again multiplying by the national average, we saved our community $150,280.

Our larcenies were reduced by 1,851 cases and, by the national average amounted to savings to our community of $131,421. Our vehicle thefts were reduced by 2,438, thus meaning a savings to our community of $2,706,180.

Now, all told, for the $650,000 advance given to us by the council we show a reduction in crime, when figured on a dollar-and-cents basis, in excess of $3 million.

But there is more for the car plan. We began immediately to realize the reduction in the number of traffic fatalities because our police vehicles were visible all over the city. We reduced our fatality rate in Indianapolis by 31 persons in 1 year. We reduced our personal injury accidents by 1,136, and our property damage accidents by 2,244.

The National Safety Council tells us that each traffic fatality averages out to an amount of $38,700. Each personal injury accident averages $2,300. Each property damage accident, $360. When we multiply those figures by the amount of reduction in our city, it comes to a staggering total in automobile accidents alone of a savings of $4,620,000.

When we then show the reduction of crime related to dollars and cents, when we show the reduction of automobile accidents and fatalities in dollars and cents and then just give the car program 20 percent of the credit, that shows a return of recurring value for the $650,000 investment of $2,122,000 for our car fleet.

This program has been studied carefully. It has excellent control, and we are operating our vehicle fleet in the Indianapolis Police Department now for 6.5 cents a mile. I don't know of any taxicab fleet or any other organization operating a fleet that cheaply.

We have found that the cars are receiving much better care. In fact, many of the officers are now washing their own vehicles. The cars are much cleaner. Consequently, when we trade in a third of our fleet at the end of each year, the resale value of those automobiles is way up over what we used to receive for a completely wornout vehicle.

So the automobile program in Indianapolis is a good one. I am proud that we have been a leader in this field and that many other cities are now considering the possibility of using the Indianapolis fleet plan.

We feel it has a great future and we have no intention at all of abandoning this program which has proven to be such a great value to our community.

Now, there are other things that Indianapolis has done to assist in the relationship between police and community. Some of them are unique and unusual. We openly invite the people of our com-

munity to come and ride in our police cars during the officer's tour of duty, and in the year or 14 months this program has been in effect we have transported no less than 6,000 community people in our automobiles.

We ask only that they sign a liability release so they would not sue the city should they be injured while they are in that car. But we openly invite them to come and ride in the police car, see what it is like, and share this experience with the police officer. Once this is done, the police department realizes that we have many new friends and a close liaison has been established between the department and the people of our community.

We also openly invite people to purchase police radios and listen to them, that the codes and signals that we use are not meant to be clandestine or secretive, but rather to save broadcast time. Recently, we changed our codes and signals to more closely conform with national standards. We openly told the people that this change was coming and that if they would like, if they would send us a self-addressed, stamped envelope, we would be happy to send them a copy of our codes and signals.

To date, we have sent out nearly 20,000 of those. People now often write to us, telling us that our dispatchers are even radio broadcast personalities.

So the community is aware of what the police department is doing and they want to help.

The important thing is that hand in hand we combat crime by the individual citizen knowing that he must accept the responsibility to obey the law willingly, not because we are forced to but because the people of our community clearly see it is to their advantage to obey the law.

I have brought with me and placed here on the corner of the table—and I believe they are going to plug it in for us now—a police radio receiver. I have asked the Regency Electronic Co. in Indianapolis to make this available to me, because there is a question in my mind as to whether or not the gentlemen who are serving on this committee, this very important Committee on Crime, have ever in fact taken the time to listen to a radio broadcast of the police department in Washington, D.C., to see what is happening in this community.

Captain, would you turn on the radio? You will note this is a scanner-type radio and that it moves very quickly from one frequency to another, seeking out the call that might be made.

Mr. GREENE. Very briefly, this radio is on call to a scanner put out by Radio Electronics in Indianapolis. This particular radio has been set up with four frequencies of the Washington, D.C., Police Department. As the chief explained to you, it continually scans, as the dispatcher or control officer in the car will come in and talk.

Mr. WINN. You are picking up D.C. calls now?

Mr. GREENE. Yes, sir.

Mr. CHURCHILL. I was a little bit surprised. I set this radio up in my hotel room last night and listened for some time. I don't believe they are quite as busy here as we are in Indianapolis.

Mr. GREENE. As you can see, this also picks up car-to-car transmissions.

Mr. CHURCHILL. Many times the Indianapolis Police Department has been fortunate to receive telephone calls from citizens who are

aware that they have just been pursuing a stolen car and the perpetrator of that crime had leaped from that car and ran, and the citizen quickly explains they have heard that broadcast and have just witnessed that the individual ran into the back yard next door and is hiding in the shrubbery, thus assisting in the apprehension of the individual.

Mr. RANGEL. This doesn't assist the perpetrator in any way?

Mr. CHURCHILL. I am sure to some degree it does, but they have always monitored our radio. And I see absolutely no reason, while we realize the bad guy is listening, I certainly don't want to deprive the good guys from listening and from helping us. We feel it has strong advantage when the citizen knows what the police department is doing.

Further, I am satisfied that no police department or other agency of government has any fear from the community when they know the truth about what you are doing and what you are endeavoring to do. The community will quickly fall in line and respond favorably to the police agency when they hear, constantly, of the effort that you are putting forth to protect them.

We have three chaplains in our department and we urge those chaplains to invite all of the new ministers of our city at least once a year to come to police headquarters and go out in our police cars and ride with the individual officers.

I will share privately with you that I know very well that on the day when a young officer has someone riding with him that he stretches just a little more on that occasion to do a good job.

One of the most difficult areas of relationship between the community and the police department lies in the area of narcotics and dangerous drugs. Much misinformation, I think, has been given in this field. So we strove to reach some medium whereby we could convince the public that the information we wanted to give them about this problem was true and accurate and correct.

The best way we found to do this was when the police department was going to have an inservice training program, to train our own officers in the latest techniques and laws and rules relative to narcotics and dangerous drugs, that we extend open invitations to all of these student presidents, the student councils of all of the high schools, the presidents of the PTA, neighborhood organizations, to come to police headquarters, sit with us in our retraining sessions with our police, and hear it at the same time we are informing the officers.

We have found this has met with tremendous response. And in our last inservice training program for police, we likewise at the same time, gave narcotics and dangerous drugs information to over 1,400 citizens of our community. This we will continue to do.

At the same time, the police department prints numerous pamphlets and publications for the citizens to learn how to better protect themselves, protect their property, and for women to protect themselves. Copies of all of that literature is in the packet we have given to you.

[See material received for the record at the end of Mr. Churchill's testimony.]

We are satisfied that in 2 calendar years, the reduction of 26 percent in crime in Indianapolis has been largely the result of the lines of cooperation and communication which have been established be-

tween the community and our department. And when that type of a cooperative line is established, I believe it almost mandates that our crime will continue to recede and that the public and the citizens of Indianapolis, knowing their police department is eagerly endeavoring to help them, will continue to cooperate.

With that, I would say, Congressman Pepper, as chief of police of the city of Indianapolis and as a representative of the officers of that department, and speaking, too, for the Regency Electronic Co., I would be most pleased if you would accept this police radio with our compliments, in the hopes that being chairman of this committee you will find time to listen to it and be more knowledgeable about the crime and activities of the Washington Police.

Chairman PEPPER. Thank you very much. That is very generous of you, Mr. Churchill. I accept it with a great deal of pleasure.

Mr. CHURCHILL. Thank you, sir.

Chairman PEPPER. I am sorry I was delayed over in the Capitol and didn't get to hear the earlier part of your statement, which I will carefully note. We were looking forward to your coming here because of the novelty of your program in establishing such close accord and working relationship with the people of Indianapolis. I can tell from your statement that you have done a very fine job.

We are very pleased that you could come and tell us about it.

Mr. CHURCHILL. I thank you, sir. We honor the invitation.

Chairman PEPPER. Any more questions, Mr. Lynch?

Mr. LYNCH. I have several questions, Mr. Chairman.

Chief Churchill, you indicated that it was your judgment, based on the December 1972 evaluation of the fleet plan, that that program and the spinoffs from that program had saved your department and the taxpayers of the city some $3 million. Is that correct?

Mr. CHURCHILL. That is true. And that $3 million figure, sir, is based on the idea of giving the car program only 20 percent of the credit.

Mr. LYNCH. Could you tell the committee what your annual police department budget is in the city of Indianapolis?

Mr. CHURCHILL. The annual police department budget at this time is $17 million.

Mr. LYNCH. So that saving would approximate 20 percent of your total budget?

Mr. CHURCHILL. That is true. And I find that while the public is greatly concerned about the assaults appearing on the citizens, and so on, when you talk to the councilmen and so forth to get money to relate to these programs, that when you turn and relate the savings in dollars and cents, it seems to be much more meaningful.

I am sure the citizens also appreciate the fact that they can see in a very real way that the car program is a valuable one, not only to the department, but to them as individual citizens.

Mr. LYNCH. Chief, how much do you pay a starting patrolman in Indianapolis?

Mr. CHURCHILL. We pay a starting patrolman $7,200. That is not a great deal of money, but I am proud to tell you the Indianapolis Police Department not only has a full complement of officers, but a waiting list of over 400 applicants.

Mr. LYNCH. Does the fact that you provide what amounts to a personal vehicle for those patrolmen help you as a recruiting device?

Mr. CHURCHILL. I feel that may be one of the advantages. One spin-off that is very important, and perhaps I should mention to you here, is that we provide these vehicles on a take-home basis only to the patrol officers. When I became the chief of police I was surprised to find that the average tenure of the uniformed officer on the street was about 2.4 years.

Now, that is a great deal of responsibility to place upon an individual with no more experience than that. So I wanted the car program to be an incentive to that officer to remain a uniformed patrol officer and not to be so eager to transfer away from that division.

We have found now that has expanded. The average tenure of each officer is almost 5 years.

We have even had some detectives who have indicated they would like to transfer back to uniform so they might have the advantage of a vehicle.

Mr. LYNCH. Are you able to make a judgment as to how many hours those vehicles are operated on a nonduty basis during a week by an average patrolman?

Mr. CHURCHILL. No, sir; we have not been able to evaluate that. We have realized a vast number of felony and misdemeanor arrests, which have been made by off-duty officers.

Mr. LYNCH. Do you have any figures about that, Chief?

Mr. CHURCHILL. In the first year we had the car program in effect, 84 felony arrests, including arrest for bank robbery, were made.

Mr. LYNCH. Out of the total of how many made by your department, roughly?

Mr. CHURCHILL. Out of a total of 33,604 total arrests; that is, both felony and misdemeanor. But we recorded, that we know of, 84 felony arrests we would not have made otherwise.

Mr. LYNCH. Chief, I wonder if you could show the committee some of the materials which you publish and distribute in the community?

Mr. CHURCHILL. There are many. You have copies of each of them in your folders. But we try to help our shops and stores by putting out pamphlets and having seminars on how best to stop shoplifting.

For the traffic safety, a real, down-to-earth pamphlet, "How Fast Can You Die?" And this one has been most meaningful, "Teenagers Want To Know What Is the Law for a Teenager."

We have in effect in Indianapolis in the narcotics area, a joint enforcement team made up of local officers, county officers, and State officers. The purpose of the joint team is to direct their efforts toward the narcotics and dangerous drug pushers around the schools. This booklet has been most helpful to use, and in the last calendar year, the joint enforcement team effected 384 arrests of pushers in the areas of our schools.

We publish and distribute literature on how to properly describe a suspect on the premise that a citizen looks, but he really does not see, and perhaps we can give him some literature he can follow and if he does follow it, then what he does look at, he sees and remembers what he has looked at.

Publications on women and how to protect themselves, and many speeches, are given every year to women's organizations.

"How To Protect the Businessman." For the homeowner, "Are You Inviting a Burglar Into Your Home?" And on and on goes the list.

Mr. LYNCH. How do you distribute those? This pamphlet on teenagers which I just glanced through, saying, "What Is the Law"—how many copies did you distribute and how do you distribute them?

Mr. CHURCHILL. We have distributed already with that program over 100,000 copies and I am sure there will be more. The police department also has a rather large display of vehicles, motorcycles, guns, narcotics, this sort of thing, and we go from one shopping center to another, setting up our equipment, and urgently asking people, "Come visit with us. Look at the equipment you are purchasing for your police department," and at the same time we hand out hundreds and hundreds of copies of the literature, so that we might best try to reach the people of our community.

I think you will also find in that pamphlet, of which we are very happy and very proud, that one of the Indianapolis businesses recently saw fit to have a full page advertisement in the Indianapolis newspapers:

Indianapolis is a safer place to live because of our police department. We like your action. Your perfect record of 100 percent clearance on homicide cases in 1972 is a first in modern-city history. Over the same period, the Indianapolis crime rate was down 26 percent. It marked the fourth consecutive year of crime reduction in Indianapolis. Your admirable record is a taxpayer's delight. It was achieved without increase in manpower. Your efficiency has been supplemented by well-planned and administered community action programs, the kind that create public awareness for the need to cooperate with police against crime.

We are very proud of the relationship that exists between our department and the community.

I have with me here today, Capt. Robert Greene, who is the commanding officer of the homicide and robbery branch of our department. He is here because he and his men have achieved a record that I know of nowhere in the country that has been equaled, and that is a total 100-percent clearance solving of every homicide which occurred in Indianapolis in our last calendar year.

Captain Greene.

Statement of William Robert Greene

Mr. GREENE. Thank you very much, Chief.

Chairman Pepper and distinguished members of this committee, it is a pleasure also for me to be here and quite an honor, truthfully. I would like to talk to you just briefly about our homicide and robbery branch of the Indianapolis Police Department.

I can't really say we probably do much more than what other homicide branches have done, but we put together a program that we found very beneficial to us and we finished with 100 percent clearance last year, a record of which I, personally, am very proud. And for my men, I am extremely proud.

Our branch is a relatively small branch of the police department. It consists of 40 members. It is divided primarily into homicide and robbery branches, because they run together so often. The functions of this branch and squads are a little bit unique in that we investigate all crimes of violence against human beings.

Our function and our main responsibility, of course, is with the investigations of murder. Along with that we do investigate all robberies, shootings, cuttings, stabbings, rape, incest, sodomy, exposing

and molesting; any kind of violence from one human being against another.

When I took over this branch, and Chief Churchill appointed me to it a year ago last March, we had just experienced a time where we had seven unsolved murders in the city of Indianapolis. At the time that the chief appointed me to this job I was in charge of police community relations, an area which I feel helped quite a bit in stepping into this job of homicide and robbery.

It was really like coming back home to me after I had spent 6½ years previously there as an investigator.

We made several changes, really not big changes, but we tried to become more professional in our approach to investigating crime. And I suppose probably the small insignificant thing that really added up for us in the long run was we had operated under the theory that we could get by with one homicide car on the streets of the city of Indianapolis, which I didn't feel we could, and we added an additional one, where we now have two cars on the street, 24 hours a day, 365 days a year.

Our primary idea and concept behind this, in my personal feeling, is that our success came because we were able to get to the scene and be right at the initial scene of the crime and start from there and follow it completely through. Immediate response was a big help to us in solving these crimes, which is what we do now. Every time one of our patrol cars is sent on a homicide or a suicide or a police shooting, we immediately dispatch one of our homicide cars at the same time.

Now, the initial homicide officer who arrives at that scene is automatically charged with that investigation. He picks it up from the time that he receives the radio run, and stays with the case until the man is sentenced in court and the case is closed. It is all assigned to one man.

Now, we, of course, divide our section into different parts, and most all of our robbery personnel are people who have worked homicide at one time. Another change we made is when we have a homicide where—say, there was a white perpetrator—we automatically assign one of our white robbery teams as a backup investigative unit. This comes about quite often because many of our homicides are the result of robberies.

We do the same if we have a black perpetrator. We assign a black robbery team as a backup unit. We have found this has been very helpful to us, not only because of adding more men to the assignments, but the fact these men are able to better communicate, a lot of times, with people of their own race than they are with opposite races.

Robbery investigations are handled the same way. We have black officers investigating black robberies; white officers investigating white robberies. The logic behind this concept is that investigators can develop more contacts and informants among their own race, and we have found it has been very beneficial to us.

We are also very interested in, and we work quite extensively on, all firearms investigations. These are handled also by our office. One man is primarily responsible for conducting comprehensive investigations into each case. And along with that, we try to get him to develop a history of each firearm that we come in contact with.

Now, the primary thrust of our investigative technique in homicide last year was to immediately saturate the area where we had a homicide. Again, when we have one—say, late at night or during the day—all homicide and robbery personnel automatically suspend their investigations for that period, go right to the scene of the homicide, and assist the first officer who arrives on the scene, and who acts as the coordinator.

The first detective who arrives on the scene as I said, is directly responsible for the investigation, and it is not uncommon at all for him to be a patrolman detective assigned to this car. When he arrives on the scene, regardless of what ranking officer of the Indianapolis Police Department is on that scene, the homicide investigator is in complete charge of the complete investigation.

We have felt that it works much better this way since if this man is the one who has the ultimate responsibility of handling this case and is attempting to see that justice is brought about swiftly, then he should handle the investigation from start to finish.

Now, in all of our investigations, we made an effort to develop a very strong prosecution case. Quite often, and very truthfully, we work harder today to base these cases on physical evidence rather than eyewitness accounts. We have found that through legal maneuvering and court delays and prolonging of trials and change of venue out of county, that eyewitnesses sometimes do not do as well as we feel that they could or can do and quite often over a period of time their memory has a tendency to slip occasionally.

As the chief told you, we are deeply involved in public information and education in our police department, and as you notice, some of the pamphlets the chief just showed to you my men use quite often when they go out and give talks to different civic organizations, block clubs, and church groups.

We have had a very high morale factor in this particular branch and I think we operate each month—we knew we were on our way—it is kind of like, I would liken it to a pitcher pitching a "no hit/no run" game. We saw it coming, yet nobody wanted to talk about it. So I think as each case came in, the esprit de corps picked up a little bit more and the men put forth a tremendous effort to get it solved.

We have found the use of informants is especially helpful in our solving of homicides, and we use them quite extensively in Indianapolis. But our informants are not just the type you would think about when you use the word "informant." As we talk about our public awareness of what goes on in the police department, quite often—and I can think of three cases in particular last year, where we had come up against a stone wall and were unable to solve the case, where we called our police artist in and, through witnesses, made composite sketches of the men we felt were responsible for these homicides.

I am very happy to say these were published by the news media and the papers and TV, and all three of those cases were solved by people and citizens in the city of Indianapolis, making anonymous calls, giving us the people to check out: and all three of them panned out and we were able to solve the crime.

Chairman Pepper. Excuse me, Mr. Greene. You touched on the question of rewards when you spoke about the informants that you get. It generally is considered here, I think, in Washington, that the break

in the case where Senator Stennis was shot in front of his home came from the rewards that were offered.

I believe the State of Mississippi offered $50,000 reward. I don't know whether there was more or not. It occurred to me, whether or not the Federal Government might with propriety perhaps join States in making reward money available to the police department. Would that be feasible and helpful?

Mr. GREENE. I am sure it would be. We have operated in Indianapolis over the past years without a reward fund. But we were able to operate. Our city council has seen fit just recently to consider setting up a $50,000-a-year fund to be used for rewards. We feel that, yes, this would be a big assist to us in solving some homicides.

Chairman PEPPER. Thank you. Go right ahead.

Mr. GREENE. I tried to outline briefly to you just what we do and how we operate, and as I say, I am extremely proud of this unit because of the fact that the average age of our investigators is only 32 years old, and with a year and a half experience as homicide investigators I feel that they have done an outstanding job. Along with that, I think this record was due to, not only dedication on the part of the investigators, but also the increased cooperation that we had between our police branches, individual branches within the police department.

We utilize our laboratory technicians quite a bit. We have a mobile crime lab that we call to most all homicide scenes. Along with that, we have a man designated as nothing but an evidence technician. We have two chemists assigned to our laboratory who we utilize quite a bit.

In one particular case that we had last year we used the mobile crime lab, the chemist, the evidence technician, and fingerprint technicians at the crime scene. It was actually beautiful to just sit back and watch these men, who are highly skilled and trained, do their functions. Thirteen different fingerprints were picked up in a house at the scene of one brutal murder we had in Indianapolis.

When you have this cooperation—and I would probably be remiss if I didn't add that just a little bit of plain luck went along with it, too. A lot of dedicated time, a lot of enthusiasm by the officers, and a tremendous amount of support by the public and by the other police agencies within our department and additional departments, all of these were what helped us to account for a 100-percent clearance.

Chairman PEPPER. I think I might add that competent people often appear to have luck on their side, perhaps more than the incompetent people.

Mr. CHURCHILL. Thank you.

Chairman PEPPER. Anything else?

Mr. LYNCH. I would like to ask Captain Greene whether the mobile evidence lab is sent to the scene of other index crimes, or is that reserved for homicide cases?

Mr. GREENE. No; it isn't. It is used quite extensively at serious burglaries. In fact, the day we left, it was called to the scene of a hit-and-run traffic fatality.

Mr. LYNCH. In 1971, the Indianapolis standard metropolitan statistical area reported some 31,000 index offenses. What proportion of those were in the confines of your city I don't happen to know offhand.

To how many of those crime scenes would you dispatch the mobile crime lab and its technicians? Have you any idea?

Mr. GREENE. No, I don't. I might add that our new mobile crime lab just went into operation in the latter part, second half, of the year 1972. Prior to that a lot of this work was done by our homicide investigators and our evidence technician, which was one man.

Another unique thing I think we should mention is our officers who are given the responsibility of investigating homicides and police shootings are only 12 in number. And these 12 men, as I stated, put forth a tremendous effort last year, and I like to think they are all just about as topnotch as any police officers as we have.

Mr. LYNCH. Would it materially assist the clearance rate if you could send crime lab technicians to the scene of all index offenses?

Mr. GREENE. I definitely think it would. In fact, it is our plan to use the unit as often as we can get it out there.

Mr. LYNCH. How many of those would you have to have in order to do that? You couldn't do it with one, could you?

Mr. GREENE. We are right now. Of course, I would like to see more than one.

Mr. LYNCH. You are doing what right now?

Mr. GREENE. We are operating with one mobile crime lab now.

Mr. LYNCH. I understand that. How many would you need?

Mr. CHURCHILL. I would respond, a minimum of four.

Mr. LYNCH. What is the cost of that mobile crime lab and the technicians who man it?

Mr. GREENE. I think it was $17,000.

Mr. CHURCHILL. About $17,000. The technician's salary to run it a year would probably be $10,000 to $11,000.

You are talking totally about $30,000 a unit per year.

Mr. LYNCH. Chief, you have approximately 1,100 sworn police officers in your department; is that correct?

Mr. CHURCHILL. Yes, sir.

Mr. LYNCH. Of those 1,100, how many of them might be on the street in patrol functions at any given time; or during the high-crime period of the day, for instance?

Mr. CHURCHILL. On street patrol in uniform, cars, talking about uniform officers, 140 at a time. That does not include traffic personnel. That is strictly district patrol officers.

Mr. LYNCH. About 140 who would be manning patrol vehicles?

Mr. CHURCHILL. That is true, sir.

Mr. LYNCH. Two-man cars?

Mr. CHURCHILL. We use all one-man car operations in Indianapolis, in all areas. We have no two-man cars.

Mr. LYNCH. Do you have foot patrol?

Mr. CHURCHILL. We have only two officers on foot patrol, at the downtown bus station.

Mr. LYNCH. Why do you use only one-man cars?

Mr. CHURCHILL. It is a matter of economics, really. We know that, unfortunately, law enforcement agencies today are involved in a great many activities for the community which are not crime related. Many of those activities do not require two policemen. A search for a lost child, often assisting an invalid, a dog bite report, many things of this nature do not require two officers. And thus it is a matter of economics, and the saving of time and money.

Mr. LYNCH. How much money in LEAA funds, if you can answer, Chief, did your department receive last year?

Mr. CHURCHILL. Approximately $3 million.

Mr. LYNCH. What did you use that for?

Mr. CHURCHILL. We have several programs underway, one rather extensive program in the juvenile branch area. We have a considerable number of funds in our computer program.

Mr. LYNCH. What is your computer program, sir?

Mr. CHURCHILL. It is a very interesting thing. We are one of the first cities. I am sure, in the country to use what we call a direct-case-entry system. That is how we know our statistical picture is accurate and true, because when the uniformed officer makes an investigation and makes a report, that report goes directly to the computer.

The information is then broken down by the computer and put out in various parts of the department for use. But when we need a statistic, then we need only program the computer in such a way it gives it back to us. Our FBI report each month comes directly from the computer and the computer is giving us that report from direct case histories by the officers who originally made those investigations.

I think the computer, more and more, is going to be a valuable tool to law enforcement agencies. But it is one field where there is a tremendous shortage of technicians and skilled people to program and operate those computers. We know the officer in our department, for example, who is very skilled, has been offered time and again jobs from industry that we cannot compete with in the salary field. So we have to rely on the dedication of that individual officer to stay with us.

Mr. LYNCH. Chief, it appears that the two highlights of your testimony are the conspicuous presence of the policemen in 140 cars, and, in a city the size of Indianapolis, that strikes me as a fairly good proportion? You also touched on the effort your department spends in citizen-oriented programs.

You have approximately 1.7 policemen per 1,000 population. We learned here yesterday that in the District of Columbia we have some 6.6 or more policemen per 1,000. Do you regard the size of your police force, its present complement of sworn personnel, as adequate to do the job you are asked to do in the city of Indianapolis?

Mr. CHURCHILL. Yes; I would respond to you that it is. I don't know any police chief or commander who would not like to have more people. But I believe that it is mandatory in police administrators to endeavor to operate that police department on the same basis any good business manager would run his business, and that we do not have a great number of personnel and dollars to pay for those personnel, so it is a very fluid approach to continually evaluate your own operation and the use of that personnel to get the best out of it you can.

The whole premise behind the car program was to save time. We are wasting time and we are wasting policemen. And we need to look at ourselves very critically before we can very quickly run into the council and say, "I need more men."

Mr. LYNCH. Your judgment is that you can live with the number of men you have; is that correct?

Mr. CHURCHILL. Yes, sir; that is true.

Mr. LYNCH. That is very interesting, because of the 13 cities which will be testifying before this committee, you have the lowest rate of police per capita.

Mr. CHURCHILL. And I might tell you, sir, we in the police department in Indianapolis have not asked our council for an increase in our number of personnel in the last 6 years.

Mr. LYNCH. Thank you, Chief.

I have no further questions, Mr. Chairman.

Chairman PEPPER. Chief, there are two or three questions. What impresses me is that you were determined you were going to reduce crime in Indianapolis; and you have done it in the 5 years you have been chief of police, have you not?

Mr. CHURCHILL. Yes, sir.

Chairman PEPPER. What we are concerned with is what can still be done in the future to reduce crime in this country. You made a fine record. Many of the cities have made commendable records, but we still have a lot of violent and serious crime.

Now, what can you do to reduce still further the amount of violent and serious crime in Indianapolis?

Mr. CHURCHILL. Sir, I am going to work very hard with the relationship that I have with the community to see if we can get the community interested in the system of justice as a whole, as opposed to just the police department.

Now, I will make my following statements, realizing very well that two of the honored gentlemen of this committee are former prosecutors and, indeed, one is a former judge. But I liken the judicial system to a three-legged milk stool: One leg of that stool is the police; the second is the prosecutor; the third is the courts. And I would submit to this committee that I believe our system has one leg that has dry rot, and rather seriously.

Chairman PEPPER. I take it you are not referring to the police department?

Mr. CHURCHILL. I am not, sir. I am speaking primarily about our courts.

Chairman PEPPER. Yes, I know. I was going to ask you about the prosecuting attorneys and the courts.

Mr. CHURCHILL. I frankly feel that in the area of the prosecution, there is far too much plea bargaining. I have been a policeman for awhile and let me hasten to tell you I am not opposed to trading a pound of bacon for ham. I am very opposed to trading a ham for a pound of bacon. And that when an individual commits a serious crime and we find it has been prebargained away for no other purpose than to serve the expediency of the court, then we are making an error.

I have a 9-year-old daughter and I love her with all of my heart. But on occasion I find that my daughter will lie to me. And I have talked with her and promised her that that is a "spankable" offense, and that if she does it again, the lying will be punished and she will be given a hard spanking. Surely, you can understand, as I do, that in raising that child, if I catch her in another lie and I give her a suspended sentence, and a third time she lies, I put her on probation, and the fourth time she lies I say that, well, we didn't get her middle initial right in the charges that were placed against her, then I would have absolutely no reason to believe my child would not indeed grow up to be a liar.

I think it is the same principle that must appear in our judicial system today, that if we promise an individual 2 to 5 years for second-degree burglary, sir, he should receive 2 to 5 years for second-degree burglary, not 6 months for simple trespassing.

These are the things that we desperately need to look at.

Chairman PEPPER. How long is the elapse in Indianapolis between the time that a charge is made against a defendant and that defendant is brought to trial?

Mr. CHURCHILL. Some, sir, go on as long as 2 years. And that individual is often out on bond while that time is passing.

Now, I would like to submit a suggestion to you for possible solution to this problem. My police department and all others in the country are required to report monthly the crime statistical picture in Indianapolis. We report that to the justice department, who puts it out in a published book. And that book merely tells us what crime is occurring. But I would ask that this committee give some consideration to looking at the system as a whole.

And if the police department, as merely one leg of that stool, is required to report accurately the crime which occurs in Indianapolis, I see nothing wrong with the prosecutor who tries those cases likewise being required to report to the Justice Department the number of cases tried, the original charges, the charge on which the individual was actually tried, and how many times he was found guilty and how many times released.

I would further like to see the courts of our country be required to report to the Justice Department how many cases they tried and how old was each case. What I am saying to you is I believe, honestly, if the citizens are aware—again, I have no fear of the citizens if they are aware and know the truth—then, we can accurately look at what is the police department doing about our judicial system, accurately look at what are the prosecutors doing about our judicial system, and what are the courts doing, and put it in a published book.

Chairman PEPPER. Would you add to that stool another leg and call it "Correctional Institutions," or "Penal Institutions"?

Mr. CHURCHILL. That would make the book complete, sir.

Then I believe an accurate picture of the crime problems in our country could be evaluated and many of the huge sums of money made available by the Government to help correct some of these problems could accurately be placed in the proper area of our system to help make it work.

It seems hardly proper to me that every month when my crime stats come out to have the news media to come running to me and say, "Chief, tell us about crime in this community today."

We are only one part of the system. And I think that as thoroughly as the public is allowed to view the efforts and the activities of law enforcement agencies, that by all means they should have the opportunity to examine and review the activities of the other parts of that same system.

Chairman PEPPER. Mr. Justice Clark used a figure you might find of interest. He said that the courts might be likened to a system of water mains through which water was moved from a reservoir into a city distribution system. No matter how much water you have in the tank, the reservoir, or the sewer, it can only get to the consumers in relation to the capacity of the pipes to convey that water.

So no matter how much of a backlog you police pile up of charged individuals, the courts, of course, are the pipelines through which their convictions occur and which progresses the disposition of the case. So the courts have to be able to handle the cases that you bring in or you have a stagnation of the sewers, haven't you?

Mr. CHURCHILL. That is very true, sir. And I would say to you that every police officer in the country, when he takes his job, raises his right hand and takes an oath of office, and he swears to uphold the laws of the United States, the State, the community that he serves. I know that each judge who takes the bench takes that same oath. I am sorry, I don't believe that too many of them are truly upholding those laws.

Chairman PEPPER. This first week of hearings is devoted to the police departments of the country, to give them an opportunity for the presentation of the most innovative, imaginative, and effective programs being carried.

Now, we will follow that with probation and prosecution and the courts, trial and appellate, and juvenile delinquency, and correctional institutions. So we are going into all of those facets, all of those legs, as you might say, of the stool, during these hearings to see what each part is doing to improve its performance.

Mr. Mann, any questions?

Mr. MANN. No questions. Thank you, Mr. Chairman.

Chairman PEPPER. Mr. Winn?

Mr. WINN. Chief, how do you think your "car ride" program would work in a city like New York or Los Angeles?

Mr. CHURCHILL. I see no reason why it wouldn't work in any community. It has become so popular—please understand, no advance appointment need be made—a citizen can walk in off the street, go to the desk captain, say he wants to ride, sign the release, and we immediately call in a car and let that individual ride.

Mr. WINN. Do they furnish these rides in the outskirts or suburban areas of town, or downtown?

Mr. CHURCHILL. No, sir. All through the city, any part of it.

Mr. WINN. You mentioned morale. How do you judge morale in a police department?

Mr. CHURCHILL. Morale is a very fluid thing, and I believe each administrator must acquire a skill for a feel for morale. I have often said that if the men of my department quit complaining totally, I would be very worried about what is happening. But a feedback, a line of communication that exists, both from the top to the man on the street, and from the man on the street up, is vitally important, and you do have a feel for when morale is good. It reflects itself in not only the quality but the quantity of work the individual officers will do.

Mr. WINN. You don't have any outside commission or committees or anything to come in in any way to try to judge it or interview?

Mr. CHURCHILL. No, sir.

Mr. WINN. You don't have any interviews by the press or coordination with the chief?

Mr. CHURCHILL. We constantly have interviews with the press because our department has a very open policy with the media. All disciplinary hearings are open to the public and to the media. We have taken the idea that perhaps in years past the law enforcement

agencies would shove a 55-gallon drum under a 9 x 12 rug and try to convince the public there was nothing there.

In our department, we don't shove a pea under the rug and say there is nothing there. We are very open with the public and media, and they have access to our reports and activities and are perfectly free to interview any of our officers at any time.

Mr. WINN. It was my understanding, Mr. Lynch, there were going to be some newspapermen up here with Chief Churchill.

Mr. LYNCH. They were unable to appear.

Mr. WINN. They are not here?

Mr. LYNCH. No, sir.

Chairman PEPPER. We invited them. We are sorry, we understand they had a large part in encouraging you in the program you have carried forward. We invited them to appear and they said they would if they could. We are sorry they can't be here.

Mr. WINN. I am sorry they couldn't be here, too, because it is my opinion that in too many cities we have the newspaper people of that city, that should support the police department, spend most of their time trying to ridicule them and find internal problems and discuss morale as far as the press is concerned.

Mr. CHURCHILL. As early as 1962, the Indianapolis Star engaged in a program called Crime Alert.

Mr. WINN. Sponsored by the newspaper?

Mr. CHURCHILL. Yes, sir; sponsored by the paper. And that has been a very valued thing in our community, asking people to be alert and report crime in our community. That program is still very much in effect today and still on the front page of that paper every day. It gives the Crime Alert number and urges the citizens to call.

Our second Indianapolis paper, the Indianapolis News, has been very forceful in helping to form in Indianapolis a Women's Crime Crusade, which now numbers some 50,000 women. And that is a tremendous force.

Mr. WINN. What do they do?

Mr. CHURCHILL. Those women have crime committees where two ladies at a time will go in and watch an entire court procedure for a month at a time, filling out reports of the activities of the court and what is happening, and they brought about much change.

For example, prior to the Women's Crime Crusade, a municipal court was not a court of record. It is now. Prior to the Women's Crime Crusade a municipal court judge never wore a robe. He does now. Prior to that time, a municipal court seldom started on time, but that was one of the simple little things the Women's Crime Crusade was watching for. And you may rest assured, even in the municipal court in Indianapolis, if the court is to start at 9 o'clock, it starts at 9 o'clock.

Mr. WINN. Maybe we ought to have them come to Congress and start our committees on time.

Captain Greene, you wanted to say something?

Mr. GREENE. You mentioned morale and how do we judge it. I wish there really were a way you could judge morale. I just wanted to relate to you a little incident that happened in our particular unit. We had an elderly couple in one of our murder cases here, 78 and 79 years old, who returned home and surprised house burglars in their house. The woman was shot and killed and her husband was seriously wounded. Along with this same idea, a lot of or police officers have radios such

as these at home. I judge morale of my unit a little bit like this: That particular night, I had six men working. When I arrived at the scene of that murder, 23 of my 40 personnel showed up at that scene on their own time to work.

Mr. WINN. Came out on their own?

Mr. GREENE. Yes, sir.

Mr. WINN. Two more questions that really don't have too much to do with what you discussed, but we are trying to put all of this together from the police department standpoint: How do your police deal with the problems that you probably have with the fantastic numbers of people that go to Indianapolis for the Speedway race?

Mr. CHURCHILL. Sir, a few years back, when we were to have a State basketball tournament, or something of that nature, we were always putting in the paper the amount of vast manpower that we were going to use and the very strict enforcement rules that we were going to enforce, and that, if the people didn't follow those rules, certainly they would be arrested, and so on.

We found, I believe, some truth to exist in the idea that maybe we were arousing their competitive spirit. So, rather, before an event of that type, we would put in the paper it was going to be a great event for our city, that it was going to be a gala occasion, and that the police would be on hand to assist the public in any way that we possibly could.

The mere change in attitude and tact of what we advertised, so to speak, in the papers prior to that event made a tremendous difference. Soon in Indianapolis, we will be having the 500-mile race. Just prior to that race, we will have a parade in downtown Indianapolis which will bring into our city's streets over 250,000 people.

One of the last things I do is to walk the parade route for at least 10 blocks prior to that parade, and I look into the faces of the people who have assembled themselves for that parade. The last 3 years that parade has gone without incident. And each time I have walked that route I have looked into smiling faces, people who came there with the idea that they were going to enjoy themselves.

Mr. WINN. You kind of missed my point. What do you do about the people that flock in from out of town? You draw over 100,000 people to that race, don't you?

Mr. CHURCHILL. Oh, yes, sir; about 350,000.

Mr. WINN. You have a bunch of people who have never been in Indianapolis before, they have no pride in Indianapolis or the honest faces, and most of them are there for racing, but there is a certain percentage that follows the crowd because they want to assault people. They want to rob them; they want to trick them. The prostitutes, I suppose, come into town by outside numbers, whatever it is.

How do you deal with a situation like that when you are bringing large numbers in, in a 2- or 3-day period?

Mr. CHURCHILL. To the honest citizen, we endeavor to be a good host. There is a line beyond which we will not retreat. If it means putting an individual in jail for misconduct, in jail he will go. The prostitutes, pickpockets, and so on, we become very active as much as 10 days prior to the race, to get the prostitutes corraled, get them in jail. We are constantly on the lookout for new faces in our community, knowing they will be lurable for the Kentucky Derby and soon thereafter come to Indianapolis for the race.

Mr. WINN. You have a communications system between Louisville and Indianapolis?

Mr. CHURCHILL. Indeed, we do; and we work very closely between the prosecutors and the courts that those individuals who come to our community at that time, by being travelers and not local residents, generally find they have relatively high bond placed on them, and in all probability their case will have a continuance to sometime following the race.

Mr. WINN. And to follow up on testimony yesterday, do you have a special rape division?

Mr. CHURCHILL. No, sir; we do not.

Mr. WINN. Are you contemplating one?

Mr. CHURCHILL. No. We have some officers that work specifically on rape cases.

Mr. WINN. Do you have women in that division?

Mr. CHURCHILL. Yes, sir; we have women in that group. But I personally do not feel that law enforcement today is treating the rape problem correctly and I envision the day must come when we must, in a cooperative way with the police agencies, prosecutors, courts, and mental health people, begin to attack the problem of rape much earlier.

Many law enforcement agencies feel that rape is a nonpreventable crime. I do not agree with that. I believe when in any community in your city you have a repeater or a prowler, I think this is one red flag that goes up and says look out.

Second, if in that neighborhood you develop a Peeping Tom, these runs are normally treated by law enforcement agencies as nuisance runs. They often will tell the lady, "look, if you keep your blind pulled down, they guy won't look." Then you find developed in that neighborhood a larceny problem, where an individual steals women's laundry off the clothesline.

Often, the law enforcement agencies treat that as a simple larceny—how much did the clothing cost—when in truth that should be the third red flag waving, "hey, look out." Then the guy moves on to exposing himself to young children, something of this nature. And we never really become aggressive when it comes to a prowler, a Peeping Tom, of having a concerted effort on the part of the police department to attack the problem at that level, with a special prosecutor who is well versed in prosecuting sex cases, with mental health people who will know very well this problem is developing; but get it now, not after the serious offense of rape has been committed and then try to work with the problem.

Mr. WINN. We are doing a lousy job of convicting rapists after we catch them.

Mr. CHURCHILL. Indeed we do, sir; and most of them are found to be mentally incompetent and they are sent to a mental hospital and the mental hospital often has an open-door policy where they can walk out on the street any time.

Mr. WINN. You think our laws are extremely off base as far as rape is concerned?

Mr. CHURCHILL. I think they need very careful examination. But I would believe, too, that we need to build into the judicial system some mental health people who will accept the idea that an individual must have assistance in the courts, and I believe the judge should have

the latitude to send the person to some mental health organization who can help him.

Mr. WINN. Do you have a psychiatrist on your staff?

Mr. CHURCHILL. No, sir; I do not.

Mr. WINN. You don't?

Mr. CHURCHILL. No. I might tell you, a year ago I applied to LEAA for a grant, just along the very lines I am talking about now, to combat the problem of rape, and they were not interested because the incidence figure of rape was not high enough to warrant a grant. But, in my opinion, the problem of rape is one that is increasing all over the country.

It is my opinion that rape is a preventable crime, but that we are attacking it far too late in the picture. We should be getting after it much sooner.

Mr. WINN. In Washington, D.C., for instance, rape is about on page 26 of the local newspapers, because the first 2 or 3 are all filled with the Watergate.

Thank you.

Mr. RANGEL. Chief, I have been extremely interested in your testimony today. Can you briefly tell the committee what you were involved in prior to becoming chief of police?

Mr. CHURCHILL. I joined the police department in May of 1957, after having successfully operated my own business for a number of years. I didn't come to the police department until I was 32 years old. I was a patrolman, out on the street, for 5 years. Then I transferred to the detective division, where I worked burglary and larceny cases.

Contrary to what the captain says about robbery and homicide, I think burglary is the toughest case you can investigate anywhere.

My background is in education, in secondary education. I had some feeling of wanting to be a teacher. After I had the privilege to attend the National FBI Academy, I went back to my department as a lieutenant in the training division. Indianapolis law makes it possible for any individual in the department who holds the permanent rank of lieutenant to be considered for the position of chief.

And in 1967, Mr. Richard Lugar was elected our mayor and in February of 1968 he selected me as his chief and I have been there since.

Mr. RANGEL. Thank you very much.

Chairman PEPPER. Mr. Keating?

Mr. KEATING. Thank you, Mr. Chairman.

Do you have countywide jurisdiction?

Mr. CHURCHILL. No, sir; I do not.

Mr. KEATING. Even though the city extends out into a metropolitan area?

Mr. CHURCHILL. Yes, sir. We are involved in what is known across the country as Unigov, where the council is a joint city/county council, and the mayor of Indianapolis is indeed the mayor of all Marion County. But that law provides that the new Municipal Police Department of Indianapolis will ultimately become the enforcement body for all of the county and that the sheriff's department will have specific assignments of operating the jail, process serving, things of that nature.

But the law provides that this cannot come about until the individual councilmen are satisfied that the municipal police department is both

adequately prepared and able to assume new portions of jurisdiction. Then, and only then, will the people who live in that jurisdiction be placed on the tax rolls for it.

So I think the law provides a very equitable way for our department to expand and to meet its obligations. At the same time, it is equitable and orderly as far as the citizenry is concerned, because they are not paying for a service until they receive it.

Mr. KEATING. How many more men will you need for that total county patrol? You have 1,100 now. How many additional men would you need?

Mr. CHURCHILL. It is difficult to say because we have not been able to accurately assess the crime problem throughout the rest of the county, plus the fact the suburbs and county area are the areas of greatest increase in population. But I feel that, as you see, one area is put on the tax rolls, then new revenue is made available to us so we can in a step-by-step orderly progression assume our obligations and have proper command.

Mr. KEATING. I think it takes time to train a police officer and if you need 300 men, and it takes a couple of years or 3 years, or whatever, to about that much increment in the force—how many police officers do you have per thousand population now?

Mr. CHURCHILL. The rate per 1,000 population is 1.7.

Mr. KEATING. That is pretty low, isn't it?

Mr. CHURCHILL. Yes, sir.

Mr. KEATING. I think someone mentioned that here in Washington we have 6.5 per thousand.

Mr. CHURCHILL. If I had that many police in Indianapolis, I would consider myself overly fortunate.

Mr. KEATING. The involvement that you talked about in public affairs by police and participation by listening in on the radio, participation in riding in the cars and all of that, helps to make more people willing to testify, more people willing to contact you about suspicious persons. Do you find that it is a helpful involvement, or do you find sometimes you get a lot of nuisance calls?

Mr. CHURCHILL. No. Surprisingly, we have very few nuisance calls. Most of the information we receive is indeed very helpful. A recent experience where we had a shooting on the east side of the city, the uniformed officer put out a partial description of the vehicle and the direction it was traveling. And just within a few minutes a man owning a filling station called us and said he had heard the broadcast and ran out on his lot to watch and get us the full license number, the make and model of the car, and which direction it turned, which made possible an apprehension of the individual within a few minutes.

I might tell you that I plan very soon now on opening our classrooms in the school in the police department to any civic organization or group which wants to hold meetings. Our classrooms are not used in the evenings and I want to make those meeting spaces available to different civic organizations within our city, if they will but come, let us take them on a tour of the building prior to their meeting, because we are anxious they come to see us and we are anxious for them to see what our department is doing.

Mr. KEATING. Captain, I think you said you solved every homicide that has occurred within your jurisdiction within the last year. Is that correct?

Mr. GREENE. Yes, sir. Knock on wood—we are now riding into 15 months.

Mr. KEATING. Have you found that one of the principal elements in helping in the solution of these crimes has been involvement and assistance of your citizens, of your lay people?

Mr. GREENE. Very definitely.

Mr. KEATING. So that the work that the chief has done in this regard in involving the citizenry has been of assistance to you in developing a successful investigation?

Mr. GREENE. It certainly has. And as you briefly mentioned, I think it has brought people forward now to where they know that the police cannot be a one-way street. It has to be two ways. And I found that people now are coming forward more and are willing to testify more than what they have in the past.

I think this is directly responsible for the citizens involvement in Indianapolis.

Mr. KEATING. Chief, I would like to make a suggestion and I don't know how valid it really is. But I like your idea of the compilation of the statistics in order to let the public know what is happening, whether persons have been convicted of the crime for which they have been charged, whether it was valid to charge them from the beginning or whether it should have been a lesser charge, or whatever the situation is, but I have a little concern about one aspect of it and I think you may run into it.

You seem to indicate you wanted the courts to report to the Justice Department. I am not sure that will be valid. I think they should have some input into the compilation of statistics, but I would not like to see courts required to report to the prosecutor, in effect. I think I would like to see them operate through their own system of reporting and having some agency coordinating all of these.

I like the goal, but I am not sure I would want to place the judiciary in the position of having to report to Justice. I think it is an independent function of our Government. I think I would like to keep it separate. I understand what you are trying to do and I agree with that objective, but I would like the means to it. I don't have any constructive suggestion to you but the thought occurred to me at the time.

Mr. CHURCHILL. I can well envision, to get the courts to report this kind of thing would be extremely difficult.

Mr. KEATING. But I think the reporting should be done now.

Mr. CHURCHILL. I do, too.

Mr. KEATING. And I do think all of this should be in some computer center so that you can press a button and get the results pretty quickly and not get bound up in paperwork. But that is for some genius in that area to figure out.

One part of the equation that you talk about that I have always felt contributed to the difficulties the law enforcement officer has, and I think the public has as a result, is the prosecutor's role in that equation, whether or not they have adequate training, whether they have enough time to prepare their case at all levels, whether they have had time, even in the misdemeanors, to have enough advance information to do the job necessary to present a case for conviction. I have been concerned about that aspect of the equation very much through the years. Do you have any comments on that?

Mr. CHURCHILL. Yes. There is adequate reason for concern, because I am satisfied that that is one of the underlying causes for so much of the plea bargaining. That and the cases dragging on for so long, the loss of witnesses, et cetera, puts a young prosecutor who perhaps has to prepare for as many as 12 trials a day, and I can see an extreme hardship in his being able to properly prosecute a case and thus the case is plea-bargained away.

It sounds a little bit harsh, but I see, too, the problem arising in the plea bargaining for the expediency of the court, cases that should be open and shut, of a burglar apprehended right inside of a place, and so on, but just to make it quick to get through the courts we reduce it from second degree to third degree and give him 6 months out on the farm, which, you see, is really not 6 months, it is 4 months and 17 days.

I think the public should know the thing went from 2-to-5 years to 6 months. I think the public should know that 6 months is not 6 months, it is 4 months and 17 days.

We should be honest with the public. They should know that life is not life. That 20 years is not 20 years. We need to level with them and let them know. Because, once they know, then they are more able to understand and appreciate the problems the judicial system is experiencing today.

Mr. LYNCH. Chief, you said you were required to report uniform crime data. Is that the case or not the case, that most police agencies report that to the FBI on a voluntary basis?

Mr. CHURCHILL. I am sure it is a voluntary basis. I am sure my city would be looked at with some displeasure if we did not do it.

Mr. LYNCH. In several weeks we will be hearing testimony from a county judicial prosecutorial system located not far from Washington. They have devised a computer system which enables them to tell exactly how cases are being processed, and what judges are doing what with cases. That information has routinely been turned over to newspapers. I would think the committee would be delighted to send you a letter informing you about it.

It may be something you folks in Indianapolis would like to look into. They think this has had marvelous results and it has helped change the system and the attitudes of some people working in the system.

Mr. CHURCHILL. I appreciate that information.

Mr. KEATING. Chief, I have always felt that delay in trial and punishment is one of the greatest contributions to proliferation of crime, or, rather, to put it a different way, it is not the deterrent that it could be. I think the primary responsibility in seeing the cases are tried rests with the court.

I am sure that the defense counsel, as you know, has a lot of cases in other courtrooms and doesn't get to that one, and the prosecutor, by the same token, has a number of cases or you can't get a jury on a given day. But the primary responsibility rests with the court because the court is the one that has the oversight.

Now, it seems to me that if we could get every criminal—and there will be an exception because of injury or something—tried and acquitted or convicted within 60 days of the offense, and the punishment flows quickly thereafter, that this would be more meaningful not only to the offender, but to the victims, to the public, and to the law enforcement arm generally; that this then would be a greater deter-

rent to our crime problem in the country today. Do you agree with that concept?

Mr. CHURCHILL. Mr. Keating, if you were my Congressman, you would get my vote, 100 percent. I think this committee should be aware, however, that much of the delay in the trial of prisoners is not because of the police, not because of the court; it is because of the defendant himself, who continues to take advantage of all of the delay.

Mr. KEATING. I think experience shows that there are limited defense counsels and they don't want to let any cases go to any other attorney and they are required to be in a number of different courtrooms and sometimes in different systems, the federal system or some other system. So they ask for many continuances.

Mr. WINN. Would the gentleman yield?

Mr. KEATING. Yes.

Mr. WINN. Doesn't history also show the longer you drag the case out, the better, easier verdict you get in behalf of the defendant?

Mr. KEATING. I think the difficulty is, what happens is that the witnesses, having lost their wages three or four or five or six times, are disinclined to come back. And if they ever witness a crime again, they won't come back; they won't tell anybody about it. You also find it runs up the cost of operating the police department, whether you give policemen court time, or compensatory time, or whether you give them wages, you are running the cost of the law enforcement arm up. I don't want to cast dispersion, but he may be a little hesitant the next time.

But the victim of the crime has suffered already and if he has got to keep coming back and losing more time, he is not going to want to come back.

In this manner, of course, your recall of facts and events becomes more dim with time. So it becomes more difficult to prosecute a case thereafter.

Mr. CHURCHILL. I appreciate your giving some time and thought and concern to the victim. Far too long it has been with the perpetrator. What you say is so vitally true because in my judgment it causes the victim to lose faith in the system. He just totally loses faith. The system must protect him. That is our first obligation: To protect the lives and property of the people. And we can't do it if the people as a whole lose faith in the system.

Mr. KEATING. Speedy trials have a way of lessening the importance of bail, as it gets involved in so many other things, but it is only part of it because the appeal process, the appellate process, is so long and drawn out that it, too, must be attacked. And the time between arrest and trial has to be shortened to give finality to the case. There are several approaches to that.

Mr. CHURCHILL. Yes; but, Mr. Keating, you see while this sounds—as we discussed here, it sounds—to be a complicated thing, it is not really because most of what you are discussing here can be accomplished by a simple rule of court, if the judges would do it.

Mr. KEATING. That is why I said the primary responsibility rests with the court, because it is a matter of controlling unit behavior of those elements coming before him to fill out this equation.

I would love to get into the subject of rape and the difficulties I see in that, but I think the committee chairman wants to get on.

Thank you very much, Chief.

Mr. CHURCHILL. Thank you.

Chairman PEPPER. Chief Churchill, Captain Greene, the committee wishes in the warmest way to thank you both for the valuable contribution you made to our efforts here. I am especially grateful to you for this police radio. I shall listen with interest, if not pleasure, to the crime I hear in the District.

Mr. CHURCHILL. Thank you.

Mr. WINN. I would like to point out one thing. Several members of the committee have ridden police cars from time to time, just to find out what really is going on.

Mr. RANGEL. You mean as defendants?

Mr. KEATING. I would suggest if the chairman would hear of any of us being picked up on that radio, he might come and bail us out.

Chairman PEPPER. Without objection, a part of the folder presented by Chief Churchill from Indianapolis will be inserted in the record.

[Mr. Churchill's prepared testimony, plus numerous pieces of literature available from the Indianapolis Police Department, follows:]

TESTIMONY OF INDIANAPOLIS POLICE DEPARTMENT, SUBMITTED BY WINSTON L. CHURCHILL, CHIEF

BACKGROUND INFORMATION ON INDIANAPOLIS PHILOSOPHY, AND THE PEOPLE WHO GUIDE HER

If Indianapolis has had any national reputation at all, it was one of association with the internationally known 500 Mile Race. Indianapolis has been traditionally a conservative city. Little in the way of agressive new thinking was taking place. The city was becoming segregated. Segregated in that not only were Blacks and Whites moving toward segregation, but Indianapolis itself was in the process of segregating itself from the other major cities of America.

As is true of such situations, many detrimental things began to happen. The more affluent moved out of the decaying inner-city to the suburbs, just outside the city Corporate Limits. The most precious resource on any community was becoming depleted as the youth began to leave for cities offering more promising futures. Cities which had reputations for forward thinking, opportunity, and glamour.

As the suburban area began to increase in population and retail merchandising outlets, services to the suburban areas had to be increased. County and Township Government became overburdened, and their services began to overlap. Duplication of services left many without any at all. The tax base of the inner-city was slowly becoming depleted. A cancer of inner-city decay began to grow as homes and places of business were abandoned. Services to the inner-city merchants and residents began to suffer. Streets were becoming riddled with chuckholes, and garbage and trash was not being regularly removed. Police and Fire Services started to suffer. Aging equipment wasn't being replaced, and it was an open secret that promotions within the Police and Fire Departments could be bought!

The citizens of Indianapolis lost confidence in their government, and in their Police Department.

This was the situation in the mid 1960's.

In November of 1967 the people of Indianapolis changed the Party in power in city government.

A young businessman with a reputation for aggressive and innovative thinking was elected Mayor of the City of Indianapolis.

In January of 1968, Richard Green Lugar, (pronounced like the gun), the new Mayor moved into the gleaming 25th floor offices of the Mayor high atop the City-County Building—the only large new structure to be erected in Indianapolis in many a year. From this vantage point he could observe a city in decay.

Lugar was true to his word, change was indeed in the wind. Out went traditional thinking which had held Indianapolis back for so many years, and the public-be-damned attitude of the civil servants. Lugar came into office with a

plan of action which he proceeded to place into effect. He set his government up along the lines of a corporation structure, with himself as President and Chairman of the Board. And why not? If it would work well in the business community, it ought to work well in government.

Lugar set up his services to the community under appointed Department Heads who, could and would, be fired if they did not produce.

When it came to the Police Department, Lugar let it be known that no advance deals had been made with respect to who would be the next Chief of Police. In itself a departure from politics as usual. He invited those who were interested in the job to apply—but first they must meet his criteria. No outsiders were interviewed. Lugar wanted a man who had been on the Department, and had proven himself capable of leadership, both within the Department and in the community. Many were interviewed. All were asked to put into writing the Department as they saw it, what they would change, and their recommendations for the future of the Department.

Lugar was, and is, a man of advocacy. He surrounded himself with like minded men—each an advocate. His new Chief of Police was to be no exception.

Lugar's choice was Winston Churchill. Churchill was a man who had risen rapidly through the ranks to the rank of Lieutenant . . . and had come by it honestly through hard work. He was a nimble thinker, a man of experience, it would be hard to pull the Departmental wool over his eyes. Lugar liked the recommendations of his new Chief, and told him to move ahead—but to remain in close contact with the Mayor.

Churchill was acutely aware of the alienation of the community from the Police. If he was to succeed and survive as Chief he would have to recapture the confidence of the people in their Police Department.

How do you reverse years of distrust and outright hostility?

You begin by letting it be known that each policeman was now on his own merits. If he got into trouble it would no longer be swept under the rug. He would face a disciplinary hearing before his Chief, and that hearing was going to be open to the public and the news media. Supervisory officers, were also to be held similarly responsible for the performance of the officers under their command. And woe be to the man who was surly or disrespectful to a citizen.

Churchill hand picked his Deputy Chiefs. Each was carefully chosen for ability and command leadership. Churchill's philosophy closely paralleled the Lugar concept that if you don't produce, you were fired.

In the early months the new chief and his deputy chiefs set out to reverse the trend. Something that couldn't happen overnight.

Churchill proved a most able public speaker—quick on his feet. He began accepting speaking engagements whenever possible. He took his story to the community. Even today, almost five years later, he seldom has a day without some sort of public speaking engagement. Realizing the value of this approach, Churchill encouraged his Deputy Chiefs and Branch Commanders to do likewise . . . and gradually the story of change in the Indianapolis Police Department began to be told.

New police began to evolve, with the Mayor and his Chief in close communication. Ever so slowly the community began to react in a positive way toward their police. A women's organization was formed to assist in carrying the message. The Women's Crusade Against Crime was born. The women got into the spirit . . . they rode in patrol cars . . . got to see first hand the life and problems of the policeman. They raised funds to enable the Department to publish helpful booklets on a wide range of subjects. Everything from how to protect yourself and your home to how to describe a subject in police terminology. Citizens were openly encouraged to listen to the local police radio broadcasts. If they didn't understand the police codes, Churchill mailed out code cards to help them understand. (To date some 20,000 code cards have been mailed out and or given out since the first of the year).

The local news media perceived the changes in the Department and made editorial comment in favor of the changes. No longer was it the thing to do to deride the police. Now they were boosting the projects, and the programs of the Department. Encouraged by this the Chief and the Mayor began plans for groundbreaking the pathfinding in Law Enforcement.

Some of the successful programs to come from this new thinking have been:

The Indianapolis Take Home Patrol Car Plan. Under the plan the men of the Operations Division and the Traffic Division were each assigned a car which was to be in their care alone. They were to use it on and off duty. Take care of it, and be on call even when off duty. This Plan has saved the taxpayers of Indian-

apolis some $500,000 a year. Crime has gone down and the people are seeing more police cars on the street 24 hours a day, every day of the year.

The Citizen Observer Program. Under this program, citizens of legal age are invited to ride with a patrolman for a few hours of his duty time. To date since this was begun in 1968 some 5,500+ citizens have ridden in Patrol Cars. Young people are frequently the most changed following such an experience. They begin openly hostile to the patrolman, and almost without exception end the evening as a friend. The most frequent comment from all riders is something like . . . "I wouldn't have your job for a million dollars!"

A public affairs section was formed to work with P.T.A.'s and P.T.O.'s Scouting, Neighborhood Organizations and School Principals. The Officer Friendly Program was begun to involve the policeman in the kindergarten and lower grades of all Indianapolis Schools. Eventually funding was provided by the Sears Foundation.

The Indianapolis Police Department now makes as many public speaking engagements as possible. This year in the continuing effort to take the story to the public, they designed and produced an exhibit covering police work, history, narcotics and dangerous drugs, a working patrol car, two motorcycles, and many many items of a curious nature too numerous to mention here. Four officers from the Department travel with this exhibit, one a policewoman, to answer questions, and to promote the police community relations situation. To date the exhibit has made two public appearances, and has been enjoyed by well over 20,000 of the citizens of the city.

The response of the average citizen has been most heartening. The image of the policeman in Indianapolis has improved, and with it the policeman's self esteem. Children once again look upon him as a friend and no longer fear him. Citizen cooperation with police is reaching an all time high. Never before has the Department so enjoyed the relationship with the people it now has.

The situation of the 1960's has been reversed. Crime has gone Down! The people have helped us do it.

Indianapolis has enjoyed 26 straight months of crime reduction. A total reduction of 26% over the past two years. The Homicide Branch cleared 100% of the murders and killings assigned to it this past year . . . a record not achieved by any large city in recent memory.

The street crime and home burglary situation is on the decline. Streets in Indianapolis are getting safer at night with each passing week. Nightlife is returning!

CRIME TREND—INDIANAPOLIS, IND.

Category of crime	1968		1969		1970		1971		1972	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Murder:										
Nonnegligent manslaughter	77		65		60		61		66	
Increase or decrease from previous year	+19	+32.7	−12	−15.6	−5	−7.7	+1	+1.7	+6	+10.0
Manslaughter by negligence	54		50		28		22		26	
Increase or decrease from previous year	+24	+80.0	−4	−7.2	−22	−44.0	−6	−21.4	+4	+18.2
Forcible rape	187		165		253		264		275	
Increase or decrease from previous year	+63	+50.8	−22	−11.8	+86	+51.5	+11	+4.3	+11	+4.2
Robbery	1,880		1,651		2,073		2,109		1,398	
Increase or decrease from previous year	+681	+55.1	−229	−12.2	+422	+25.6	+38	+1.8	−711	−33.7
Aggravated assault	856		859		1,205		927		726	
Increase or decrease from previous year	+368	+75.4	+3	+.3	+346	+40.3	−278	−23.1	−201	−21.7
Burglary	8,100		8,926		10,309		9,481		8,267	
Increase or decrease from previous year	+348	+4.4	+826	+10.2	+1,386	+15.5	−828	−8.0	−1,214	−12.8
Larceny	14,381		15,735		18,374		16,243		13,412	
Increase or decrease from previous year	+2,249	+18.5	+1,354	+9.5	+2,639	+16.8	−2,137	−11.6	−2,932	−17.4
Vehicle theft	5,751		4,933		5,314		4,497		3,658	
Increase or decrease from previous year	+478	+9.0	−618	−10.7	+381	+7.7	−815	−15.3	−839	−18.7
Total	31,286		32,384		37,616		33,604		27,828	
Increase or decrease from previous year	+4,230	+15.6	+1,098	+3.5	+5,233	+16.2	−4,016	−10.7	−5,776	−17.2

Note. During the period from 1970 to 1972 we have had a reduction of 9,788 crimes or a 26-percent crime decrease comparing 1970 to 1972.

CRIME ALERT

Indianapolis Crime Alert was organized February 17, 1967, to give citizens an opportunity to work with the police in stopping crime.

The Indianapolis Police Department and the Indianapolis Star cooperated in organizing the program which enables citizens to call an emergency telephone number, 633–2811, to report crimes in progress or suspicious activities.

The emergency number is published each day on the front page of the Indianapolis Star and the Indianapolis News.

As soon as a police dispatcher receives a crime alert call and is given the emergency information, he dispatches police cars to the scene.

Many times in the six years of the program's existence arrests at the scene of a crime have been attributed directly to Crime Alert calls by alert citizens.

When the program was unveiled at a meeting of business, civic and law enforcement leaders, hundred thousand copies of Crime Alert pamphlets supplied by the Indianapolis Star were distributed.

Pamphlets and billfold size cards gave information on "How to Describe a Suspect".

Requests for the information flooded the Indianapolis Police Department and The Indianapolis Star from individuals, businesses, civic organizations, schools and churches.

Millions of cards and pamphlets since have been distributed by the Police Department.

Hundreds of two-way radio-equipped vehicles operated by utilities joined in 24-hour Crime Alert participation.

Also, a special Crime Alert post office box was set up in 1967 so persons with detailed information on crime that did not require immediate police action could write it down and mail it to the police.

Tips by mail to Crime Alert have resulted in solution of many crimes.

Response to Crime Alert was termed "unbelievable" by a policewoman who is one of several police personnel who have manned telephones since Crime Alert began.

"I believe Crime Alert has drawn the public and police into a closer relationship," she observed of the program.

She noted that a majority of persons "take Crime Alert very seriously . . . only a few crank calls".

Inquiries have been received from many cities and newspapers of the technique of Crime Alert.

As a result, similar programs have been inaugurated throughout the Nation.

J. Edgar Hoover lauded the program soon after it was launched and offered suggestions to increase its effectiveness.

A feature of the program is that tipsters are not required to identify themselves.

HOW TO DESCRIBE A SUSPECT

You as a law abiding person desire to live in a community that is safe for yourself and your loved ones. You want your property protected...If you know of Criminal activity let us know.

Certain information may best be communicated by addressing a letter to...

POST OFFICE BOX 2811
INDIANAPOLIS, INDIANA
46204

ISSUED BY

INDIANAPOLIS POLICE DEPARTMENT

HELP THE POLICE
HELP YOU

OBSERVE AND REMEMBER

PHYSICAL DESCRIPTION

1. SEX	Male or Female
2. COLOR	WHITE - NEGRO - ORIENTAL - PUERTO RICAN - MEXICAN NATIONAL ORIGIN WHERE POSSIBLE.
3. AGE	APPROXIMATE (as close as possible)
4. HEIGHT	IN COMPARISON WITH FIXED OBJECT OF KNOWN HEIGHT OR SELF.
5. WEIGHT	APPROXIMATELY (as close as possible)
6. BUILD	APPROXIMATELY (as close as possible) HUSKY - SLIM - THIN - HEAVY - LIGHT - MUSCULAR
7. HAIR	COLOR - TEXTURE - STYLE - GROOM - LENGTH - CUT - ARTIFICIAL
8. EYES	COLOR - SHAPE - LASHES - BROWS - SLANT - CLEAR OR BLOOD SHOT
9. COMPLEXION	COLOR - PORES - POT MARKS - ACNE - RAZOR RASH - BUMPS - CLEAN SHAVEN UNSHAVEN - 4 O'CLOCK SHADOW
10. PECULIARITIES	MARKS - SCARS - DEFORMITIES - ARTIFICIAL LIMBS - MUSTACHE - GOTTEE - BEARD - WIGS - TOUPEES - MANICURE - MAKE UP VOICE (pitch - tone - rasp - lisp - high - low) SPEECH (well educated - slang - accents - illiterate)

CLOTHING DESCRIPTION

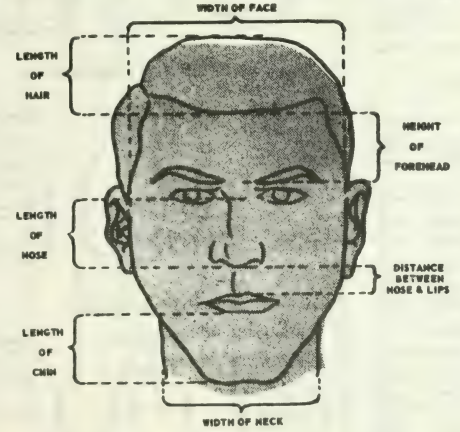
1. HAT	COLOR - STYLE - BLOCK CAP - FEDORA - HOOD - ETC. ORNAMENTS - FEATHERS
2. SHIRT	COLOR - DESIGN - SLEEVES - COLLAR STYLE
3. COATS	SUIT - TOP - OVERCOAT BUTTONS
4. TROUSERS	COLOR - STYLE (REG. - IVY - CONTINENTAL) CUFFED - CUFFLESS
5. SOCKS	COLOR - DESIGN - TYPE
6. SHOES	COLOR - STYLE - DESIGN
7. ACCESSORIES	SWEATER - JACKET - SCARFS - GLOVES NECKTIE
8. JEWELRY	RINGS - WATCHES - BRACELETS TIE CLASPS -
9. GENERAL APPEARANCE	NEAT - CLEAN - WELL GROOMED - DERTY SLOPPY - ETC.
10. ODDITIES	CLOTHING TOO LARGE OR TOO SMALL ODD COLORS - PATCHWORK -

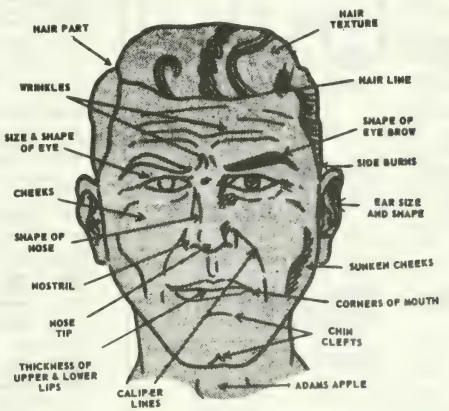
WEAPONS	VEHICLES
1. REVOLVER	1. MAKE
2. PISTOL	2. MODEL
3. SHOTGUN	3. TYPE
4. RIFLE	4. COLOR
5. KNIFE	5. ODDITIES
6. OTHER	6.

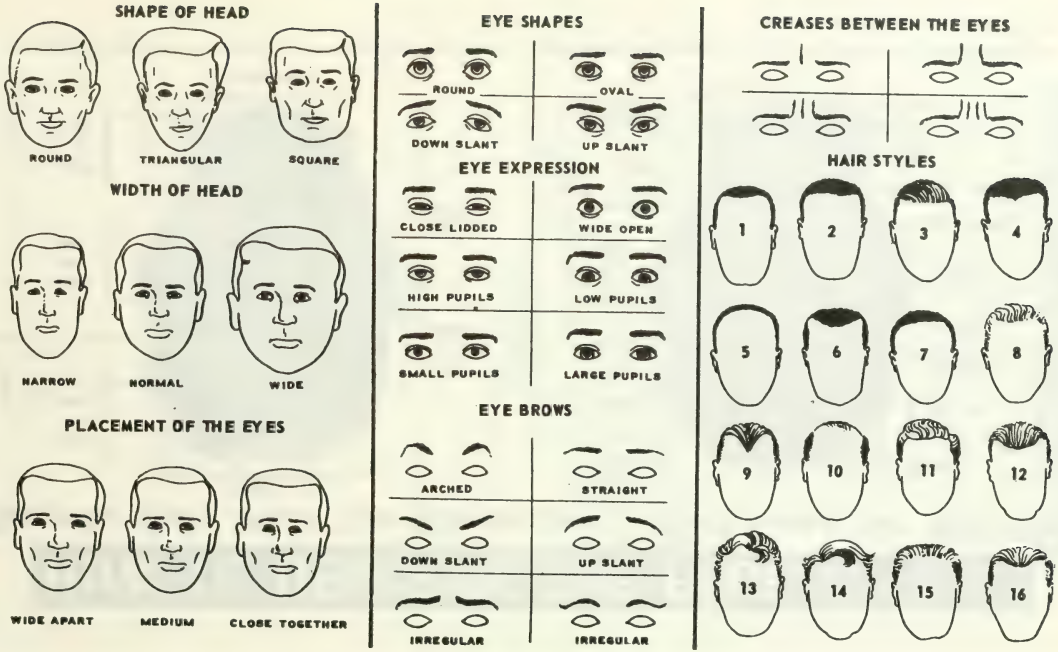
HELP THE POLICE
HELP YOU

HOW TO DESCRIBE THE FACE ...

Describe Only What You Remember ... Don't Guess Or Add On






SHAPE OF HEAD
ROUND
TRIANGULAR
SQUARE
WIDTH OF HEAD
NARROW
NORMAL
WIDE
PLACEMENT OF THE EYES
WIDE APART
MEDIUM
CLOSE TOGETHER
EYE SHAPES
ROUND
OVAL
DOWN SLANT
UP SLANT
EYE EXPRESSION
CLOSE LIDDED
WIDE OPEN
HIGH PUPILS
LOW PUPILS
SMALL PUPILS
LARGE PUPILS
EYE BROWS
ARCHED
STRAIGHT
DOWN SLANT
UP SLANT
IRREGULAR
IRREGULAR
CREASES BETWEEN THE EYES
HAIR STYLES
1
2
3
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16

POLICE EMERGENCY

633·2811

CHECK LIST

PHYSICAL DESCRIPTION

1. SEX _____ 6. BUILD _____
2. COLOR _____ 7. HAIR _____
3. AGE _____ 8. EYES _____
4. HEIGHT _____ 9. COMPLEXION _____
5. WEIGHT _____ 10. PECULIARITIES _____

CLOTHING DESCRIPTION

1. HAT _____ 6. SHOES _____
2. SHIRT _____ 7. ACCESSORIES _____
3. COAT _____ 8. JEWELRY _____
4. TROUSERS _____ 9. GEN. APPEARANCE _____
5. SOCKS _____ 10. ODDITIES _____

FACIAL DESCRIPTION

1. SHAPE _____ 6. NOSE & EARS _____
2. HAIR & LINE _____ 7. LIPS & MOUTH _____
3. FOREHEAD _____ 8. CHIN & NECK _____
4. EYES & BROWS _____ 9. AGE LINES & WRINKLES _____
5. CHEEKS & JAW _____ 10. EXPRESSION _____

KEEP THIS BOOKLET AND REFER TO IT IN THE EVENT YOU HAVE TO DESCRIBE A SUSPECT.

A MESSAGE FROM THE CHIEF

YOUR POLICE DEPARTMENT GOES INTO ACTION

when you promptly dial 633–2811 and give the Police Dispatcher the following information.

- *Whats Happened?...Happening?*
- *Address or Location of the incident.*
- *Description of Scene and number of persons involved – Age – Height Weight – Complexion – Clothing etc.*
- *Method and Direction of travel – License Number – Color and Make of any cars used.*

Remember, you saw or heard it happen... Fulfull your Civic Responsibility and help us apprehend the Criminal.

Winston Churchill

Chief of Police

INDIANAPOLIS POLICE DEPARTMENT

Teen-agers want to know . . .

WHAT IS THE LAW?

Published by the Youth Division of
The Anti-Crime Crusade

sponsored by

The Indianapolis News
307 North Pennsylvania Street
Indianapolis, Indiana 46206

Telephone: 633-9060

Why This Booklet?

This booklet has been edited by teen-agers, in cooperation with Indianapolis and Marion County law enforcement officials.

The purpose of the book is to provide better understanding of the laws which affect young people and to emphasize the importance of law enforcement and civic responsibility.

Again and again, youths in the court room tell the judge, "But I didn't know I was breaking a law."

"I didn't know it was an offense to be truant . . .

"I didn't know it was an offense to run away . . .

"I didn't know it was an offense to swear . . .

This booklet points out that there are laws—not "bad" laws and "good" laws, but laws. Personal responsibility and respect for the law are necessary in order that millions of people can live together harmoniously.

Many young people have asked for the information in this booklet. Judges, the Marion County Prosecutor, the Indianapolis Police Department, the Marion County Sheriff's Office, and the National Citizens Council on Crime and Delinquency have endorsed the publication.

We believe the booklet will be valuable to young people and to their parents.

For extra copies and other information, write:

Youth Division,
The Anti-Crime Crusade
The Indianapolis News
307 N. Pennsylvania Street
Indianapolis, Indiana 46206

The Youth Division of the Anti-Crime Crusade

The Youth Division is one of 14 areas of work in the Indianapolis Anti-Crime Crusade. Thirty women launched the Crusade in March, 1962. There are now more than 50,000 volunteers who tackle the widest possible field of crime prevention. They have been able to get more than 2,000 dropouts back in school without tax funds. They are aware that crime costs as much as national defense; they are concerned with the effect it has on people—the fear of a dark street, the unwillingness to trust a stranger, the dread of a knock at the door.

The Youth Division is open to high school and junior high school youths throughout Indianapolis and Marion County. Last year teen-agers in the Crusade edited a booklet called, "Directory for Teen-Age Volunteers."

Copies of this and the following booklets are available by writing to the address on the preceding page: self-protection, how to get dropouts back in school, how to light up a city, court watching, church volunteer service.

Who Is A Juvenile?

Under Indiana law, a juvenile is any boy or girl under the full age of 18 years. If you are arrested, you will be charged with being a delinquent child by virtue of . . . and then the crime with which you are charged will be spelled out.

As a juvenile, you are subject to all Indiana laws defining crime, and any act that would be a crime for an adult is also a crime for you. You will normally be tried in juvenile court, unless you commit a crime for which the penalty is death or life imprisonment. Crimes in this hideous category are treason, murder, and being an habitual criminal. You may, however, be tried in an adult court for traffic offenses and for any violation of the law which is so serious that the juvenile court judge decides you deserve to be tried as an adult.

Let's Define "Habitual"

Now, before we begin the recitation of the law, let us understand one word that will be used again and again. "Habitually" as used in Indiana law and interpreted by Indiana courts means three times. For example, it is a crime for a child to be habitually disobedient, to be ungovernable or incorrigible, to be habitually beyond the control of his parents or guardian. Sometime when your mother says, "If you do that one more time, I'll call the police," you might remember that she can, and some parents do simply turn their children over to juvenile court to be handled as the court sees fit.

Truancy, Running Away from Home

Being habitually truant (remember, three times) is a crime. When the school attendance officer or your home room teacher or the principal calls home to find out if you're really sick, she's not being nosy; she's enforcing the law.

It is a crime to run away from home—habitually, that is. The law says you may not leave home without just cause and without the consent of your parents, guardian, or other custodian. Juvenile courts have had cases of frighteningly young children who run away. Don't. Home's a pretty good place to be able to come back to.

Employment Restrictions

There are occupations, too, which are in violation of the law for juveniles. Your school guidance counselor will be able to help you with this one. There are limitations on the hours you can work, the kind of machinery you can operate, the places you can work.

Choose Associates Carefully

Associating with immoral or vicious persons is also against Indiana law. That Halloween stunt you watched your friend pull off may land you in jail for associating with the wrong kind of person. You are free to choose the persons with whom you spend your time. Choose carefully; they may change your life.

What's Off Limits

Places whose existence is forbidden by law are off-limits to juveniles as well as adults. There's a special section in the juvenile law that says you can't go into after-hours taverns and the like. You may think it sounds like fun; but what about that permanent record you'll have to carry?

Begging, receiving or gathering alms is officially frowned upon. No reputable organization needs to have children on street corners pleading with passersby for gifts or donations.

Two companion parts of the juvenile law are mostly for your safety. They make it illegal for you to be found about railroad tracks or yards, to jump on or off trains, or to enter a car or engine without lawful authority. The companion section for trucks forbids you to be found in or about truck terminals, including the freight docks and garages, or to enter a truck or trailer without lawful authority.

Well Chosen Friends—Important to Youths

Vile Language, Liquor

Using intoxicating liquor as a beverage or using narcotics without the direction of a doctor should have been so thoroughly discussed by now that you'd never consider doing either. Harmful habits, they are; death traps they frequently become.

Associating with persons you know to be thieves or maliciously vicious can also cost you a trip to the police station. America's legal system has always held the associates of a criminal to be equally responsible for the criminal's acts. You cannot run around with a person who wilfully violates the law without eventually violating the law yourself. Again, you are free to choose the the people with whom you spend your time.

The other side of the coin makes you responsible if you wilfully, deliberately harm someone else; the statute refers to this as wilfully endangering the morals of himself or others. If you encourage someone to commit a crime, help him do it, even suggest that it can be done—you may be on your way to jail.

Listening,
Learning

Indecent? Immoral?

The catch-all part of juvenile law says you may be judged to be a delinquent child if you are guilty of indecent or immoral conduct. What is indecent or immoral conduct? Acting in any way that goes against what most of the people in your community think is right and proper. The sole decider of this section is the juvenile court judge, elected by your parents, and therefore reflecting the thinking of the majority of the community.

There's a Curfew Law

One law always good for an argument is curfew. Once again, remember it is not up to you or the polieman to decide whether a law is fair. If you don't like the law as it is now, tell your legislators who can change it. Curfew says you're supposed to be home between 11 p.m. and 5 a.m. unless you're just coming home after attending a religious or educational meeting or a school function sponsored by a church or school. There is very little you can do after 11 o'clock that you can't do just as well before if you put your mind to it.

Theft, Shoplifting

In 1963, Indiana's General Assembly put into one law, the Offenses Against Property Act, all the varieties of theft from grand larceny through vehicle theft and embezzlement. One category of theft of which you should be particularly aware is shoplifting. Stealing something from a store may sound like an exciting dare, but remember the maximum penalty for stealing that sweater could be five years in prison; it would take less time to earn the money and buy the sweater. A concentrated drive on shoplifting in Marion County has caught many juveniles; are you next?

Don't Hitchhike!

If you hitchhike, you are violating a city ordinance and can be picked up by police. Youths who hitchhike are endangering themselves and motorists by darting into the street to seek rides. Another aspect concerns protection of juveniles; it is unwise to get into a car with a stranger. Therefore, the ordinance: Don't hitchhike! It is unlawful for a person to stand in a roadway for the purpose of asking for a ride.

Think! Don't Crash a Party

If you crash a party, you are subject to arrest for disorderly conduct, refusal to leave or creating a disturbance. You also may be charged with trespassing.

Alcohol, Cigarettes

It is unlawful for any person to sell or give any alcoholic beverage to a juvenile, or for a minor (anyone under the age of 21) to buy or possess any alcoholic beverages. It is a crime for a minor to misrepresent his age in order to buy liquor.

It is unlawful for a minor to buy cigarettes.

Ever Hear of Stolen Car?

If you "borrow a car to go for a ride," you can be charged with the crime of theft in that you knowingly, unlawfully and feloniously obtained and exerted unauthorized control over a certain vehicle.

Carrying Concealed Weapon a Crime

It is a crime to carry a concealed weapon – a springback knife, a firearm of any kind, a spring or air gun designed to shoot BB shots or any other missile, ammunition of any kind, whether containing an explosive or not, for use in any of the weapons mentioned above.

95-158 O—73—pt. 1——13

If You Are Arrested

If you are arrested by the Indianapolis police, you will be taken to the Juvenile Branch, Indianapolis Police Department. Your parents will be notified at once. If your parents are not at home, or if a qualified adult (guardian) cannot be located, you will be taken to the Marion County Juvenile Center to await appearance of your parents. You may be released to your parents, with guidance on conduct, or you may be released to them pending your appearance in juvenile court. An information sheet is sent to Juvenile Court and a time is set for your appearance there before the Marion County Juvenile Judge or a referee (attorney named by the Juvenile Judge). Release to parents is not possible if you are charged with a crime of violence. For this charge you will be taken to the Juvenile Center, or if you are charged with murder, you will be taken to the Marion County Jail.

If you are arrested by the Sheriff's Department, you will be taken to the Sheriff's office, where you will wait until your parents are notified, and go through a process. similar to that used by the Juvenile Branch of the Police Department. The information sent to Juvenile Court is set out on a "petition."

You can be sent to the Indiana Boys School or the Indiana Girls School by the Judge of Juvenile Court, or referee before whom you appear.

A Criminal Record Is Forever

A Single Act of Recklessness Can Spoil Your Entire Life

A person who has been convicted of a crime in a criminal court has a criminal record for the rest of his life. The punishment ordered by the court, such as prison or a fine, is only one of the consequences of a criminal conviction.

Anyone with a criminal record will find it harder to make and keep friends or get a good job.

Many businesses require employes to be bonded, and insurance companies usually refuse to bond anyone with a criminal record.

Civil service and other government jobs may also be closed to those convicted of crime.

A driver's license may be refused on the basis of a criminal record. No car or no license closes the door to many jobs.

The Army, the Navy, and the Marine Corps will usually not give a commission to anyone who has been convicted of a crime.

A person convicted of a crime cannot be a lawyer.

A person who has been convicted of a felony loses his rights and cannot vote in any election unless the governor restores these rights.

Youth and The Law

The laws that affect you are these:

Vol. 4, Burns Indiana Statutes, Part 1, Cumulative Pocket Supplement, Sec. 9-3204 (1963).

"Delinquent Child" defined—The words "delinquent child" shall include any boy under the full age of eighteen (18) years and any girl under the full age of eighteen (18) years who:

(1) Commits an act which, if committed by an adult, would be a crime not punishable by death or life imprisonment:

(2) Is incorrigible, ungovernable or habitually disobedient and beyond the control of his parent, guardian, or other custodian:

(3) Is habitually truant:

(4) Without just cause and without the consent of his parent, guardian, or other custodian, repeatedly deserts his home or place of abode:

(5) Engages in an occupation which is in violation of law:

(6) Associates with immoral or vicious persons:

(7) Frequents a place the existence of which is in violation of the law:

(8) Is found begging, receiving or gathering alms, whether actually begging or under the pretext of selling or offering anything for sale:

(9) Unaccompanied by parent, patronizes or visits any room wherein there is a bar where intoxicating liquors are sold:

(10) Wanders about the streets of any city, or in (on) or about any highways or any public place between the hours of eleven (11:00) o'clock P.M. and five (5:00) o'clock A.M. without being on any lawful business or occupation, except returning home or to his place of abode after attending a religious or educational meeting or social function sponsored by a church or school:

(11) Is found in or about railroad yards or tracks: or who jumps on or off trains: or who enters a car or engine without lawful authority:

(12) Is found in or about truck terminals, including freightdocks. garages, other buildings incidental thereto, or who enters a truck or trailer without lawful authority:

(13) Uses vile, obscene, vulgar or indecent language:

(14) Uses intoxicating liquor as a beverage, or who uses opium, cocaine, morphine or other similar drugs without the direction of a competent physician:

(15) Knowingly associates with thieves or other maliciously vicious persons:

(16) Is guilty of indecent or immoral conduct:

(17) Deports himself so as to wilfully injure or endanger the morals or health of himself or others.

(18) Deports himself so as to wilfully injure or endanger the person or property of himself or others (Indiana Acts 1945, Ch. 356, Sec. 4, Page 1724: 1959, Ch. 237, Sec. 1, Page 566; 1961, Ch. 274, Sec. 1, Page 622).

In addition, there are ordinances and other laws which directly affect juveniles.

Only about 2% to 3% of young people get into trouble —but the repeated problems caused by juvenile delinquents can affect an entire city—an entire county. There are no minor crimes. One crime is too many. One dropout is too many.

Inspector Edward C. Kemper Jr., Federal Bureau of Investigation staff of Director J. Edgar Hoover, was asked when he spoke recently in Indianapolis: "What can be done about juvenile delinquency?"

His answer was the following:

Open Letter To A Teen-Ager

What can we do....?
Where can we go....?
The answer is .... GO HOME!

Hang the storm windows. Paint the woodwork. Rake the leaves. Mow the lawn. Shovel the walk. Wash the car. Learn to cook. Scrub some floors. Repair the sink. Build a boat. Get a job.

Help your church, the Red Cross, the Salvation Army. Visit the sick. Assist the poor. Study your lessons. And then when you are through—and not too tired—read a book.

Your parents do not owe you entertainment. Your village does not owe you recreation facilities. The world does not owe you a living. You owe the world something. You owe it your time, and energy, and your talents so that no one will be at war or in poverty, or sick or lonely again.

In plain, simple words: GROW UP. Quit being a crybaby. Get out of your dream world. Develop a backbone, not a wishbone. Start acting like a man or a lady.

I'm a parent. I'm tired of nursing, protecting, helping, appealing, begging, excusing, tolerating, denying myself needed comforts for every whim and fancy, just because your selfish ego, instead of common sense, dominates your personality and thinking and requests.

"The only thing necessary for the triumph of evil is for good men to do nothing."

—Edmund Burke

EMERGENCY TELEPHONE NUMBERS

ACCIDENT

Indianapolis – Call 633-2811 (Police)
Marion County – (outside city) – 633-2811 (Sheriff)
State – 633-4926 (State Police)

Indianapolis Police (Emergency only) – 633-2811, or dial "O" and tell operator where you live – street and number, city or town, as "Greenwood, Plainfield" – each area has police agency.

Information – Police (Indianapolis) – 633-3000
(as if you wish information on police recruiting)

FIRE

Indianapolis – call 634-1313
(Other fire departments – inside phone book cover – or dial "O" and tell operator exact location where help is needed)

HOSPITALS

Community Hospital	353-1411
General Hospital	636-6311
Methodist Hospital	924-6411
St. Francis Hospital	787-3311
St. Vincent's Hospital	926-3301

MEDICAL EMERGENCY

(If you need a doctor) – call 926-3466 (Marion County Medical Society Exchange)

POISON CONTROL CENTER

Call 636-6311 (General Hospital – ask for Poison Control)

DEAD ANIMALS

Sanitation Department (Indianapolis) – call 633-3574

STRAY DOGS

Municipal Dog Pound (Indianapolis) – call 633-7957

WILD ANIMALS

(Fox, opossum, raccoon) – Indiana Natural Resource Department – call 633-5254 (daytime). (Night) – call 635-2220 – West Indianapolis. (Night) – call 849-0587 – East Indianapolis.

STREET CHUCKHOLES

Street Commissioner (Indianapolis) – call 633-3623

PUBLIC HEALTH

(Birth certificates, sanitation, housing) – call 633-3743

PUBLIC WELFARE DEPARTMENT

Call 633-3997

MEASURING THE EFFECTIVENESS
OF THE
INDIANAPOLIS POLICE DEPARTMENT

FLEET PLAN

WINSTON CHURCHILL
CHIEF OF POLICE

MEASURING THE EFFECTIVENESS OF THE INDIANAPOLIS POLICE DEPARTMENT FLEET PLAN

AN
INDIANAPOLIS POLICE DEPARTMENT
PROJECT
BY

RAYMOND A. WALTON, JR.

December, 1972

Keeping in mind the primary objectives of any Law Enforcement agency, as well as its responsibilities to the citizens it serves, the Indianapolis Police Department is constantly on watch for new programs and ideas which will further these ends.

When programs meeting these criteria are initiated, only part of the task is complete. Following implementation must be surveillance, evaluation, and if deemed necessary, procedure changes or even the complete discontinuation, if the program is determined insufficiently effective.

The following document - only a part of the Department's continuing crime study and research program - was written in an effort to determine the effectiveness of the Indianapolis Police Department Fleet Plan.

The data from which the conclusions are made are presented in the tables at the end of the study so that any department interested in initiating a similar Fleet Plan program may better compare their statistics to those of the Indianapolis Police Department.

We feel that this Fleet Plan is better enabling us to meet our responsibilities to the Citizens of Indianapolis.

Winston Churchill

Chief of Police

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SUMMARY

This study is intended to evaluate the Indianapolis Police Department's Fleet Plan. Under this plan each field patrolman was issued a marked patrol car to use full time. This included both on-duty and off-duty. The field Sergeants and Lieutenants were also issued their own personal marked patrol vehicle.

These officers may - and in fact are encouraged to - use their patrol cars while off-duty, but when doing so must maintain radio contact at all times so as to be available for emergencies which may occur in their immediate vicinity. The individual officers are responsible for the cleanliness of their vehicle, inside and outside, and must change their own flat tires when off-duty.

In return for this personal use of department vehicles, the department buys the vehicles, provides all preventive maintenance, including gasoline, provides all repairs, both mechanical and body, and pays for the insurance coverage.

This study is based on two types of analysis of data. One is comparing data before and after the inception of the Fleet Plan. The other is analyzing data covering a period of several years to indicate trends which may or may not be effected by this plan.

Following are the principle findings of this study.

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Vehicle Costs

The initial cost of increasing the fleet size from 110 vehicles to 455 vehicles was $650,000, of which about $212,500 would have been spent on normal replacement. This puts the increased expenditure at $437,500.

Average annual vehicle replacement costs have increased about $50,000.

Average annual preventive maintenance/repair costs have increased about $317,000.

Insurance premiums have increased $52,000 a year.

Preventive maintenance/repair costs per vehicle dropped 17.3% in the first full calendar year after the Fleet Plan.

Visible Crimes

Due to a more complete and accurate reporting system going into effect in 1970, selected crimes - Robbery, Burglary, Larceny and Vehicle Theft - went up. However, the drop in these selected crimes in 1971 saved potential victims about a half million dollars. These crimes were selected because of their visibility from a patrol car and the deterrent factor which marked patrol vehicles can have on these crimes.

Accidents

Although the total number of accidents involving marked patrol cars increased slightly, on an accident-per-vehicle rate, there was a decrease from 3.1 accidents to 1.8 accidents per marked vehicle per year.

Reported accidents from citizens were already on a downward trend before this plan, but during the full calendar year after the Fleet Plan the total reported accidents dropped an actual 10.6%. This was 7.3% more decrease than indicated by a projected trend. On a per accident cost basis in the three general categories of fatalities, personal injuries, and property damage accidents, this amounted to a savings of about .7 million dollars.

Citations for Moving Traffic Violations

Citations issued for moving traffic violations increased 48.8% in 1970 over 1968.

Manhours of Street Exposure

There is a definite increase in manhours of street exposure without having to hire more personnel. The one measurable facet of this is an additional 1.5 hours per man per day of patrol time. This is the equivalent of an additional 73.8 patrolmen at an annual salary of $635,000, not including any fringe benefits.

Morale

No documentable facts were uncovered, but the indications point to an upward trend.

CHAPTER I

INTRODUCTION

The Indianapolis Police Department Fleet Plan is the issuance of marked patrol vehicles to each officer in the Operations Division who is assigned to the field. This includes beat Patrolmen, field Sergeants and field Lieutenants. Each of these men has full use of his own marked patrol vehicle on a 24-hour basis, including on-duty and off-duty time. These officers are encouraged to drive their patrol vehicles when off-duty, but must observe certain rules which were established to govern their conduct when doing so.

When the Indianapolis Police Department implemented its Fleet Plan, expectations of resulting effects were high. The areas of expectation are pursued in this study in an attempt to determine the "cost vs benefits" effectiveness of the Fleet Plan.

Some of the data collected lends itself to a comparison of the facts immediately before and after full implementation of the plan. Other data presented covers a period of years indicating a trend which, in some cases, changes during the full calendar year following the plan going into effect.

The Indianapolis Police Department started issuing the new vehicles in June of 1969 and by August the Fleet Plan was in full swing. However, due to the available data being grouped by calendar years, it was decided to use calendar years for this

study rather than fleet years, which would have been from August to August.

The general areas pursued by this study are:

1. Vehicle costs
2. Visible Crimes
3. Traffic Accidents
4. Manhours of Street Exposure
5. Traffic Citations
6. Morale

CHAPTER II

AUTHORIZATION - RESTRICTIONS - RESPONSIBILITIES

In order to implement the Fleet Plan, a City Ordinance had to be passed authorizing the purchase and financing of these fleet vehicles. This included not only the maximum amount of money to be spent but complete and precise vehicle specifications as well.

The Indianapolis Police Department then issued a Special Order covering the maintenance, care, and responsibilities of driving the city-owned marked patrol vehicle. The maintenance, including gasoline and oil and all repairs, is the responsibility of the Department. Each officer, however, for presenting his car at the city garage in order to receive this work. Each officer is also responsible for the cleanliness of his vehicle, inside and outside.

When an officer is driving his vehicle off-duty, non-sworn or civilian personnel may ride in the vehicle but shall not drive it. At all times, however, the officer driving the car is responsible for the actions of any "non-official" passengers. Each officer is required to stay in radio contact anytime he is in the vehicle and must respond to any emergency in his immediate vicinity. No vehicle may be taken outside of the county without proper permission.

CHAPTER III

VEHICLE COSTS

Initial Cost

The greatest single expenditure of the Fleet Plan was the initial cost of purchasing the vehicles. Prior to this plan, the Operations Division maintained about 110 marked vehicles[1*], replacing about 85 of them each year[2].

To put the Fleet Plan into effect, 320 new vehicles were purchased. For this purpose, the city council appropriated $650,000.[3]

Replacement Cost

The department expected the new fleet vehicles to last about three times as long as they did under the former plan. This expectation was realized and in the late spring of 1972 another fleet purchase took place. This time 314 new vehicles were purchased at a per unit cost of $2912.27.[4] Considering the former replacement rate of 85 vehicles per year, then the new Fleet Plan shows an average annual replacement rate of 105, or just 20 more per year than before the new Fleet Plan. Since the cost of vehicles varies from year to year, an arbitrary amount of $2500.00 per unit is used to compare the before and after the Fleet Plan cost of vehicle replacement.

At the replacement rate of 85 vehicles per year at $2500 per vehicle, the cost of vehicle replacement prior to the Fleet Plan was about $212,500 annually. The after-the-plan

*Superscripts refer to the corresponding number in the Bibliography

rate being 105, puts this amount up to $262,500 or an average annual increased expenditure of about $50,000.

Preventive Maintenance/Repairs

The total funds disbursed by the Indianapolis Police Department to the city garage furnished the basis for analyzing this area of study. The city garage provides all maintenance and repairs for the department's vehicles. The categories covered under these funds are:

1. Parts and Supplies - including gasoline and oil
2. Labor
3. Overhead
4. Outside Contractual Services

The amount disbursed (Table 1) went from $127,103.90 in 1968 to an annual average of $444,051.18[5]. This is an increased annual expenditure of $316,947.28.

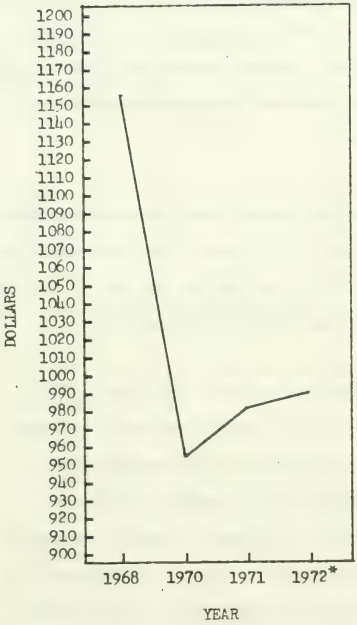
An interesting point brought to light while checking the garage disbursements was the per vehicle cost (Chart 1). The preventive maintenance/repair cost per vehicle in 1970 dropped 17.3% from 1968. The increase in per vehicle cost of 2.8% in 1971 and .9% in 1972 seems to reflect the normal increase in the cost of everything. The fact that the per vehicle cost decreased this much and has fairly well held it for three years is reflected in the vehicles lasting for three years.

Insurance Costs

The Indianapolis Police Department carries liability insurance on each of its vehicles. This insurance covers other

CHART 1

PREVENTIVE MAINTENANCE AND REPAIR COSTS PER VEHICLE FOR THE INDIANAPOLIS POLICE DEPARTMENT FLEET



SOURCE: INDIANAPOLIS POLICE DEPARTMENT BUDGET RECORDS

*THE FIGURES FOR 1972 ARE PROJECTED FROM THE STATISTICS FOR THE FIRST NINE MONTHS OF THE YEAR

drivers, passengers and vehicles for both personal injury and repair, should the driver of a police vehicle be involved in an accident in which it is determined that the officer is at fault. The police vehicles are repaired in the city garage at the Police Department's expense.

The cost of this insurance coverage in 1968 was $100 per vehicle and was raised to $137 per vehicle after implementation of the Fleet Plan.[6] With the increase per vehicle and the greater number of vehicles, this represents an increase of $52,000 for the after-the-plan costs.

Car Washes

Prior to this plan the marked patrol vehicles were washed about once a week at a cost of $1.25 each. Under the Fleet Plan each officer is responsible for washing his own car - or having it washed. This is a savings of about $7,000 annually.

Snow Tires

The department formerly furnished snow tires for each marked patrol vehicle. This is no longer true under the Fleet Plan. If an officer wants snow tires on his personal patrol car, he must furnish them at his own expense. This is not a savings, however, because the department now equips the patrol vehicles with positraction type rear axles. The savings on the snow tires and the cost of the special axle just about cancel each other out.

Miscellaneous

Batteries and brakes on the vehicles used twenty-four

hours a day, seven days a week, averaged lasting about six months. Under the Fleet Plan the average life of both of these items has increased 200% to eighteen months.

According to the Indianapolis Police Department Vehicle Inspection records, the breakdown of how well the officers are taking care of their personal police cars is as follows:

one third took average care

one third took good care

one third took excellent care

CHAPTER IV

VISIBLE CRIMES

One of the higher expectations of the result of more marked patrol cars on the street was the deterrent factor in crimes which may be visible - and consequently somewhat preventable - from a patrol car. The crimes selected which fulfill this criteria are Robbery, Burglary, Larceny and Vehicle Theft. Charts 2 through 5 illustrate the number of crimes reported to the Indianapolis Police Department for 1964 through 1972.[7]

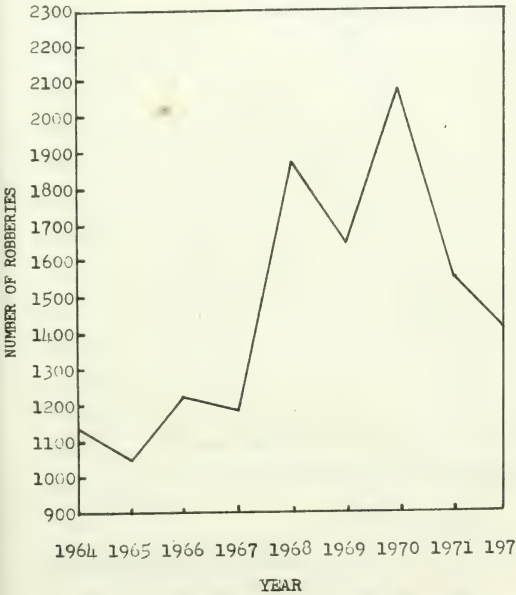
As can be seen in these charts, there was a substantial increase in reported crimes in 1970, which was the first full calendar year after the initiation of the Fleet Plan. This increase may well be due to the department changing its reporting system to be more complete and accurate. This change involved not only using more of the computer's potential, but also coming more closely in line with the F. B. I. Uniform Crime Reporting system.

Another factor to be considered is the national average. As shown in Tables 3 through 6, the total number of selected crimes showed a substantial increase nationally.[8] To state this another way, also listed on these tables is the percentage increase of each of the four selected crimes for several years. This, too, illustrates that the national average was on the rise in 1970.

Due to these factors, 1971 is used in an attempt to de-

CHART 2

ROBBERIES REPORTED TO THE INDIANAPOLIS POLICE DEPARTMENT BY YEAR AND NUMBER

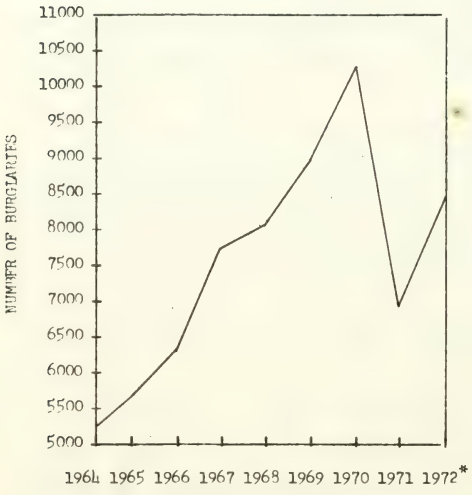


SOURCE: INDIANAPOLIS POLICE DEPARTMENT'S ANNUAL STATISTICAL REPORTS

*THE 1972 STATISTICS ARE PROJECTED FROM THE STATISTICS FOR THE FIRST TEN MONTHS OF THE YEAR

CHART 3

BURGLARIES REPORTED TO THE INDIANAPOLIS POLICE DEPARTMENT BY YEAR AND NUMBER

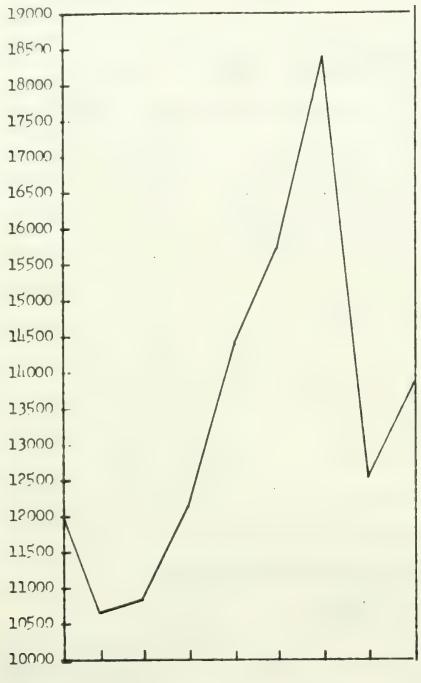


SOURCE: INDIANAPOLIS POLICE DEPARTMENT ANNUAL STATISTICAL REPORTS

*THE 1972 STATISTICS ARE PROJECTED FROM THE STATISTICS FOR THE FIRST TEN MONTHS OF THE YEAR

CHART 4

LARCENIES REPORTED TO THE INDIANAPOLIS POLICE DEPARTMENT BY YEAR AND NUMBER

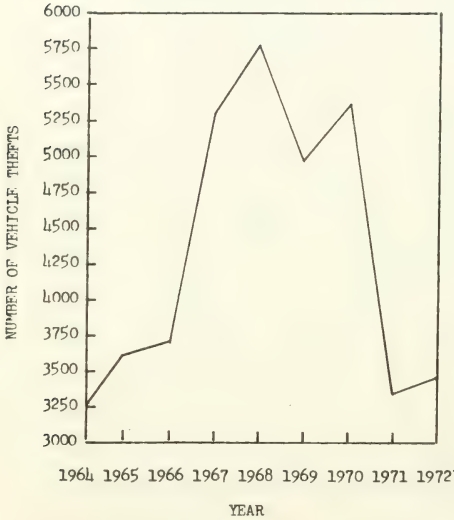


SOURCE: INDIANAPOLIS POLICE DEPARTMENT ANNUAL STATISTICAL REPORTS

*THE 1972 STATISTICS ARE PROJECTED FROM THE STATISTICS FOR THE FIRST TEN MONTHS OF THE YEAR

CHART 5

VEHICLE THEFTS REPORTED TO THE INDIANAPOLIS POLICE DEPARTMENT BY YEAR AND NUMBER



SOURCE: INDIANAPOLIS POLICE DEPARTMENT ANNUAL STATISTICAL REPORTS

*THE 1972 STATISTICS ARE PROJECTED FROM THE FIRST TEN MONTHS OF THE YEAR

termine the effectiveness, if any, of the additional exposure of the marked patrol cars. Again, looking at Charts 2 through 5 it is obvious that the decrease in these visible crimes is notable. It is felt by this writer that the increased exposure of marked police vehicles is primarily responsible for these decreases.

To measure this decrease in reported visible crimes, it was necessary to translate it into dollars. This was done by using the total value of stolen items as listed in the Indianapolis Police Department's annual statistical report. Using this amount in each category along with the number of reported crimes listed in each category, an average dollar-value per crime was computed. Table 7 shows the method of computation which took into consideration the value of stolen property which was recovered.

The final total dollar-value for each category of crime is illustrated in Chart 6 which indicates the savings to the citizens of Indianapolis in 1971 due to the decrease in the selected visible crimes. Figure 1, which illustrates the per crime savings, also shows that the total savings is close to a million dollars.

Robbery	$ 12,038.46
Burglary	$443,823.20
Larceny	$220,227.02
Vehicle Theft	$255,937.10
Total	$932,025.78

(Figure 1)

Although no other major change in the Indianapolis Police Department's procedures came to light during this study, it is

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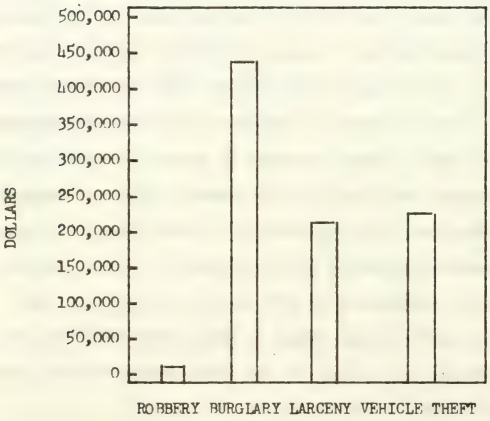
CHART 6

MONEY SAVED BY THE CITIZENS OF INDIANAPOLIS
IN 1971 DUE TO DECREASE IN VISIBLE CRIMES



SOURCE: INDIANAPOLIS POLICE DEPARTMENT
ANNUAL STATISTICAL REPORT - 1971

recognized that these are probably other variables involved which are not explored here. Due to this, it will be conservatively estimated that only about fifty percent of the decrease in selected visible crimes is attributable to the Fleet Plan.

This brings the amount saved down to a probably more realistic figure of about .5 million dollars. This amount in itself would almost cover the original investment of the additional vehicles for this Fleet Plan.

One other possible variable which could be part of the answer to the decrease in these crimes is the national average. It was thought that if the national average had also dropped noticeably in 1971 that whatever caused this drop could have also contributed to the decrease in Indianapolis. However, a quick look at Tables 3 through 6 show that the national average not only did not decrease but in fact substantially increased.[9]

For a comparison of the national average in 1971 to Indianapolis in 1971, Chart 7 very clearly shows that Indianapolis was in much better shape statistically. Figure 2 shows the difference between Indianapolis and the national average.

Crime	Nation. Avg. Increase	Indpls Decrease	Difference
Robbery	+2%	-25.1%	+49.1%
Burglary	+14.5%	-25.3%	+39.8%
Larceny	+14%	-31.8%	+45.8%
Vehicle Theft	+04%	-37.7%	+41.7%

(Figure 2)

Therefore, the decrease in Indianapolis can not be considered indicative of the national average. In fact, the differ-

CHART 7

AN ILLUSTRATION OF THE INCREASE AND/OR DECREASE OF REPORTED SELECTED CRIMES IN INDIANAPOLIS IN 1971 COMPARED TO THE NATIONAL AVERAGE FOR 1971 USING 1970 AS A BASE

SOURCE: F.B.I. UNIFORM CRIME REPORT - 1971 AND INDIANAPOLIS POLICE DEPARTMENT ANNUAL STATISTICAL REPORTS - 1971, 1970

ence could be computed on the same dollar-value per crime basis as before and probably show a savings of well over a million dollars. However, it seems that the method already used for computing the savings is a much more accurate one, which, to reiterate, saved the people of Indianapolis about a half-million dollars in 1971.

CHAPTER V

ACCIDENTS

In a study of this type, two general categories of accidents must be considered. One is accidents involving vehicles of the Indianapolis Police Department fleet and the other is reported accidents from the community.

Fleet Vehicle Accidents

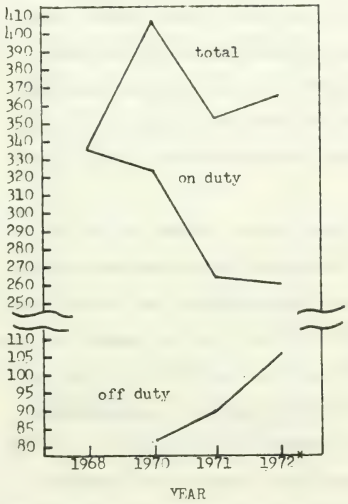
Accidents involving police vehicles have always been an area of concern to the administrators of a police department, and with the coming of the Fleet Plan has become more so to the Indianapolis Police Department Officials. A superficial look at the total accidents involving marked patrol cars[10] (See Chart 8) shows the cause for the increased concern. Although the total number of accidents dropped in 1971, it shot up in 1970 and headed back up in 1972. At no time has the number of accidents dropped below what they were before the start of the Fleet Plan.

The cost of these accidents is difficult to determine since the City's insurance does not cover the repair of the City-owned vehicles. In addition to this, a settlement from a citizen's insurance company does not come back to the Indianapolis Police Department to pay for repairs but, instead, is put into the City's General Fund. This means that both under the old and the new plan, the Indianapolis Police Department loses money from its budget.

The superficial picture, however, does not point out an interesting fact which does come to light when the fleet ve-

CHART 8

MARKED PATROL CARS OF THE INDIANAPOLIS POLICE DEPARTMENT INVOLVED IN ACCIDENTS



SOURCE: INDIANAPOLIS POLICE DEPARTMENT'S ACCIDENT REVIEW BOARD RECORDS

*THE NUMBER OF ACCIDENTS FOR 1972 ARE PROJECTED FROM THE STATISTICS FOR THE FIRST NINE MONTHS

hicle accidents are more closley scrutinized. Chart 8 also breaks down the accidents into two sub-categories:

1. On-duty accidents
2. Off-duty accidents

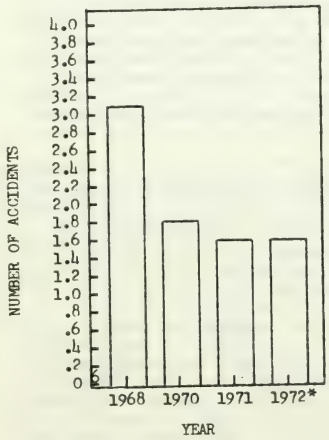
When these sub-categories are studied, it can be seen why the total number of accidents is increasing: the off-duty accidents are the cause. Since marked patrol cars were not generally used off-duty prior to the Fleet Plan, the off-duty accident rate starts in 1970, and steadily raises. The on-duty accidents, however, run just the opposite. They have declined since 1968 at a more than casual rate. Following the present trend of on-duty and off-duty accidents, they should be about the same in a few years.

This writer feels that in order to stem the tide of off-duty accidents, the Indianapolis Police Department will have to apply more stringent restrictions on the off-duty driving of marked patrol vehicles. This is not to suggest that they not be driven off-duty, because this would kill the "more exposure - less crime and accidents" theory. It is recommended, however, that the types of errands on which they should not be driven off-duty be more explicitly stated by the department. It would then necessarily follow that an officer involved in an off-duty accident who was found guilty of violating these restrictions must be more surely disciplined.

Still another way of looking at these accidents is on an average accident per vehicle basis. Chart 9 shows the average

CHART 9

AVERAGE NUMBER OF ACCIDENTS PER YEAR
PER MARKED PATROL VEHICLE



SOURCE: INDIANAPOLIS POLICE DEPARTMENT ACCIDENT REVIEW BOARD RECORDS

*THE FIGURE USED FOR 1972 IS PROJECTED FROM THE STATISTICS FOR THE FIRST NINE MONTHS

accident per vehicle rate before and after the plan. Since each car is - in theory - only on-duty one third as much as it was previously, this exposure factor was included in computing the accidents per vehicle rate. The actual average accident per vehicle rate was as follows:

1968	3.1 accidents per vehicle
1970	.9 accidents per vehicle
1971	.8 accidents per vehicle
1972	.8 accidents per vehicle

However, under the Fleet Plan, the marked patrol cars are on the street much more than the former seven and a half hours. For one eight hour shift they are on the street about nine hours considering travel-time from home to the roll-call sight and back home again.

They are also on the street on the officer's day off for preventive maintenance, repairs, court, inspections and other errands of a personal nature. Therefore, it is thought that each car is moving on the street only about half as much as it was before the plan. Using this as a measure, the average accidents per vehicle were doubled, arriving in the amount shown in Chart 9. Although there must be an overall increase in the total cost of repairs due to the increase in total number of vehicles, it is a point in favor of the plan that the per vehicle repair cost has decreased.

Reported Accidents from Citizens

This is another area of high expectations by the creators of the Fleet Plan. To measure the plan's effectiveness in this area, statistics have been analyzed for 1964 through 1972.[11]

These statistics (Table 9) indicate trends in the annual number of reported accidents in all categories. For this reason, the period of time covering the trend immediately before and after the start of the Fleet Plan is the period of time used here to study the plan's success or failure.

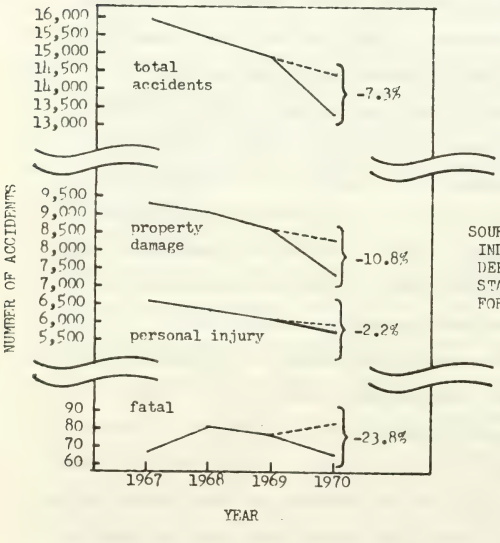
The year 1968 began a general downward trend of total annual accidents. Therefore, when it is said that the number of accidents decreased in 1970, the first full calendar year of the Fleet Plan, it does not give a true picture of what really happened. To get a true picture the already downward trend was projected for 1970. This, compared to the actual number of accidents in each category in 1970, could be compared as shown in Chart 10. The difference between the projected trend and the actual number of total accidents is 10%. In other words there were 7.3% less total accidents in 1970 than might have been expected through projection.

What this means to the citizens of Indianapolis is less money expended. Every accident, regardless of the type, represents money spent by someone. These expenditures include but are not limited to salary lost due to time off from work, car repairs, hospital costs and increased insurance premiums. While a continued decrease in the accident rate might not cause insurance rates to decrease, it should lessen the proability of them being raised.

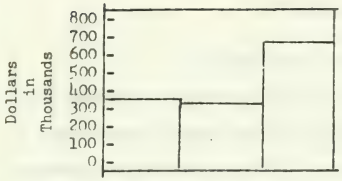
In terms of dollars, the difference between the projected number of accidents and the actual number was used to compute the savings.

CHART 10

TYPE AND NUMBER OF ACCIDENTS REPORTED TO THE INDIANAPOLIS POLICE DEPARTMENT FOR 1967 through 1970



SOURCE:
INDIANAPOLIS POLICE DEPARTMENT'S ANNUAL STATISTICAL REPORTS FOR 1967 - 1970



(Figure 3)

Figure 3 graphically illustrates the decrease into dollars saved. The translation into dollars was accomplished using the following information:[12]

Average $ 360 per Property Damage accident;

Average $ 2,300 per Personal Injury accident;

Average $38,700 per Fatality accident.

934 fewer Property Damage accidents than projected;

134 fewer Personal Injury accidents than projected;

18 fewer Fatality accidents than projected.

Therefore the gross amount saved is $1,338,040.

Here again, as in the visible crimes discussed earlier, it is recognized that there may be other variables involved. Although none were uncovered by this study, it is estimated that the net savings contributable to the Fleet Plan are about half of the total. This brings the savings to about .7 million dollars.

CHAPTER VI

TRAFFIC CITATIONS

Although there are about the same number of marked patrol vehicles on-duty at any given time, due to there being off-duty cars on the street too, the total number has increased. The anticipated effects of this additional exposure led the department to expect an increase in citations written for moving violations. It was thought that the additional citations written might help contribute to a decrease in the total accident picture.

From Chanter V it has been seen that the accidents have substantially decreased. Whether or not citations written for moving violations influenced this decrease is only speculation. It is known, however, that the number of citations issued for moving traffic violations jumped from 32,701 in 1968 to 58,624 in 1970.[13] This is an increase of 48.8%.

Although these citations were paid for by the citizens who received them, it is felt that this expense by the violators is far more than cancelled out by the monetary savings in accidents.

CHAPTER VII

MANHOURS OF PATROL TIME

What is being studied here is an increase of manhours on the street in marked patrol vehicles without an increase in the number of personnel. This area is much more difficult to pin down. It is hard to substantiate the true number of extra manhours received because it is not exactly how many off-duty hours the marked patrol vehicles are on the street. It is known, however, that the officers are using their marked cars off-duty. This is evidenced by the fact that from 20% to 30% of the accidents involving marked patrol cars happened during off-duty driving time.

For the purpose of this study two areas of additional manhours will be considered: the incalculable areas; and the calculable areas. The areas of activities which can not be measured anywhere close to accurately includes:

1. Off-duty officers responding to radio calls
2. Emergency mobilization
3. Non-report services performed

Off-duty Cars Responding to Radio Calls

Under the Fleet Plan, each officer is charged with the responsibility of remaining in radio contact anytime he is in his police car. It is well known within the department that this responsibility is - for the most part - being met. At the scene of an incident requiring several officers, it is commonplace to see some of them in civilian clothing, an indicator of their off-duty status.

Emergency Mobilization

Unfortunately, there will be occasions when it is necessary to mobilize off-duty personnal. Prior to this plan, an officer had to drive his personal car to headquarters, hope to find a parking place and then wait at headquarters for department transportation to the emergency area.

Under the Fleet Plan, when an officer receives the call to mobilize, he may also be told where to mobilize. This saves all of the time previously stated and puts the officer right into the exact location needed to deal with the emergency.

Non-report Services Performed

Non-report services are those services for which it is not necessary to submit a formal report. An example might be a citizen requesting information of some type. In an instance in which a citizen might normally have to telephone headquarters for a patrol car, the chances are good that the same citizen will see one of the many off-duty cars and be able to obtain the information from him. This would save the time of an on-duty officer thereby freeing him for other radio runs.

Measurable Area

The area of increased manhours which can be measured is that of extra time on the street immediately before and after the assigned on-duty time. As an example, an officer who was on the 8:00 A.M. to 4:00 P.M. shift did not leave roll-call until about 8:15 A.M. and left his beat to return the car to headquarters about 3:45 P.M. This amounts to a

street time of about seven and one-half hours.

Under the Fleet Plan, the same officer on the same shift will leave home in his marked police vehicle by 7:30 A.M. and will hopefully be back home by 4:30 P.M. This comes to about nine hours of street time which is an increase of an hour and one half per man per day. The number of additional manhours on the street gained per year amounts to 136,956. Translated into additional manpower, this is equivalent to hiring an additional 73.8 men.

This would require an initial budget increase of $542,430 for salaries alone. The average length-of-service time of the patrolman on the street is five years, according to the Planning and Research Branch of the Department. The salary for these additional 73.8 men at the five year level would be $635,060. This is a more realistic amount and still does not include items such as clothing allowance and other benefits or normal personnel costs.

Other increases in manhours on the street to be mentioned are travel time while obtaining preventive maintenance, repairs, inspections and car washes. Whereas all of these activities used to be accomplished while on-duty, they are now performed during off-duty hours. This puts marked patrol cars on the street and increases their exposure.

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CHAPTER VIII

MORALE

This is one area in which there are no data from which to draw a conclusion. There are, however, indications tending to support the Fleet Plan from a morale point of view. The department has presented this Fleet Plan as having the effect on each individual officer who has the use of a full time police vehicle of the equivalent of a sizeable raise in pay. This contention is backed by the fact that the officers are encouraged to drive their police vehicles off-duty, thereby saving these officers the expense of driving their personal car or of buying a second car.

This premise appears valid, although it is not known just how much of a morale boost this is for those officers who have their own police vehicles. Conversely, it is not known whether or not this has any negative effect on those officers working in other divisions of the department who are not assigned their own police vehicles.

To reach a conclusion on the total morale factor - positive or negative - would require an in-depth study of all of the sworn personnel on the department.

CHAPTER IX

CONCLUSION

This study has attempted to analyze the Indianapolis Police Department's Fleet Plan. To arrive at a conclusion on a cost vs savings basis, as many areas as possible have been translated into dollar values. Following are the findings:

Costs	
Initial cost	$650,000
Minus the 255 cars which would have been purchased under the old plan in 1969, 1970, 1971	-$510,000
Net Cost	$140,000
Increase in Preventive Maintenance/Repairs	$317,000
Increase in cost of insurance coverage	$ 52,000
Savings	
Car Washes	$ 7,000
Decrease in Visible Crimes	$500,000
Decrease in Citizen's accidents	$700,000
Increased Manhours of Patrol time	$635,000
Total Costs	$ 509,000
Total Savings	$1,842,000
Difference	$1,333,000

Therefore, the result of this study is that the citizens of Indianapolis have thus far saved about 1.3 million dollars on the Indianapolis Police Department Fleet Plan.

Further, it is recommended that any police department considering conversion to a Fleet Plan should include in this conversion a pre-established method of collecting data for periodic analysis of the plan's effectiveness. In this way a department can either justify the continuation of a Fleet Plan or make necessary changes in the plan which will keep it an on-going and effective program.

TABLE 1

PREVENTIVE MAINTENANCE AND REPAIR COSTS FOR THE VEHICLES OF THE INDIANAPOLIS POLICE DEPARTMENT

SOURCE: INDIANAPOLIS POLICE DEPARTMENT BUDGET RECORDS

YEAR	1968	1969	1970	1971	1972*				
TOTAL NUMBER OF VEHICLES	324	---	677	677	677				
TOTAL MAINTENANCE COST	$374,379.33	---	$646,915.59	$664,725.66	$670,503.36				
PER-VEHICLE COST	$1,155.49	---	$955.56	$981.85	$990.40				
NUMBER OF MARKED VEHICLES	110	---	455	455	455				
TOTAL MARKED VEHICLE FLEET COST	$127,103.90	---	$434,779.80	$446,741.75	$450,632.00				

*THE DOLLAR AMOUNTS FOR 1972 ARE PROJECTED FROM THE AMOUNT SPENT FOR THE FIRST NINE MONTHS OF THE YEAR

TABLE 2

NUMBER AND TYPES OF VISIBLE CRIMES
REPORTED TO THE INDIANAPOLIS POLICE DEPARTMENT

SOURCE: INDIANAPOLIS POLICE DEPARTMENT ANNUAL STATISTICAL REPORTS - 1964 through 1972

YEAR	1964	1965	1966	1967	1968	1969	1970	1971	1972*
ROBBERY	1142	1051	1229	1199	1880	1651	2073	1551	1412
BURGLARY	5280	5691	6336	7752	8100	8926	10309	6995	8476
LARCENY	11916	10665	10891	12132	14381	15735	18374	12530	13859
VEHICLE THEFT	3259	3637	3740	5273	5751	4933	5314	3313	3485

*THE 1972 STATISTICS ARE PROJECTED FROM THE STATISTICS FOR THE FIRST TEN MONTHS OF THE YEAR

TABLE 3

ROBBERY INCIDENTS REPORTED TO THE F.B.I. FROM THE UNITED STATES UNDER THE UNIFORM CRIME REPORTING SYSTEM

SOURCE: F.B.I. UNIFORM CRIME REPORT - 1971

YEAR	1966	1967	1968	1969	1970	1971			
NUMBER OF INCIDENTS PER YEAR	157,250	201,970	261,620	297,460	348,240	385,910			
PERCENT OF CUMULATIVE INCREASE	-	28.5%	75%	89%	121%	145%			
PERCENT OF INCREASE PER YEAR	-	28.5%	36.5%	14%	32%	24%			

TABLE 4

BURGLARY INCIDENTS REPORTED TO THE F.B.I. FROM THE UNITED STATES UNDER THE UNIFORM CRIME REPORTING SYSTEM

SOURCE: F.B.I. UNIFORM CRIME REPORT - 1971

YEAR	1966	1967	1968	1969	1970	1971			
NUMBER OF INCIDENTS PER YEAR	1,391,900	1,611,100	1,835,000	1,956,400	2,176,600	2,368,400			
PERCENT OF INCREASE PER YEAR	-	16.5%	15.5%	9.0%	14.5%	14.5%			
PERCENT OF CUMULATIVE INCREASE	-	16.5%	32.0%	41.0%	55.5%	70.0%			

TABLE 5

LARCENY INCIDENTS REPORTED TO THE F.B.I. FROM THE UNITED STATES UNDER THE UNIFORM CRIME REPORTING SYSTEM

SOURCE: F.B.I. UNIFORM CRIME REPORT - 1971

YEAR	1966	1967	1968	1969	1970	1971			
NUMBER OF INCIDENTS PER YEAR	896,500	1,049,300	1,273,800	1,527,800	1,749,800	1,875,200			
PERCENT OF INCREASE PER YEAR	-	17.5%	24.5%	27.5%	25.5%	14.0%			
PERCENT OF CUMULATIVE INCREASE	-	17.5%	42.0%	69.5%	95.0%	109%			

TABLE 6

VEHICLE THEFT INCIDENTS REPORTED TO THE F.B.I. FROM THE UNITED STATES UNDER THE UNIFORM CRIME REPORTING SYSTEM

SOURCE: F.B.I. UNIFORM CRIME REPORT - 1971

YEAR	1966	1967	1968	1969	1970	1971			
NUMBER OF INCIDENTS PER YEAR	557,300	655,200	778,200	872,400	921,900	941,600			
PERCENT OF INCREASE PER YEAR	-	18.5%	21.5%	17.5%	7.5%	4.0%			
PERCENT OF CUMULATIVE INCREASE	-	18.5%	40.0%	57.5%	65.0%	69.0%			

TABLE 7

METHOD AND CONSIDERATIONS USED IN ARRIVING AT A NET SAVINGS FOR 1971 FROM THE DECREASE IN VISIBLE CRIMES

SOURCE: INDIANAPOLIS POLICE DEPARTMENT ANNUAL STATISTICAL REPORT, 1971

CRIME	TOTAL LOSS FOR 1971	TOTAL NUMBER OF CRIMES	DOLLAR VALUE PER CRIME	CHANGE FROM 1970	GROSS AMOUNT SAVED	TOTAL AMOUNT RECOVERED IN 1971	PERCENT OF TOTAL LOSS RECOVERED	AMOUNT OF SAVINGS WHICH WOULD HAVE BEEN RECOVERED	NET SAVINGS
ROBBERY	$50,185	2109	$23.80	-522	$12,423.60	$1,762	3.1%	$385.14	$12,038.46
BURGLARY	$1,304,916	9481	$137.64	-3314	$456,138.96	$35,545	2.7%	$12,315.76	$443,823.20
LARCENY	$739,558	16,243	$45.41	-5844	$256,376.04	$103,932	14.1%	$36,149.02	$220,227.02
VEHICLE THEFT	$3,383,460	4497	$752.38	-2001	$1,505,512	$2,811,944	83%	$1,249,575	$255,937.10
								TOTAL NET SAVINGS	$932,025.78

TABLE 8

MARKED PATROL CARS OF THE INDIANAPOLIS POLICE DEPARTMENT INVOLVED IN ACCIDENTS

SOURCE: INDIANAPOLIS POLICE DEPARTMENT'S ACCIDENT REVIEW BOARD RECORDS - 1968-1972

YEAR	1968	1969	1970	1971	1972*				
ON DUTY	336	records incomplete for this period	323	264	260				
PERCENT OF CHANGE	---	---	-3.9%	-15.2%	-1.5%				
OFF DUTY	---	---	83	89	106				
PERCENT OF CHANGE	---	---	---	+7.2%	+19.1%				
TOTAL	336	---	406	353	366				
PERCENT OF CHANGE	---	---	+20.8%	-13.1%	+3.7%				

*THE FIGURES SHOWN FOR THE NUMBER OF ACCIDENTS IN 1972 ARE PROJECTED FROM THE STATISTICS FOR THE FIRST NINE MONTHS OF THE YEAR

TABLE 9

NUMBER AND TYPE OF ACCIDENTS REPORTED TO THE INDIANAPOLIS POLICE DEPARTMENT

SOURCE: INDIANAPOLIS POLICE DEPARTMENT ANNUAL STATISTICAL REPORTS - 1964 through 1972

YEAR	1964	1965	1966	1967	1968	1969	1970	1971	1972*
FATAL	57	58	64	67	82	77	65	51	58
PERSONAL INJURY	5688	5481	6143	6553	6320	6179	5866	5184	5272
PROPERTY DAMAGE	6184	6421	7927	9348	9033	8655	7394	9946	10630
TOTAL	11929	11960	14134	15968	15435	14911	13325	15181	15959

*THE 1972 STATISTICS ARE PROJECTED FROM THE STATISTICS FOR THE FIRST TEN MONTHS OF THE YEAR

TABLE 10

PERCENT OF ANNUAL CHANGE IN ACCIDENTS REPORTED TO THE INDIANAPOLIS POLICE DEPARTMENT

SOURCE: INDIANAPOLIS POLICE DEPARTMENT ANNUAL STATISTICAL REPORTS, 1965 - 1972

YEAR	1965	1966	1967	1968	1969	1970	1971	1972*	AVERAGE ANNUAL CHANGE
FATAL	+1.8%	+10.3%	+4.7%	+22.4%	-6.1%	-15.6%	-21.5%	+13.7%	+1.2%
PERSONAL INJURY	-3.6%	+12.1%	+6.7%	-3.6%	-2.2%	-5.1%	-11.6%	+1.5%	-0.7%
PROPERTY DAMAGE	+3.8%	+23.5%	+16.7%	-3.4%	-4.2%	-14.6%	+34.5%	+6.9%	+7.9%
TOTAL ACCIDENTS	+0.3%	+18.7%	+12.9%	-3.3%	-3.3%	-10.6%	+13.9%	+5.1%	+4.2%

*THE PERCENTAGE USED FOR THE 1972 COLUMN IS FIGURED FROM A PROJECTED TOTAL FOR 1972 BASED ON STATISTICS FOR THE FIRST TEN MONTHS OF THE YEAR

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Chairman PEPPER. I will ask Mr. Keating if he will be kind enough to present the distinguished witness.

Mr. Keating?

Mr. KEATING. Thank you very much, Mr. Chairman.

I appreciate the opportunity to introduce Carl Goodin and the other representatives from Cincinnati who will be talking about the Com-Sec program.

I might say this is the second opportunity I have had to introduce Chief Goodin, the first occasion being made when he testified on gun control, and he managed to come all the way to Washington with a kit full of guns and nobody stopped him until he got in the Rayburn Building.

Chief Goodin was selected to head the 1,000-member police force in Cincinnati at the age of 37, after progressing through the ranks of the police department. Having obtained a master's degree in police science and administration from Michigan State University, Chief Goodin has been thoroughly trained and educated for the position he now holds. During his tenure as police chief, Carl Goodin has implemented many innovative programs which have been accepted by all areas of the Cincinnati community.

He has also developed and earned a high degree of confidence and respect from the general public as he recognizes the many human values which are an integral part of police work.

I am confident that Chief Goodin will continue to bring honor to his chosen profession, to the city of Cincinnati, and to the Nation as a whole.

We also have with us today Mr. Carl Lind, whom I have known for more than 20 years, I suppose, in different capacities. He is the director of the program management bureau of the Cincinnati Police Department. Mr. Lind played a key role in the planning of the Com-Sec program, as he had overall responsibility for coordinating the effort within the police department to design a program that would be meaningful and effective.

Captain Howard Espelage is also with the committee this afternoon. He is the individual who commands police district 1, where the Com-Sec program has been fully implemented. Captain Espelage has overall control for the sectors which comprise that district. I am certain he can give the committee some helpful insight on how this program is functioning.

Officer Lawrence Panno and Officer Richard Brand are also with us today. They are two police officers who work daily in the Com-Sec program as policemen on the beat, These policemen are actually charged with the responsibility for making Com-Sec fulfill its mission.

Finally, Mr. Frank Yunger, president of Findlay Market Association, has come before the committee today to give us a better view of how Com-Sec has helped those businesses directly affected by this new and innovative form of police protection.

Mr. Chairman, I believe this distinguished group of men from Cincinnati will provide the committee with some valuable insight into the program, and although it still is in the beginning stages, it offers a great deal of hope for even better police protection in the communities throughout the United States.

I just want to say that, personally, I have been associated in a professional manner, social manner, with these men over an extended

period of years and I have the highest regard and respect for them and their ability.

Chairman PEPPER. Thank you very much, Mr. Keating.

Chief Goodin, we are delighted to have you and your able associates with us today.

Mr. Lynch, will you proceed.

Mr. LYNCH. Chief Goodin, I believe you have a statement to present to the committee. Would you do so now?

PANEL OF CINCINNATI (OHIO) POLICE DEPARTMENT OFFICIALS, ACCOMPANIED BY LOCAL BUSINESS REPRESENTATIVE:

BRAND, RICHARD L., PATROLMAN;
ESPELAGE, HOWARD, CAPTAIN;
GOODIN, CARL V., CHIEF OF POLICE;
LIND, CARL A., DIRECTOR, PROGRAM MANAGEMENT DIVISION;
PANNO, LAWRENCE C., PATROLMAN; AND
YUNGER, FRANK, PRESIDENT, FINDLAY MARKET ASSOCIATION

Statement of Carl V. Goodin

Mr. GOODIN. Thank you, Mr. Chairman, Congressman Keating, and distinguished members of the committee.

It is indeed an honor and a pleasure for us to appear before your committee to discuss the very important issue of crime.

We believe the basic question to be addressed in this brief discussion is: How can a police agency organize itself to deal more effectively with its primary responsibilities in the coming years? A very common reply given in the United States today is "team policing."

Among the many programs called team policing, the common denominator seems to be the assignment of a group of officers to patrol a given area. We need to go much beyond this simplistic statement in order to determine what there is in team policing which generates some ray of hope for the future of policing. Therefore, the focus of this paper will be to analyze the mechanisms which are present in some team policing models which would enable a police agency to more effectively deal with criminal victimization.

The objectives of police agencies are often described as being:

(1) Prevention of crime;
(2) Protection of life and property;
(3) Suppression of criminal activity;
(4) Apprehension and prosecution of offenders;
(5) Regulation of noncriminal conduct; and
(6) Preservation of the public peace.

We have found that we are not uniformly effective in attaining these objectives; crime is still increasing despite our best efforts. The President's Commission on Crime pointed this out and also indicated that we cannot attain these objectives so long as police agencies are expected to struggle with these problems in an atmosphere lacking the assistance of the greater community.

The Commission also suggested a solution—team policing. Team policing does not aim toward new objectives and goals—it is not just a public relations program—in fact, the goals and objectives of the police have stood the test of time. Team policing is designed to

recognize that the attainment of these goals cannot be accomplished by the police agency alone. Instead of operating in a vacuum, the community, social and other governmental agencies, and society itself, all play a role in carrying out the police function.

The aspects of team policing which are crucial for reducing criminal victimization seem to be:

(1) Consistent assignment;
(2) Unification of control, responsibility;
(3) Team decisionmaking power;
(4) Development of the police officer as a generalist; and
(5) Communications.

The consistent assignment of an officer to the same area allows the officer to become familiar with that area and its people to a much greater extent than is possible under a system of rotating assignments. Consistent assignment tends to breed a proprietary interest in the community on the part of the police officer once the officer recognizes that present actions may cause problems for him in the future.

By unifying the control, responsibility, and supervision in an area, the actions taken by police officers can become more consistent. By developing a consistent, high level of service, a major roadblock to communication is removed. We all too often find a high level of fear attached to situations with which we are unfamiliar.

Certainly citizens must experience great anxiety in their contacts with police officers, considering the current practices of many police agencies. Many different units, each having its own specialized function and its own line of command, may operate in the same small area in the same day.

As an example, in a very small geographical area, indeed, the citizens could be exposed to a traffic specialist, an investigator, a patrol officer, and tactical unit officer, all within the same timeframe.

Coupling a simplified control structure with team decisionmaking power enables the police to develop plans on the basis of local level information which should be more in keeping with community needs. This approach allows the officer on the street more latitude in dealing with the problems he faces. The more consistent performance and greater commitment developed through such a system should create an environment in which police officers and community residents can develop an effective alliance against crime.

Another element of this plan is the development of a generalist officer. A generalist should be capable of delivering the complete spectrum of police services, thus providing more effective followthrough concerning the delivery of those services. An officer who has had adequate training and experience should be able to carry out investigations of all types as well as provide the routine services expected of patrol officers.

All of the above factors should also tend to improve communications both within the agency as well as between its representatives and the community. The current structure of police agencies is a great deterrent to the effective communication of information which is of importance to the agency. By simplifying the chain of command and responsibility, the major obstacle to internal communication is removed. Furthermore, the policy agency itself must take the first step in improving its relations with the community. The development of stable lines of communications is of great importance in encouraging

mutual trust, understanding, and aid among the police and the community.

Providing an officer the opportunity to understand the community, allowing a group of officers to define their own problems, goals, and policies, developing a generalist notion of policing and improving communications should improve the outlook of policing in the future.

Perhaps none of this discussion is new to any of us, but we must begin to look for new methods of providing police services. The ever-increasing problems that face us serve as prima facie evidence that we have not yet obtained the ultimate goals of policing.

The need to find new solutions is to become even more urgent as our society clamors ever more vociferously for better police service. Even if crime does not overwhelm us in the coming years, public sentiment will, unless viable methods of policing are developed. The reorganization which has been outlined in these pages is one method which hopes to achieve the vital alliance among the police and the community needed to promulgate the more effective delivery of police services.

Cincinnati, in keeping with these principles, has developed, has designed and implemented a form of team policing called community sector team policing. For short, we call it Com-Sec. It is known in the community as Com-Sec.

It has as its overall goal to improve the effectiveness of the services to the community. This overall goal has been broken down by people in the community, by the police officers who deliver the services, into several impact goals and they are to, very briefly, reduce the level of criminal victimization of both people and property, to improve the understanding by the police and sensitivity to the people they serve, to develop a proprietary interest in the police for the safety and welfare of the people, improve citizen cooperation with the police in crime prevention, detection, and apprehension, and develop in the citizens a sense of trust and close identity with the police officers.

Along with this are a couple of other impact goals which have, I am sure, importance to this committee, and one of the major reasons this is a funded project by the Police Foundation based in Washington, is that they hope to develop some innovations in patrol and in policing, the basic delivery of police service to the community, which can be transported then to other cities and other police agencies throughout the country.

Some of the Com-Sec design concepts which are highlighted in our system of team policing are these. We had divided the district 1 area geographically into six sectors. These six sectors conform naturally to neighborhood boundaries and neighborhood boundaries are conceived by those people who live and work in those areas.

One of the highlights of Com-Sec is the fact the basic operational unit provides all police services to the residents and the business people in that sector, with the exception of the investigation of homicide. The other services totally are delivered by those police officers.

We have realined the supervisory structure from the traditional three shifts, or three watches, or three relays commanded by the lieutenant and supervising personnel and changing every so often, and so forth, to one in which the leader, the commander of the shift, or the commander of that area, of the Com-Sec, is a lieutenant, he is a team leader.

He is responsible for the delivery of police service over a 24-hour day, 365-days-a-year operation. He has a great deal of flexibility in both the assignment of personnel, equipment, and methods to meet the needs of the people. He may assign his officers, deploy his officers, on a proportional need basis, so that there is a minimum representation of uniformed police during certain hours of the day, and others there is a saturation patrol. He and the team members make a decision as to methods of patrol, whether they will be on foot, by motor scooter, automobiles, rooftop surveillance, undercover surveillance, or whatever methods may be provided by the patrol officers and team members.

Essentially those are the outstanding features of Com-Sec. The expanded scope of responsibility and authority permit the team policemen to do the preliminary investigations and followup investigations on all crimes except homicide. They can make direct referrals to social agencies, to circumvent the overcrowded criminal justice system, the court system.

They can devise and operate various kinds of patrol procedures and they take part in the decisionmaking process of the team.

They meet at least once a month on a formal basis with the residents and working people in their sector to discuss the problems, mutual problems, identifying needs of the people, and working together to resolve how best to meet those needs. And, certainly, the day-to-day relationships with the people are those features of the Com-Sec program that we hope will achieve the kinds of cooperation so vital to reducing crime in Cincinnati.

We think this is probably the most outstanding project with which we are involved. We have a list of about 30 others that will be available to your staff, but we feel this probably has more importance for the committee than any others.

We have with us personnel who have responsibility for the manning of this, as Congressman Keating pointed out, the district commander. And we brought the live article to the committee in the form of these two police officers who actually deliver the police service, and a recipient of those services, Mr. Yunger.

We stand ready to try to respond to any questions by the committee.

Mr. Lynch. Mr. Chairman, if it would be agreeable, I think it might facilitate matters if we could quite briefly hear from Officers Brand and Panno, as to what it is they do as community sector policemen which is different from that the regular patrolman will do. Perhaps Captain Espelage could describe his duties and from there, we could go to individual questions.

Chairman Pepper. Go right ahead.

Statement of Richard L. Brand

Mr. Brand. Basically, we do the same thing in Com-Sec that we do throughout the rest of the Cincinnati Police Division. However, the big difference is we have more time to do the things that we need to do. For example, in Com-Sec the basic means of patrol is foot patrol. That means that several men throughout district 1 are assigned to foot patrol. If a man is assigned to an automobile, to automobile patrol, he takes his automobile, he takes it out someplace, he parks it, he gets out of his automobile, he walks around on foot, he meets dif-

ferent members of the community, he stops and talks to businessmen, things like that.

If a crime happens we go to the crime scene. We not only do a police investigation but we also do followup investigations.

Prior to Com-Sec, mainly, we were what you would call report takers. We would go to the scene, make some type of investigation; we would make a report, and that would be about the last we would hear of it. This way there is a followup investigation. We are responsible for everything.

Many times in the past, prior to Com-Sec, if a citizen needed a particular type of police service we would refer them to someone else, refer them to some other portion of the police department to get that kind of service. But now we don't do that because we provide all of the services, we don't refer anybody any place else. We are the people that provide all types of service.

It used to be that if you were having a problem with someone, if a particular family on the beat you patroled was always fighting on Saturday night, or things along that nature, there was nothing we could do with them. We couldn't send them any place. The only thing we could do was put them in jail. But now we have the capacity, instead of putting them in jail, we can refer them to an agency where they can get perhaps what we hope is help. So we don't continually respond back to one location, time in and time out, with nothing you can do. We are trying also to get them help.

I guess I could go on and on. There are a lot of different things we do now we could never do in the past.

Mr. LYNCH. I wonder if we could hear from your partner now.

For purposes of the record, are you Officer Panno?

Statement of Lawrence C. Panno

Mr. PANNO. Yes, sir.

In addition to what Patrolman Brand said, operating under the function of the complete service policeman, when we are summoned to a scene and investigate a crime, we become better policemen, better investigators, and better citizens under the Com-Sec philosophy.

We improve ourselves because we know more about the investigative techniques from motor patrolmen or just from experience. We take the case from the time it happens until the time of the conviction in court—we hope conviction in court.

Before, when we responded to the scene, we gave the emergency assistance that was needed, then, wrote up the report, and, usually, on felony cases, it was turned over to our crime bureau. Now the policeman that responds investigates that crime, and I believe it is working out real good.

It has made us all a little bit better investigators. It makes us work harder and does build a proprietary interest in the service that we deliver at that time.

As Patrolman Brand said, we are basically all foot patrolmen. Polarization got us away from the public; and that is one of our goals, to try and get closer to the public. Most of the officers still have an automobile. We drive it to our beat and get out and walk as much as we can. In the past, especially during the summer months, we re-

sponded to so many radio runs we barely had time to wave to someone going by. Now, under the Com-Sec philosophy, with a few more policemen out in a certain area, we can stop and talk with the merchants and the people in the street.

We stay within our district or our sector boundaries. Before we would be assigned to one specific area and 60 percent of our calls would be out of that area. It is kind of hard to keep your finger on the pulse of that neighborhood when you are spending 60 percent of your time somewhere else.

Mr. LYNCH. Are you in uniform all of this time?

Mr. PANNO. I work in uniform. I work in plainclothes. That is the flexibility the concept has. If I get a line on some narcotics case or some burglar working in the area, I go to my team leader and we decide, first of all, if I can afford to be put in plainclothes. If we can, then I get a chance to follow through on that investigation, or on that lead.

Com-Sec is helping us out. Just in the past month or so, since it has been in full swing, we have gotten a better response from the public, more tips on things that are going on in the neighborhood. The people feel closer to the policeman and hence feel more secure.

I heard the comment several times that these are "our" policemen, not "a" policeman.

Mr. KEATING. Years ago when you had indigents on the beat, usually elderly persons who had no home, they would ask the police officer to lock them up so they could go out to the workhouse to get cleaned up, to get a few meals, and so on. What do you do with that person now?

Mr. PANNO. The person falls in several different categories. The ones that will accept help we can send to the Salvation Army Post or give them advice on places where to go. But they have to help themselves. We give them the available avenues to help, rather than be locked up during the winter months or sleep in the alleys at night. But we do send them to the Salvation Army and other agencies that can care for them and can help them along.

Mr. KEATING. You are better equipped with that knowledge, being part of the Com-Sec program and knowing people in the neighborhood you are working with, so you can give them these alternatives. Whereas, before, they bring them in and put them in the station, and the judge would send them out to the workhouse where they could get cleaned up and get a few meals and they would be back on the streets again.

Mr. PANNO. Yes, sir.

Mr. KEATING. So this program has more effect, and in a new manner may solve that problem.

Mr. PANNO. Yes, sir.

Mr. KEATING. Not completely?

Mr. PANNO. Solving the problem on the long basis that Patrolman Brand hit on softly, but in the past, when we responded to a family fight or a person that was down and out, had no means of support or no place to go——

Mr. KEATING. Could you tell people who don't have the background, what "down and out" means?

Mr. PANNO. Just broke and no place to go or food to eat. Down and out drunk, maybe. But in the past, we had always taken care of it

during the 10-minute timespan. You have a problem, this man is on the street, how do you get rid of this man? You lock him up since he is drunk or is a vagrant. Since then, they abolished the vagrancy laws in Cincinnati and I am not too sure it was a good one to begin with.

But the time of problem solving we have is a long-range basis, rather than locking the guy up every other day throughout the year, or 6 months, send him some place where they can help him. Maybe they will only have two or three contacts with him until they instill in him the way to help himself, or they can help him.

Mr. KEATING. In the "Over-the-Rhine" area, which is part of the area you are covering in Com-Sec, do you have confrontations between Appalachian groups and maybe black groups, or some other composition? Is it easier for you to meet that situation and solve it without a flareup because you know the principals involved?

Mr. PANNO. Yes. Many times when they see a police officer that they know responding to the scene, they automatically calm down a little bit. Through past experience with the policeman, through the policeman knowing this individual. There are a lot of people that get loud and boisterous that are harmless. There are some people that are quiet and quite dangerous. As a policeman, you get to know these people, their moods, and how they will react.

It is a lot easier to deal with them. Again, they know the policeman and they know how to deal with the policeman, also.

Mr. KEATING. Whereas you were a third force before, you now become an intermediary.

Mr. PANNO. That is right. Many times we responded to break up a fight and both parties turned on us simply because of the lack of knowledge and communication.

Mr. KEATING. That has diminished as a result of the program.

Officer Brand?

Mr. BRAND. A couple of other points I would like to make. One of the biggest things is that the patrolman has a voice in the decision-making process of the police department and in the decisionmaking process of your team. When the team meets we have a chance to put our views forward.

There is one thing that is in the program that is very good from a patrolman's standpoint, and that is what is called an acting team leader. When there is no supervisor working in a particular sector you work in, a patrolman is appointed as an acting team leader and he assumes all of the responsibilities of a supervisor, with a few exceptions.

Also, Chief Goodin touched on this briefly. When you are assigned to a certain area, it does breed a type of ownership in you for that particular area and when a crime is committed in that area, or to use a slang expression, it does gripe you so you have a greater interest in solving the crime than you had before.

Mr. KEATING. Do you have any statistical impact, Chief, on the results of your program to date?

Mr. LIND. Mr. Keating, we looked at the record and Com-Sec has been in existence just such a short period of time that we were unable to get any impression in connection with any changes in crime. Crime in Cincinnati has been in very minor decline. The decline began sometime in 1972. And because of the fluctuations occurring in the crime pattern we are really unable to make any decision.

Mr. WINN. May I ask a question?

Chairman PEPPER. Yes.

Mr. WINN. To what do you attribute the slight decline in crime in 1972?

Mr. KEATING. Obviously, the excellent performance of the Cincinnati Police Department.

Mr. LIND. We took some special measures to deal with the problems of crime toward the end of the year. There were some fluctuations in crime. It appeared to be stable in 1972, compared to 1971. But in late November, because of the unusual seasonal crime experience at that time, street crime particularly, the chief instituted a task force which was representative of the entire division, drawing on the various bureaus and sections for their personnel.

This was an 80-man task force and its principal mission was to go out on the street, selecting those areas which had been target areas for victimization, and concentrate the special task force.

As we reduced crime in this 5-week period of time considerably, we reduced our robberies that we had projected by 50 percent, and there were also other interesting things that occurred. It seems crime was depressed, all index crime, during a period of time and our crime overall declined 5 percent. A 4-percent decline is found in the index of larceny; 1 percent in the auto theft; with a decline in aggravated assault and in murder.

But burglary and robbery for the year were stable. They did not decline. We think that a special effort toward the end of the year, put us on the minus side.

Mr. LYNCH. I point out that Mr. Carl Lind, while he is a civilian as I understand it, at this time has long years of experience with the Cincinnati Police Department and is head of the program management bureau in that department. He was one of the architects of this plan and worked closely with the police foundation in formulating the proposal.

I wonder if Mr. Lind could briefly tell us what position of this grant from the police foundation will be involved with evaluation work on the project.

Statement of Carl A. Lind

Mr. LIND. We received two awards from the police foundation. We received the planning grant of $478,100 in October of 1971. And in July of 1972 we received an action grant of $1.9 million. Now, the evaluation program is being conducted at two levels. The urban institute, a research and evaluation organization based here in Washington, is doing a long-term evaluation of Com-Sec. The cost of that is close to $400,000.

We are doing a short term, using in-house personnel, to conduct our evaluation.

Mr. GOODIN. If I may add just a comment to Carl's statement about our response to the pending dramatic increase in street crime and armed robberies, and so forth, toward the end of the year, this really was a four-point involvement in the community, the media, and the police.

Through Carl's operation in the analysis unit they predicted there would be a dramatic increase in the number of robberies and street

crimes during the holiday season. I met with the Media Advisory Committee in Cincinnati, which is sort of an ad hoc group of representatives from every member of the print and electronic media in Cincinnati, to discuss this problem.

We decided on sort of a task force approach from the police standpoint and asked their assistance in making Cincinnati safer in the coming days. The media, there is no question about it, spent thousands of dollars on air time, prime air time, to instruct and educate citizens on how to harden the target, both from their physical person standpoint and from their own residence and business standpoint.

They publicized the task force, the arrests it was making, and so on. The police canvassed 2,400 business establishments in that period of time in high-crime areas and gave them literature and also person-to-person instruction on how to harden the target.

We met with the municipal level courts and they agreed in those instances where we would bring in people who were multiple offenders, repeat offenders, they would set a sufficiently high bond to keep them off the street. That was done and through that cooperative effort, we feel we reduced crime dramatically during that period of time, although certainly those task forces are short range, we feel Com-Sec has long-range implication.

Mr. KEATING. May I ask one more question?

Chairman PEPPER. Yes.

Mr. KEATING. Mr. Yunger, could you give the citizens' and businessmen's viewpoint of the Com-Sec program, as you see it?

Statement of Frank Yunger

Mr. YUNGER. I have in the past attended three Com-Sec meetings, and as have members of my association, which is the Findlay Market Association. Findlay Market is a national historical association and we are proud to be a part of this area.

Many oldtimers in this old marketplace have always said the foot patrolman is the thing to prevent crime—now, since we have foot patrolmen in the area, I have noticed the close contact between the partolman and merchant. Now the merchants realize greater security, knowing a patrolman is close by. This patrolman has a personal radio so he can call for help if needed.

There has been in the past, before this started, many, many cases of window breaking. We have furniture stores and other merchandise stores in the area subject to this destruction of property.

I can see there has been a drastic reduction in purse snatching and window breaking, burglary, and similar crimes. I think our police department is to be commended on what they have done to this point and I see nothing but good things for the future.

Statement of Howard Espelage

Mr. ESPELAGE. I would like to respond. All Cincinnati policemen have equipment, what we call personalized radio. This enables any of the policemen, regardless whether in cars or on foot, to respond anywhere, and they can be recallable from any location. Even though a man is assigned to a car, he can actually park the car and still be recallable and be on foot patrol.

Mr. LYNCH. Chief Goodin, you were in the audience when Chief Churchill testified he has 140 patrol cars, single-man cars. And if I recollect his testimony properly, he does not employ foot patrolmen. It seems to me, in essence, your young patrolmen here are telling us your philosophy is directly opposite to that. Would you comment on that?

Mr. GOODIN. It is substantially different in the sense that Indianapolis and most other police agencies equip the automobile or the vehicle with a radio, which in essence anchors the policeman to that unit. We equip policemen with the radio. We have no radios in automobiles, or on motorcycles, or anything else. The policeman carries it and he never, never is, in essence, out of service for an emergency call.

Mr. LYNCH. Excuse me.

With that radio he carries, can he communicate with other foot patrolmen as well as the base?

Mr. GOODIN. He can communicate with other policemen and the base station. It is a six-channeled unit, bought and paid for by the citizens of Cincinnati. And, really, quite sincerely, has been the technological advance of this in team policing that has convinced Cincinnati to experiment with, and be innovative in, terms of patrol strategies and things of that nature.

Mr. LYNCH. Could you tell us, Chief, why you selected district 1 as the sector for this experiment?

Mr. GOODIN. It is a high-crime area. It has a mix, and sort of services as a microcosm for the city. It is composed of the downtown business district, black neighborhoods, it has the poor white Appalachian neighborhood, it has a rather affluent neighborhood on the hill overlooking Cincinnati, and it sort of serves, in terms of crime, as a good composite of crime in the city.

It boils it down to one-fourth of the total workload for the Cincinnati Police Division. We felt in the experiment if we can prove Com-Sec successful in district 1, it will work anywhere.

Mr. LYNCH. I know the members of the committee will have some questions for you, especially Mr. Keating. I would like to ask Captain Espelage, if he would, to describe his role as the commander of this unit; how it differs from your past experience, Captain, with the department, and what progress you think it is making in reducing crime.

Mr. ESPELAGE. My role mainly is that of coordinator. I have six police departments under my control and I have to pull them all together as a district operation. I act as an adviser to the team leaders and, of course, all of the paper flow goes to and from my office to upstairs, the chief's office, to other districts, et cetera.

I really have been enthused about this thing since March 4, 1973, for the simple reason the men have really innovated us down there. Of course, it is too early to tell, but from the enthusiasm put forth by the men I think it is really going to be the plan of the future.

Chairman PEPPER. Any questions?

Mr. RANGEL. No questions, Mr. Chairman.

Chairman PEPPER. Mr. Winn?

Mr. WINN. No questions.

Chairman PEPPER. Mr. Keating.

Mr. KEATING. I just want to again compliment the chief and members of his staff for doing for my city and the rest of the citizens of

Cincinnati such a fine job in trying to innovate and work with the people in the community in a very effective manner. Do you have any other plans you want to tell us about?

Mr. Goodin. As I mentioned, we have about 30 other odd projects, which are conventional in scope, innovative in terms of the criminal justice units, which we are instituting, designed to improve the flow of the offender from detection and apprehension through the system. To track him, we have criminal justice information systems which are computerized, and I heard you ask the previous witness whether we need to make this information available to the public.

Indeed, it will be available to the media on computer printouts all the way through the system. We feel that, to support something Mr. Keating said earlier, I sincerely believe that there is a tremendous amount of help that is needed, not only in terms of crime, but training and management response in the court system and the other parts of the system.

We need help as well and we have seen this in Com-Sec; to improve one part of the system dramatically so their effectiveness increases the impact and clogs up the other end of the system and we go back in a circle. Unless the other components of the justice system are brought along at the same pace we are going through a revolving door kind of situation.

Mr. Keating. Let me make one comment. The computer system we have in the community, would you like to comment on that?

Mr. Goodin. Yes, sir. This is a countrywide computer system. It is a shared system and one which is made up of the components. It has a law enforcement component which is countywide, 39 separate police agencies within Hamilton County—Cincinnati being the largest—and it is a shared system among all of those police agencies.

There is another component which deals with the county administrative system, the court system, welfare system, things of this nature, which are countywide. Another component which deals with the city of Cincinnati, computerizing payroll records and other administrative matters such as that. This is a system, the law enforcement component, which is paid for through a renewal levy by the voters of Hamilton County, and has its primary emphasis and operational data for the policeman on the street.

Our police officers with portable radios can make an inquiry through the computer center, statewide, for our own records, statewide, and through the FBI's National Crime Center, from the alley where they are talking to a complainant. They need not go to a phone or to an installation to make that inquiry. They can do it right at the scene.

Mr. Lynch. Chief, I guess there are several areas we have not yet touched on. It is my understanding that your teams, the community sector teams, hold monthly meetings out in the neighborhoods in which they are policing. Could you describe those for us? Tell us what takes place at one of those meetings?

Mr. Panno. Our community section meetings, what we call them, and every month at the same time and the same location, we have a community meeting. We invite all of the public who wish to attend to come and the policemen that are involved in policing that area, the Com-Sec policemen, go to the meeting.

We start out with a formal-type meeting, just to get things going. When I say "formal," I mean the policemen made the agenda. After

we got things going, got some people coming in, we changed it to where half was run by the policemen, and the other half more or less the citizens themselves.

We got suggestions on speakers they wanted to hear and we got movies on accident information and burglaries. We brought one of our K–9 dogs down. The policemen themselves give lectures and instructions on how to secure homes against burglars and housebreakers, how to better protect themselves out in the street, to guard against street robberies. How to protect their automobile and the packages or articles they have in there. There are numerous types of ways to help them help themselves and help us.

Mr. LYNCH. What kind of public turnout do you get at those meetings?

Mr. PANNO. They vary. Depending on the geographical location, the weather conditions. Our biggest meeting has been when we had incidents within the community that there might be a little hostility between two groups or between one group and the police. But they have always, in my opinion, helped settle those hostilities that cut off future hostilities.

Mr. LYNCH. Thank you.

Chief, could you tell us, or could one of the gentlemen here tell us, what criteria you used to select officers for this program?

Mr. GOODIN. I will reply very briefly. We used existing personnel in the district. The additional officers that were assigned, to make sure for evaluation purposes we had a proper blend of people, of both poor performers and average and outstanding performers, we assured that by selection of those people who were on what we call a rotation assignment, those duties to be rotated throughout the police division, through the six police divisions.

So we selected a broad blend of those people so the previous rating levels represent fairly well the entire range of policemen in Cincinnati.

We provided to all the Com-Sec officers a series of training exposures and interpersonal relations and philosophies of Com-Sec and things of that nature; technical training such as crime scene searches, fingerprinting, things of that nature, being conducted among the teams themselves.

Mr. LYNCH. In other words, the selection criteria in part was used to facilitate individual performance evaluation later on. You have in essence a cross section, as it were, of the department.

Mr. GOODIN. That is correct.

Mr. LYNCH. What kind of morale effect has this program had on the overall police operations, in your department as a whole?

Mr. GOODIN. I think it has had a very stimulating effect. There have been some negative indicators of morale, but overall, I would say the morale of the Cincinnati Police Division, if measured by all of the accepted indexes of high morale—response to the problem, willingness to work overtime, numbers of activities in which they are engaged for the benefit of the division—is the highest it has ever been in our history.

I would say morale is high. If there is grumbling within the division, it is like in the military. I was told as a military man, if there isn't some grumbling, the morale is low. It was based primarily on the belief by some of the other commanders, Com-Sec would rob them of their best

personnel and they would be stripped of numbers of people so they could not deliver adequate services to the community.

This was found not to be the case. Through some adjustments within the division, we disbanded the traffic section considerably; we do not have a tactical unit as most cities do; and we are adhering to the generalized concept in Cincinnati. This then convinced the commanders they had the same proportion of personnel in the division as district 1. So that sort of negated a lot of the negative obstacles that had been placed in the path of Com-Sec implementation.

Just the planning and design of it, the involvement of people—we involved officers from cadets, patrolmen, all the way through the ranks—in the actual design and planning and implementation of this project. It is truly a Cincinnati Police Division project. These two officers here were involved in writing the guidelines and how to implement them. The fellows who are actually going to have to do the work, wrote the rules, so to speak.

It is their program; it is not something that came down from the ivory tower. It is a police division project interspersed with citizen cooperation, citizen input, policemen. It is their program and if enthusiasm is any indication of success, it is successful already.

Mr. Lynch. In reading your proposal it became apparent—and I assume it was Mr. Lind that made a very strong point—in programs of this nature that frequently they are developed by people who, in your term, are "ivory tower" types and not policemen. Apparently that was not the case.

Mr. Goodin. Yes, sir.

Mr. Lynch. Chief, earlier this afternoon, you heard Chief Churchill indicate that while he only has 1.7 policemen per thousand population, he did not feel a need for additional police. You have, I believe, something in the neighborhood of 2.5 police per thousand inhabitants. That is the standard metropolitan area figure, not the Cincinnati figure. I assume it is somewhat close to actuality, however.

Mr. Goodin. That is a close figure and that really is total police employees.

Mr. Lynch. I understand that.

Mr. Goodin. I was delighted to hear Mr. Churchill, who is a friend of mine, say he didn't need personnel. He is the first chief I met who said that. In Cincinnati we need 244 sworn people, additional, to implement Com-Sec. This is based on hard data that was gathered on all time spent in servicing citizen calls and a built-in component for police-citizen interaction, positive police-citizen action.

Mr. Lynch. An additional 244 men?

Mr. Goodin. Yes, based on 1972 data.

Mr. Lynch. Do you have present plans to implement Com-Sec on a citywide basis?

Mr. Goodin. We have a plan that developed, that if proved successful, based on our evaluation or whatever modifications need to be made, we are convinced, philosophically, it is the right approach. We have asked for that number of personnel, to be granted over a 3-year period, 76 for this year, with the design in mind to implement the team policing principle throughout the city.

Whether or not we will get them next year we do not know. We have to go on a year-to-year basis.

Mr. LYNCH. One more question. How is the action money from the Police Foundation being used? Is that paying for any of your Com-Sec personnel?

Mr. GOODIN. It is paying for 62 personnel.

Mr. LYNCH. Thank you very much. No more questions.

Mr. KEATING. Just a couple of questions. What is your per capita of uniformed policemen per thousand population, which, I believe, was the reference points made by Chief Churchill?

Mr. GOODIN. It is a little better than two.

Mr. KEATING. About 2.1?

Mr. GOODIN. Something like that. Yes, sir.

Mr. KEATING. You said you needed 244 uniformed policemen?

Mr. GOODIN. Uniformed policemen.

Mr. KEATING. What do you need to back up those personnel?

Mr. GOODIN. I think with our civilian levels, ratio levels increased substantially during the past 2 or 3 years, to the point that I think with a minimum of civilian personnel, about 60 civilian personnel, we can maximize the civilians in the police division and accomplish the team policing philosophy throughout the city. About 60 civilians.

Mr. KEATING. If you ran two recruit classes a year, which I guess is about as many as you can run—can you run more than that?

Mr. GOODIN. We can run them continuously now. We have different academy facilities.

Mr. KEATING. You can actually get an increment of 75 in 1 year?

Mr. GOODIN. Yes, sir. Easily.

Mr. KEATING. Do you have enough applicants in order to meet this need?

Mr. GOODIN. Yes, sir; we do. We have enough applicants and we pay our starting police officers almost $10,000 a year. Roughly, $10,000 a year. And we have enough applicants. We draw not from the unemployed, but from the employed.

Mr. KEATING. With maximum operation, how long would it take you to add 244 police to do the job you feel should be done?

Mr. GOODIN. About 2½ years.

Mr. KEATING. Fine. This also means you would have more sergeants, more lieutenants, more supervisory teams?

Mr. GOODIN. Yes, sir. And they are built into the 244. Those are all sworn personnel, all ranks.

Mr. KEATING. You would end up with two more assistant chiefs?

Mr. GOODIN. They just go up through the rank of lieutenant. We would not increase the ranks above that of lieutenant.

Mr. KEATING. Is this because of the Com-Sec program or is this because of the combination of utilization of Com-Sec plus the difficulty of policing cities the size of Cincinnati with this mix?

Mr. GOODIN. The combination of policing a city the size of Cincinnati with the problems that are unique to Cincinnati, hilly terrain, things of this nature. And the fact that we know for the first time we are able to say we need "x" number of man-hours to deliver the called-for services in Cincinnati.

And that can be about a third less than that figure, just to meet the called-for services, and we can do it. But we feel the citizens of Cincinnati in their cooperative spirit that seems to be unique to that area, for some reason, that we can do just about whatever we want in terms of,

lowering the crime rate, with that additional time for the officer to meet with the citizen in a nonthreatening manner, to solicit his cooperation in crime control and crime prevention.

Building those factors in, which are extremely important, the number comes to 244.

Mr. KEATING. There is always some additional requirement. You need, say, 60 civilian personnel to help back it up, and you need an increase in sergeants and lieutenants. What about the mechanical equipment? Will you need an increase in cars, et cetera.?

Mr. GOODIN. Radios, personalized radios; yes, sir.

Mr. KEATING. I remember that radio situation very well. We got in on that.

Then you feel we would be at the optimum level in the city of Cincinnati?

Mr. GOODIN. Yes, sir; I do.

Mr. KEATING. Do you have a figure that it cost to put a policeman in uniform with all of the backup personnel? Is there a cost to the city that you can figure out? Fully equipped, basic salary, after he has become a patrolman, after recruit training, what does it cost per patrolman? Do you have that figure?

Mr. GOODIN. About $17,000. That would include the first year's salary. The first year is training. The entire year is considered a training program in our department, as a probationary period.

Mr. KEATING. Because you are really making a professional man. What kind of technical equipment do you feel that you might need to carry out the mission of the police department that is still on the market that you might not presently have?

Mr. GOODIN. The other members of my staff can feel free to comment. I mentioned the radios. We would like to experiment with some digital computers. We are in the process now of ordering equipment that is available and we have, through LEAA grants, a report system which is fully automated in that the policeman who takes the report to the citizen, if you report your car stolen, the policeman would write that data down and give it to some civilian at the station who would type it into a video data terminal and it would be sent out to all of the units in the city. At the same time that particular auto theft would be scored for uniform crime reporting, all done electronically through the computer system.

We have a need for that. Our needs are a little greater than initially estimated with LEAA. Again, I might add, this is a first project of its kind, in that the uniform crime reporting procedures would be automatically done.

Mr. KEATING. Could you use the base system Mr. Atkinson has and build on that to develop your digital computer?

Mr. GOODIN. Yes, sir; this whole program is built on that.

Mr. KEATING. Just complements that?

Mr. GOODIN. Yes, sir.

Mr. KEATING. When the radio system went in, it had the effect of increasing the number of patrolmen, by reason of communication, by about 100, 125—I might be wrong on that, but it had the result of effectively increasing the number of patrolmen. If you had the sort of system that would reduce the paperwork and civilian backup would that increase the effective force of your department?

Mr. Goodin. Yes, sir; it will. I don't have the exact man-hours with me unless Carl might have them. But I do have this kind of figure. We spend the equivalent of 40 street policemen awaiting trials in the court. If we could do away with the delays of policemen waiting to testify we could effectively put about 40 more policemen on the street.

Mr. Keating. This goes back to the old indication that so many people have given to me, that the policemen would not have to come in for a second court appearance.

Mr. Goodin. That is on that innovative kind of system.

Mr. Keating. That has been something the police division has been wanting to do for some time.

Mr. Goodin. Yes, sir.

Mr. Keating. Is there any likelihood you can get this support from the prosecutor, the counsel, and the judiciary to team develop that?

Mr. Goodin. We can see some road signs for real dramatic improvements in the courts in Hamilton County. Cooperative arrangements heretofore not even thought possible are being worked out. We have our police officers working on committees with judges and their staff to develop procedures to expedite the docketing of cases and hearing of cases. I think we are just around the corner for real dramatic improvements.

The city council has taken a receptive ear toward this wasteful figure of 40 people and it could well be policemen will be paid for court appearances, which I am sure will dramatically increase the effectiveness of the courts when money is outlayed.

Mr. Keating. Compensatory time is really a disrupting influence, isn't it.

Mr. Goodin. Yes, sir. The 40 policemen are a composite increment of compensatory time. That is what it amounts to.

Mr. Keating. Haven't two of the principal computer systems been approved by the county voters, plus the radio system? All of this will lead to computerization of the entire court docket?

Mr. Goodin. Yes, sir.

Mr. Keating. For one thing, and it just is a mechanization of our whole process, or our whole legal process.

Mr. Goodin. Yes, sir.

Mr. Keating. Mr. Chairman, I have consumed enough time.

Chairman Pepper. Chief, I want to ask you a few questions. First, about the LEAA funds. How much do you get and what do you use those funds for?

Mr. Goodin. Mr. Chairman, since the existence of LEAA, prior to that, OLEA, we have invested about a million dollars for the city of Cincinnati. That is a somewhat misleading figure because much of the moneys that have been spent in Cincinnati have been spent on a countywide basis, which is for regional crime laboratories, for scientific training at Xavier University, which is countywide in nature; things like this.

Specifically, Cincinnati has used its LEAA funds for programs and sort of software kinds of things, and research.

The program management bureau is partially funded for operations analysis. We have a regional law enforcement narcotics unit composed of officers from each of the departments all over the county. We have an organized crime unit which is funded by LEAA.

We have a police cadet program which is partially funded for youngsters through the ages of 17 to 21, who work as civilians in our department, and co-op at the University of Cincinnati. Upon graduation they receive an associate degree, have been trained during their quarter breaks and are promoted and go out in the street as policemen without any 20-week delay in training.

We have a criminal prevention program which involves a person at each district, which has primary responsibility for developing crime prevention programs.

Chairman PEPPER. Do you think the use of LEAA funds is more effective in curbing crime than to put that money in employing more men to be in uniform on the streets?

Mr. GOODIN. I think it is; yes, sir. I think the only criticism I would have of the administration of funds would be their guidelines are unduly restrictive. Quite frankly, it restricts a city like Cincinnati in that our own moneys, city budget dollars, were spent for training and programs. Being innovative and being funded by LEAA was pioneered in the Cincinnati Police Division by Chief Schrotel and others.

LEAA funds police cadet programs all over the county. Cincinnati has had it since 1955. We would like to expand on it but are not able to do so because it is an expansion program. We feel each city, each community, should have the dollars to spend as the city administration sees best to spend them, based on the needs identified in their community.

Chairman PEPPER. I agree with you on that. The difficult decision was to you, how best to use it and you used the money wisely.

Suppose the Federal Government were to inaugurate a program to provide more police on the streets of the cities of this country; suppose the Federal Government were to put up 25 percent of a certain sum for that purpose and your States were to put up 25 percent, and the cities would put up 50 percent. Would that be a helpful program, or should there be some other formula for the division of the money, in case such aid would be forthcoming?

Mr. GOODIN. I would have to answer that simply by saying I think it would be beneficial. I think the testimony that I have heard in the major cities is that most police departments are undermanned, understaffed. I think that is disputable because they may be ineffectively deployed or allocated among the departments. But that certainly would be a way for the Federal Government to help. Subsidy for police salaries, for police education, needs to be expanded.

Chairman PEPPER. You think that would be a proper function for the Federal Government to get into?

Mr. GOODIN. Yes, sir.

Chairman PEPPER. Helpful in curbing crime?

Mr. GOODIN. Yes, sir.

Chairman PEPPER. And if they want to do these other things, all right.

Mr. GOODIN. Yes, sir.

Chairman PEPPER. But, after all, the greatest single factor in curbing crime is the availability of trained police to deal with the problem; would you agree with that?

Mr. GOODIN. I would agree with that, Mr. Chairman. If we would isolate it to one single factor; yes, sir.

Chairman PEPPER. What about the cooperation between your police department and the prosecuting attorney's office?

Mr. GOODIN. We have excellent cooperation within the Cincinnati Police Division and the local prosecutor and the county prosecutor. I might say, it might be a model to be looked at by other agencies.

Chairman PEPPER. And there is good will between the two departments?

Mr. GOODIN. Absolutely.

Chairman PEPPER. What about between the police department and the courts?

Mr. GOODIN. We have excellent cooperation between the police departments and the courts. As I indicated earlier, the courts have gone out of the way to establish their committees to work with us on problems of police time. They have identified weaknesses in the testimony of officers, for which we have developed training programs, and given freely of their time and trained the police officers.

Chairman PEPPER. What about the dispatch of cases in the court?

Mr. GOODIN. We think the overloading of the criminal court dockets on both levels, common pleas level and municipal level, is atrocious.

Chairman PEPPER. How long does it take, ordinarily, between the time the charge is made against the defendant in Cincinnati and the actual trial?

Mr. GOODIN. It certainly depends on the nature of the crime and skillfulness of the defense attorney. I would say some cases run as long as a year. Some of them have not been finally adjudicated that are over a year old.

Chairman PEPPER. That is a great frustration to the police department.

Mr. GOODIN. Absolutely. It is probably one of the greatest frustrations police suffer.

Mr. PANNO. I have only been on the force a short period of time, 5, going on 6 years, but I have had cases go from the time of arrest until a disposition in common pleas court in 4 months, and other cases go as long as 13 to 15 months. It is disenchanting to spend a lot of time and a lot of technology to catch someone at a crime of stealth and have that man beat you back out on the sidewalk from the court room.

Chairman PEPPER. I know that is very frustrating to the police. Heretofore, we have had a lot of witnesses and it has come to the personal knowledge of many of us that there is little cooperation in respect to this matter between the courts and the police authority. Sometimes the courts think that is no business of the police authorities, it is their business.

And in a great many instances the courts have not been subject to any kind of supervision. A judge sat when he wanted to, he left in the midafternoon if he wanted to, he tried as many cases as he thought he should.

In Miami, where I live, we just set up a new system in the courts, so we only have in each county, two courts: county courts, which handle lesser offenses; and circuit courts of general jurisdiction. But either one can sit in the other court. Now, for the first time, a circuit judge, who is the supervisory judge, you might call him, a managing administrative judge of all of the judges in the circuit system, and another supervisory judge, managing judge for all of the judges in

the circuit system, and another supervisory judge, managing judge for all the judges in the county system, can review the dockets. He can examine the length of time the judges put in; he can prod those judges to greater performance. If the system is not working he can check on it, and if necessary go to the Governor or to the legislature.

So we are getting a much more efficient judicial administrative program than we were getting when each judge was a separate entity unto himself.

Do you have anything like that in your area?

Mr. KEATING. Mr. Chairman, can I make a comment and intercede? We have a new Chief Justice of the Supreme Court of the State of Ohio, C. William O'Neill, who was formerly Governor of the State. Justice O'Neill has, since his appointment as chief justice, been attempting to implement a speedier judicial disposition of civil and criminal cases in the State of Ohio.

I think he has been very successful in accelerating the date of trial, but until you get to a point where a case is tried within 60 days, then we have not completed the job. But he has been a great force for this cause in our State and has been extremely effective. But when you go from the position we were in before to the position you want to be, there is much left to be done.

Chairman PEPPER. In Florida, the State supreme court has practically required a man to be tried within 60 days and if he is not, unless it is some justifiable reason for his not being tried, the case is to be dismissed. At the beginning of that program some cases were dismissed. Now, the prosecuting attorneys diligently take care to see that the cases are brought to trial within 60 days.

What about the correctional system in your area? We generally say the police, prosecuting attorneys, the courts, and the correctional systems, are the various essential elements of the system for the administration of justice. In many areas, the correctional system is the first problem, also. How well have you come to deal with that problem in your area?

Mr. GOODIN. We have an opportunity for input into correctional matters, operations, design of systems, things of this nature, but not nearly as much as we do with the courts.

To follow up on your comment about the courts, we have had an invitation by the chief justice extending an opportunity for our officers of Cincinnati to serve on committees, on the revision of the Ohio Criminal Code, the rules of criminal procedure, which has to be sort of unique in terms of criminal justice cooperation. We sort of walk through a lot of those procedures from what it would actually mean to the police and citizen on the street, which will make the rules much more effective for the people.

In terms of correction, probation, and parole, and things of this nature, it is probably just like every place else: It is a miserable failure. Their batting average is worse than that of the police. If we arrest less than 29 percent of the violators and they correct less than that, then it is a complete flop.

Chairman PEPPER. Have you, as most States generally have, one big State penal institution in Ohio?

Mr. GOODIN. We have an Ohio Penitentiary but there are other institutions spread through the State.

Chairman PEPPER. Where is that located?

Mr. GOODIN. Columbus, Ohio.

Chairman PEPPER. Thank you very much, Chief, and all of the gentlemen associated with you, for coming here today and helping us. You are recognized as one of the most innovative chiefs in the country. You were first brought to my attention by Mr. Tamm, one of the outstanding chiefs of police in the country. You obviously have a very able group of associates here who are helping you to do a good job.

I just want to ask you this last question. Despite the progress you have achieved in the past, you still have a lot of violent and serious crime. What can you offer to the people of Cincinnati; what can you do to cut down on the number of crimes you still have; and what can be done, in your opinion, to reduce the number of crimes you still have in your city?

Mr. GOODIN. We feel all of the programs we work on and that we develop and design have a goal of crime containment, reduce citizen victimization. We feel that a coordinated, well-planned effort with the proper analysis is the best kind of response to a problem. We, many times in law enforcement, are required to respond to the fear of crime, not of the incidence of the crime, itself.

I will give you an example. In Cincinnati, we have sort of in the center of the city downtown area a town square which is visited by most people who come to Cincinnati and it is one of the finer points of the city. We have several strong-arm robberies and assaults over a week, four or five, involving youngsters and some adults. Most were closed by arrests. But an uninformed media portrayed that as practically a crime wave. There was no more of a crime problem there than anywhere else. That is not a crime problem when you have kids assaulting other kids. They were doing that when I was a child. It was not a crime problem.

But to maintain the confidence of the community, we assigned uniformed officers there, highly visible officers on foot, with the K–9 unit walking across the fountain occasionally, to calm the public. After 10 or 15 days of that kind of deployment, which was a total waste of manpower, people sort of assumed the downtown area really is safe—"look at all of those policemen."

So many times we do respond to the fear of crime rather than the actual crime problem. A systematic approach to deal with that includes close liaison with the media and the criminal justice system, which is the best we can offer to the citizens of Cincinnati.

Chairman PEPPER. Chief, the Government tells the people there has been a reduction in crime and it is in the magazines and their media: There has been a reduction in serious crime for the first time in 17 years, a slight reduction, a few percent. But the media say, in effect, there is an increase in violent crime; small increase, but there is still an increase. And the people want to know: Do we have to live all of the rest of our lives, and our children and grandchildren live their lives, with the tragic amount of crime we have in the country today?

These muggings, rapes, and robberies. Do we have to accept anything like the rate of crime we now have, today, as the inevitable experience of the people of the country? What can we hope for as a major breakthrough so there will be a real large meaningful diminution in the amount of crime in this country?

Mr. GOODIN. I think the systems approach to the problem we have today, we have heard discussed thoroughly through the criminal justice system, a stronger stand on a certain kind of violent crime, place a priority by the judicial system on crimes of violence, put it at the top of the docket. That kind of practical approach to it will let the criminal know, those inclined to crime, that the citizens of this country and of Cincinnati, or whatever community, will not tolerate abuses of its people or violations of its laws.

And when the citizen knows, as he did before the civil disturbance era of this country, that if he commits a crime he is likely to be caught and dealt with quickly and justly, then when we can achieve that and instill that in the mind of the citizenry, we can do something about crime. Until that, people inclined toward crime believe it to be the case, as it actually is, swift justice is a myth, we are not going to do much about it.

Chairman PEPPER. Would you put great emphasis also on juvenile crime?

Mr. GOODIN. Absolutely. A very integral part of our process.

Chairman PEPPER. Thank you.

Mr. KEATING. May I comment? I don't want to embarrass the chief, but I would like to see the chief as the Director of the FBI.

Chairman PEPPER. He would be a good one. He has appeared to me as one of the top outstanding chiefs of police in the country. We in Miami have a good candidate in Rocky Pomerance of Miami Beach.

Thank you very much, Chief.

[Chief Goodin's prepared statement and a pamphlet on Com-Sec, previously mentioned, follows:]

PREPARED STATEMENT OF COL. CARL V. GOODIN, CHIEF OF POLICE, CINCINNATI, OHIO

TEAM POLICING: REORGANIZATION TO MEET THE CHALLENGES OF THE FUTURE

The basic question to be addressed in this brief discussion is: How can a police agency organize itself to deal more effectively with its primary responsibilities in the coming years? A very common reply given in the United States today is "Team Policing." Among the many programs calling Team Policing, the common denominator seems to be the assignment of a group of officers to patrol a given area. We need to go much beyond this simplistic statement in order to determine what there is in team policing which generates some ray of hope for the future of policing. Therefore, the focus of this paper will be to analyze the mechanism which are present in some team policing models which would enable a police agency to more effectively deal with criminal victimization.

The objectives of police agencies are often described as being:

(1) Prevention of crime;
(2) Protection of life and property;
(3) Suppression of criminal activity;
(4) Apprehension and prosecution of offenders;
(5) Regulation of non-criminal conduct; and
(6) Preservation of the public peace.

We have found that we are not uniformly effective in attaining these objectives; crime is still increasing despite our best efforts. The President's Commission on Crime pointed this out and also indicated that we cannot attain these objectives so long as police agencies are expected to struggle with these problems in an atmosphere lacking the assistance of the greater community.

The Commission also suggested a solution—team policing. Team policing does not aim toward new objectives and goals (it is not just a public relations program)—in fact, the goals and objectives of the police have stood the test of time. Team policing is designed to recognize that the attainment of these goals cannot be accomplished by the police agency alone. Instead of operating in a vacuum, the

community, social and other governmental agencies, and society itself, all play a role in carrying out the police function.

The aspects of team policing which are crucial for reducing criminal victimization seem to be :

(1) Consistent assignment,
(2) Unification of control, responsibility,
(3) Team decision-making power,
(4) Development of the police officer as a generalist, and
(5) Communications.

The consistent assignment of an officer to the same area allows the officer to become familiar with that area and its people to a much greater extent than is possible under a system of rotating assignments. Consistent assignment tends to breed a proprietary interest in the community on the part of the police officer once the officer recognizes that present actions may cause problems for him in the future.

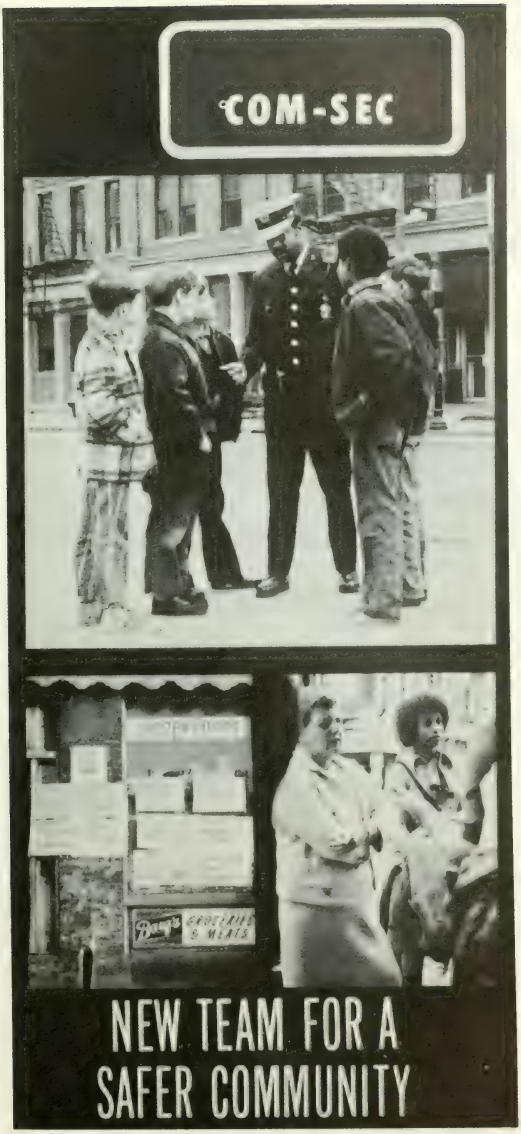
By unifying the control, responsibility and supervision in an area, the actions taken by police officers can become more consistent. By developing a consistent, high level of service, a major roadblock to communication is removed. We all often find a high level of fear attached to situations with which we are unfamiliar. Certainly citizens must experience great anxiety in their contacts with police officers considering the current practices of many police agencies. Many different units, each having its own specialized function and its own line of command may operate in the same small area in the same day.

Coupling a simplified control structure with team decision-making power enables the police to develop plans on the basis of local level information which should be more in keeping with community needs. This approach allows the officer on the street more latitude in dealing with the problems he faces. The more consistent performance and greater commitment developed through such a system should create an environment in which police officers and community residents can, develop an effective alliance against crime.

Another element of this plan is the development of a generalist officer. A generalist should be capable of delivering the complete spectrum of police services, thus providing more effective follow-through concerning the delivery of those services. An officer who has had adequate training and experience should be able to carry out investigations of all types as well as provide the routine services expected of patrol officers.

All of the above factors should also tend to improve communications both within the agency as well as between its representatives and the community. The current structure of police agencies is a great deterrent to the effective communication of information which is of importance to the agency. By simplifying the chain of command and responsibility, the major obstacle to internal communication is removed. Furthermore, the police agency itself must take the first step in improving its relations with the community. The development of stable lines of communications is of great importance in encouraging mutual trust, understanding and aid among the police and the community.

Providing an officer the opportunity to understand the community, allowing a group of officers to define their own problems, goals and policies, developing a generalist notion of policing and improving communications should improve the outlook of policing in the future. Perhaps none of this discussion is new to any of us, but we must begin to look for new methods of providing police services. The ever-increasing problems that face us serve as prima facie evidence that we have not yet obtained the ultimate goals of policing. The need to find new solutions is to become even more urgent as our society clamors ever more vociferously for better police service. Even if crime does not overwhelm us in the coming years, public sentiment will, unless viable methods of policing are developed. The reorganization which has been outlined in these pages is one method which hopes to achieve the vital alliance among the police and the community needed to promulgate the more effective delivery of police services.


COM-SEC
NEW TEAM FOR A
SAFER COMMUNITY

COM-SEC

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COM SEC (short for community sector) is a new style of policing that bases a highly responsive, mini-police department in your own community. This community police department is manned by a team of permanently-assigned officers especially trained to provide all your police services.

WHERE WILL COM SEC OPERATE?

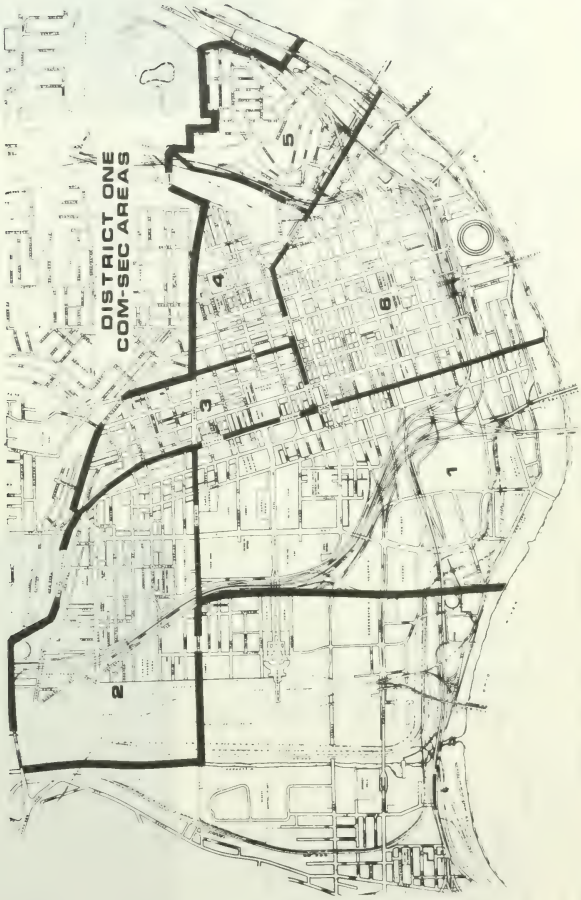
In the beginning, COM SEC will operate in Cincinnati Police District One, which includes the downtown business section, Over-the-Rhine, West End, Mt. Adams, and the downtown Riverfront. In this area of less than four square miles will be six mini-police departments, one each of the six communities within the District.

HOW IS COM SEC DIFFERENT?

Until now, you may not have known your policeman (and perhaps you did not care). He did not know you because he worked in many different communities. Under COM SEC, the policeman will be permanently based in your community. He will have time to know you and understand your problems, just as you will get to know him and his problems.

WHAT IS IN IT FOR YOU?

COM SEC is not a "miracle cure" for all your community problems. By itself, it won't produce jobs, better education or lower prices, which certainly are prime concerns. But COM SEC should result in far less crime and a safer neighborhood for you to live in. And that's a good start toward solving community problems. Studies show that, over the years, safe communities ultimately mean lower prices at the stores, they attract stable businesses, develop more jobs and better education opportunities for residents.


DISTRICT ONE
COM-SEC AREAS
1
2
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6

SOME THINGS YOU WILL SEE IN COM SEC:

MORE POLICEMEN IN THE COMMUNITY. More policemen mean quicker response to your calls for help. More policemen also help prevent crimes before they happen just by being around.

SWIFTER ARRESTS OF CRIMINALS. Policemen can do a better job in communities they know well, among people they understand and care about. By being permanently based there, your COM SEC officer will know your community . . . . . and he will care.

A FRIEND IN UNIFORM. People don't become friends overnight. But through COM SEC's opportunities for personal contact, day-in and day-out, you can meet your policeman, talk to him, and he can meet and talk to you. Talking helps develop understanding, mutual trust and cooperation . . . . all of which lead to a safer community and less crime.

WHAT IS THE FUTURE OF COM SEC?

For the time being, COM SEC will operate only in District One as a test, funded by the POLICE FOUNDATION, a non-profit private agency dedicated to helping cities develop better police service. If COM SEC proves successful, it may be extended to other districts of the city and you will see all of Cincinnati dotted with mini-police departments geared totally to the communities in which they are located.

YOU ARE PART OF COM SEC.

COM SEC is an idea developed by many people in your community working with the Police Division. It operated on a very limited basis for a little over a year, while residents and police together developed a more comprehensive program.

The Com Sec Plan is never finished. Though carefully thought out it is not a finished document on the shelf, but a living, flexible plan designed to fit changing community needs. As long as there are community problems and people concerned enough to solve them, COM SEC will be a valuable tool.

Carl V. Goodin

Police Chief, Cincinnati Police Division

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HOW CAN YOU GET INVOLVED?

- Get to know your COM SEC policeman
- Offer him your suggestions to improve police service
- Participate in crime prevention activities
- Take an active part in monthly COM SEC meetings
- Get your friends to attend
- Invite your policemen to attend other community organization meetings
- Report crimes or community problems about which you may have information.

GOOD POLICE SERVICE NEEDS THE WHOLE TEAM: YOUR POLICE OFFICER AND YOU!

YOU ARE INVITED TO THE COM SEC MEETINGS IN YOUR COMMUNITY. CALL 352-3505 FOR TIME AND PLACE OF THE NEXT MEETING.

Chairman PEPPER. We will adjourn until 10 a.m., tomorrow, when we will meet in room 1302, Longworth House Office Building.

[Whereupon, at 5:30 p.m., the committee adjourned, to reconvene at 10 a.m., on Wednesday, April 11, 1973, in room 1302, Longworth House Office Building.]

STREET CRIME IN AMERICA

(The Police Response)

WEDNESDAY, APRIL 11, 1973

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON CRIME,
Washington, D.C.

The committee met, pursuant to notice at 10:10 a.m., in room 1302, Longworth House Office Building, the Honorable Claude Pepper (chairman) presiding.

Present: Representatives Pepper, Murphy, Rangel, Winn, Sandman, and Keating. Representative Ralph H. Metcalfe, of Illinois, was an invited guest and sat with the committee.

Also present: Chris Nolde, chief counsel; Richard Lynch, deputy chief counsel; and Leroy Bedell, hearings officer.

Chairman PEPPER. The committee will come to order, please.

During the morning we will be hearing testimony about the Chicago Police Department's community service aid program. One of our distinguished members is from the great city of Chicago.

We also have the honor of having with us this morning another distinguished Representative from the Chicago area, Hon. Ralph Metcalfe. Mr. Metcalfe has made a very distinguished record here in the House of Representatives. We are delighted to have him join us this morning.

Mr. Murphy, will you be kind enough to introduce our first witness this morning.

Mr. MURPHY. Thank you. Mr. Chairman and members of the committee, I am pleased to introduce this morning the distinguished deputy superintendent of the Chicago Police Department, Mr. Samuel W. Nolan, Deputy Superintendent Nolan is in command of the department's bureau of community services and in that capacity has been in charge of the community services aide program.

Superintendent Nolan is a veteran of 28 years of service in the Chicago Police Department. As most of you know, the Chicago Police Department is one of the Nation's largest law enforcement agencies. It has a present strength of more than 13,000 men and women.

Superintendent Nolan has brought with him this morning four representatives of the department who have worked in the community service aide program and I will ask the superintendent to introduce them for the committee at this time.

PANEL OF CHICAGO (ILL.) POLICE DEPARTMENT OFFICIALS: CHAMBERLAIN, JOHN D., SERGEANT; CROSBY, WAYNE, COMMUNITY SERVICE AIDE; JUNGHEIM, ANNETTE K., COMMUNITY SERVICE AIDE; NOLAN, SAMUEL W., DEPUTY SUPERINTENDENT; AND ROTTMAN, HERBERT R., LIEUTENANT

STATEMENT OF SAMUEL W. NOLAN

Mr. NOLAN. Thank you, Congressman.

Mr. Chairman, I would like to say thank you very much for inviting the city of Chicago's police department representatives to appear before your committee today.

Chairman PEPPER. Mr. Nolan, we are very much honored to have you here today. You know these hearings are for the purpose of presenting to the Congress and the country the most innovative, imaginative programs that are being carried on in the various parts of the country in the fields of the administration of the criminal justice system of this Nation.

The police program is the first one; then we will delve into probation; prosecuting attorneys; courts, trial and appellate; and juvenile delinquency.

Your great city has been chosen as one of the cities which has a very outstanding and innovative program. We are very much pleased to have you and your associates here today to tell us about it.

Mr. NOLAN. Thank you, Mr. Chairman.

On my right is Lt. Herbert R. Rottman, commanding officer of the community service aide program since its inception on Chicago's West Side. To his right is Mrs. Annette K. Jungheim, a community service aide, who works in what we refer to as the "uptown area," the North Side of Chicago and she, too, has been a community service aide since the inception of the program.

On my left I have Sgt. John D. Chamberlin. Sergeant Chamberlin has been acting commander of the Near South Community Service Center, also since its inception. And on his left is another community service aide, Mr. Wayne Crosby, a young man who has been an assistant squad leader in our program for the last 3 years.

The Chicago Police Department Community Service Aides Project is administered by the superintendent of police through the deputy superintendent of the bureau of community services. The community service centers and their assigned personnel are under the direct supervision of a project director. This program was developed and brought into being after 2 years of target area study and preparation, in conjunction with Model Cities representatives and area neighborhood councils and their members.

In January 1970 the hiring of 422 community service aides began and simultaneously six community service centers in predesignated target areas were opened to fulfill a specific police purpose.

To accomplish this purpose two immediate goals were set and considered of paramount importance: (1) To assist in decreasing the incidence of crime and allowing the police patrol force to spend more time in the area of crime prevention and enforcement activities; and

(2) to assist in improving the quality of urban life in the designated target areas.

The Model Cities target areas consist of 300,000 residents in approximately 30 square miles. It is at high-density residency and generally considered high crime rate areas. The complaints, fears, and general misunderstanding of the police functions, their responsibilities and duties, all provided an insight to develop programs; and the lack of sufficient career opportunities and employment of target residents also was of prime importance in planning for this project.

The essence of the community service aide involvement is citizen participation, and the injection of more citizens directly into the law enforcement system. The unreported and unabated problems, especially those of a criminal nature, that have gone unresolved and are a constant source of anxiety and frustration, are all a contributing factor that leads to crime and antisocial behavior.

At the start of the program, the superintendent of police issued department directives to all members of the force and a community service aide official procedure manual was prepared and officially issued to department heads as well as the aides. All units of departments were directed to render assistance to this program including, but not limited to, the training division, the department psychologist in the personnel division, the medical section, and all other specialized units within the department whenever their services were needed.

Units such as auto theft, burglary units, narcotics, and youth officers were constantly utilized to conduct seminars.

Community service aides, after initial selection—age group of 17 years to 35 years, both males and females, some even with past police records—began 455 hours of training, starting with 200 hours of preservice training, and 255 hours of inservice training.

The single dominant criterion for employment was residency in target areas of employment. There are no exceptions to this requirement. The preservice training helped determine quality, as the civilians participated in this new learning device, to learn Model Cities concepts and goals, administrative duties and discover their own abilities.

This training was divided into three phases to develop the practical side of need for vital service responsibilities of coping with crisis areas—police community interactions—sociological dilemmas, and how best they be utilized in all duties permitted by law.

Some of the courses taught were criminal law, department standards, field procedures, general and specific duties, investigation and report writing. Advanced inservice training dealt with specifics of the above and consisted of two phases.

The backbone of the program is the patrolman. As supervisor, he is responsible for the output of the aides and assists in developing the leadership within the ranks of the aides. The basic work unit is team patrol, and the basic patrol philosophy is taught in training sessions.

It was recognized that therein lies, for some, a difficult transition of lifestyle, as not usually seeing the policeman as a partner. A learning experience begins for both the community service aide and the police officer. But the mere presence of the uniformed aides and the officer has in many instances been a deterrent factor in high-crime areas.

One project function is the education and counseling program which is offered in three tracks, and preliminary testing and counseling places all aides in one of these tracks.

It is an important aspect in upgrading formal education of community service aides at their own level. Chicago City College, Public Service Institute, under contractural agreement, has provided a basic education program, G.E.D. preparation program, and college-level programs.

All of these opportunities, of which 97 percent of community service aides participated in at least one of the three levels, stated the goal of this effort was to help aides decide on realistic vocational goals.

Each center, as an integral part of the program, has a full-time assigned counselor. Not only for secondary school attendees, but for regular assistance in the basic education programs, and to conduct those classes needed so that aides complete at least a high school level; 9 hours per week are allowed for educational courses, with pay.

There is no guarantee of professional law enforcement officer employment due to rigid civil service requirements. However, the training and experience does prepare community service aides for advancement and entrance into the public safety agencies and other human services agencies and also the private sector of the economy.

Aides have gone on to many diversified jobs: Police officer, stewardess, park employees, post office and other governmental jobs.

By their knowledge and firsthand experiences in community problems, new directions and added duties developed mainly designed to the steering of the young from a criminal involvement to a socially gainful environment, in the aides immediate recognition of the basic factors inherent to unlawful acts. which is the desire to perform a specific act and the afforded opportunity to go undetected.

Community service aides have performed a myriad of service functions, normally handled by sworn personnel, designed to increase safety of persons and property. In accomplishing some of their tasks, community service aides relieve police personnel of adult missing persons investigations, abandoned vehicles and recovery of stolen vehicles processing, rabies control, dog licensing program, and the bicycles registration program.

Neighborhood burglaries are an important area of patrol and the new operation identification program is aimed at curtailing criminal activity in looting homes and businesses. The formation of community workshops at the neighborhood level block clubs, even in high rises, has been instrumental in better understanding of a need of citizen participation in crime prevention.

Aides have assisted in the apprehension of offenders of criminal acts and their high visibility of team patrol in those pockets of crime-laden areas where schoolchildren extortion and physical attacks occur, and also those areas reporting purse snatching and auto thefts, auto parts, and those experiencing high incidence of arson difficulties.

They are also involved in reporting building violations, assisting in crowd control, tutoring programs, cultural involvement programs, senior citizens' activities, and many other needed services to their communities.

The following is a statistical comparison of index crimes for a like 6-month subsequent period as reported in the police community service centers comprising six designated target areas.

It is recognized from September of 1971 through February of 1972 that there has been a decrease in the amount of homicides to 35 from 63. There has been in the area of rape a decrease, 129 from 267. Serious assaults, unfortunately, have risen over 200. Robbery has been reduced to 1,859 from 2,640. Burglary has been reduced about one-third. Theft of autos has increased about one-third; and grand theft has increased, unfortunately, to 838 from 605.

I think at this time, by permission of the chairman, we would talk just a moment about our funding.

Chairman PEPPER. We would be very glad to hear it.

Mr. MURPHY. Mr. Nolan, I would like to question you regarding your funding. Obviously your community service aides program has received Federal funds and we would like to know how much funding. What effect will the proposed budget cuts have on your funding?

Mr. NOLAN. Very good, sir. At the inception of the program this model cities aid project was funded entirely by our model cities administration in our city through Housing and Urban Development. Shortly thereafter, in July of 1970 the Illinois Law Enforcement Commission supplied us at the fiscal year with one-third, which was $1.3 million. Total funding of that program at that time was $3.2 million. This went on for the first year and the second year.

The contingency was through the Illinois Law Enforcement Commission that the department would apply for discretionary funds through the Law Enforcement Assistance Administration. This was done, but denied in November of 1970 on the basis that the department's program did not fit into any category that they had under which they could fund our program.

Mr. MURPHY. I would like to pursue that, if I may. We are talking about LEAA funds?

Mr. NOLAN. Yes, sir.

Mr. MURPHY. And the Chicago Police Department submitted a request for those funds?

Mr. NOLAN. Yes, we did.

Mr. MURPHY. And it was denied on what basis?

Mr. NOLAN. On the basis that under the categories in which we applied there was not sufficient funds direct from LEAA to supply us the amount of money we request namely; $1.3 million.

Mr. LYNCH. Mr. Murphy, if I may, I would like to know whether that denial was from the Illinois Law Enforcement Commission or the LEAA in Washington.

Mr. NOLAN. On request of the Illinois Law Enforcement Commission we were told to apply direct to LEAA in Washington.

Mr. LYNCH. For discretionary grants?

Mr. NOLAN. That is right.

Mr. MURPHY. That, too, was denied?

Mr. NOLAN. That was denied.

Mr. MURPHY. On what grounds? That the particular program you had in mind was not contemplated by LEAA?

Mr. NOLAN. The only reply we received was that in the category in which we applied—this was their words—there was not sufficient funding for a program such as ours.

Mr. MURPHY. That was in community service programs?

Mr. NOLAN. The community service aide project.

Mr. MURPHY. How were they funded prior to that?

Mr. NOLAN. They funded it through the Illinois Law Enforcement Commission prior to that. That is where one-third funding had been received.

Mr. LYNCH. The Illinois Law Enforcement Commission is the State planning agency for the State of Illinois under LEAA?

Mr. NOLAN. That is right, sir.

Mr. MURPHY. What would you have done with those funds had they been received? Would they have been used for walkie-talkies, radios, and other equipment?

Mr. NOLAN. They could have been used for communication, but mainly they could have taken up that one-third needed funds and carried the program at its present level.

Mr. MURPHY. You just recited a number of reductions in auto thefts, burglaries, and other categories of crime as a result of this program; is that correct?

Mr. NOLAN. Yes, we have.

Mr. MURPHY. And yet the Federal Government denied these funds, stating that the category wasn't proper?

Mr. NOLAN. Yes; they have been denied. But the program did not suffer because the city of Chicago, through our own Model Cities Administration, found funds to carry it on until just March 31 of this year.

Mr. MURPHY. Will you be able to continue to carry that on?

Mr. NOLAN. No, we will not; because as of March 31 this year it was necessary for the superintendent of police to direct me to close six of our centers and to lay off better than two-thirds of our people, from 422. We are down to 81. They closed all of our centers and these 81 people are scattered in the six police district stations in the target areas.

Mr. MURPHY. Mr. Superintendent, do you know of any other major cities that have a program like this community service aides program?

Mr. NOLAN. No; there are none in the country.

Mr. LYNCH. If I may, Mr. Murphy, the Chicago Police Department community service aides program is the country's largest. I think there are other aide programs, but no city has invested as much manpower or money as has Chicago, concentrating in specific target areas.

I wonder, Mr. Superintendent, if you could tell the committee how many centers you had and would you also describe what you mean by the term "center?"

Mr. NOLAN. The police community service center is located in the heart of the target area. It is usually a store-front building. It comprises a number of aides that are 8 percent of the population of that particular area.

For instance, our Grand Boulevard area, one of the areas of our city in which Congressman Metcalfe is the Representative, is one of the largest. It has 102 aides assigned there. But Grand Boulevard, just immediately east of there, is a smaller area because of some of the abandoned and vacant buildings, and we have 41 aides assigned at that particular center.

We have two at the West Side. One has a complement of 78 aides, and one has a complement of 39 aides, and the one we have in the Woodlawn area has a complement of 78 aides. And we have one up on

the far North Side, uptown, which has a complement of approximately 78 aides, also.

Mr. LYNCH. You had a total of six centers; is that right?

Mr. NOLAN. A total of six.

Mr. LYNCH. And they have all been closed?

Mr. NOLAN. They were closed.

Mr. LYNCH. And they could be characterized as store fronts, neighborhood walk-in centers?

Mr. NOLAN. Yes.

Mr. LYNCH. Did you, in fact, have people in the neighborhood other than aides or police personnel employed in the program who used to come into those centers and, if so, what did they come there for? What service was rendered to them there?

Mr. NOLAN. The centers were commanded and run by police personnel, lieutenant or police commander, and sergeants charged with supervision, and patrolmen as squad leaders. But we also used the centers to indoctrinate the community residents that this was a satellite police station where they could come for services which could be explained very well by some of our aides here, of the type that was given; come in for services, come in to register complaints, come in to learn how to get better service than what they usually have in the community in which they live.

The centers were also used to conduct programs, to bring young people into a gathering place, for senior citizens, to conduct tutoring classes, but mainly to let the citizens know that police community workshops, block club meetings, any type of community services that they desired within the realm of police personnel, could be conducted in those centers at any time of the day or evening.

Mr. LYNCH. You told Mr. Murphy that a discretionary grant application directed to LEAA here in Washington was denied on the basis that your program did not fit into LEAA's categorical grant format? You also indicated that you had been denied additional funding by the Illinois Law Enforcement Commission.

What is the situation with Model Cities funding now? Have they been reduced in the city of Chicago?

Mr. NOLAN. They have been reduced. I might add one clarifying point, counsel, with respect to the Illinois Law Enforcement Commission. One of the contingencies of the second-year funding was that the third-year funding would be reduced accordingly. The second-year funding had an attached rider letter which required us to apply directly to the Washington LEAA program, and, in turn, we were turned down.

Mr. LYNCH. How much money had the ILEC given you?

Mr. NOLAN. They had funded us for 2 years. We are now waiting for third-year funding, which is not forthcoming as yet.

Mr. LYNCH. This funding amounts to how much?

Mr. NOLAN. $1.3 million, or a reduced amount.

Mr. LYNCH. During the second year, was that money reduced?

Mr. NOLAN. No, the same amount.

Mr. LYNCH. And what was the contingency for additional funding?

Mr. NOLAN. The application into the LEAA and their reduced amount for the third year.

Mr. LYNCH. Have you, in fact, reapplied to ILEC for additional money?

Mr. NOLAN. We have applied.

Mr. LYNCH. When did you do that, sir?

Mr. NOLAN. The 30th of January the mayor forwarded a letter to the chairman of the Illinois Law Enforcement Commission, stating the Chicago Police Department Police Community Service Aide Project was requesting at that time an honor of the commitment of the Illinois Law Enforcement Commission for third-year funding.

Mr. LYNCH. And the chairman is Mr. Bilek?

Mr. NOLAN. No. It is presently Mr. Donald Page Moore.

Mr. LYNCH. Did Mr. Moore respond to the mayor's letter?

Mr. NOLAN. He responded that the matter would be taken up at the standing committee meeting in February, which it was, which the superintendent was a member of the standing committee. I, myself, was present, and it was stated in their particular minutes at this particular time, with the superintendent of police abstaining, that they would honor their commitment; the full amount would not be given but a substantial amount would be as soon as funds were located. We are still waiting.

Mr. LYNCH. As soon as funds were located?

Mr. NOLAN. We are still waiting for those funds.

Mr. LYNCH. What does that mean?

Mr. NOLAN. Frankly, I don't know.

Mr. LYNCH. Are you now receiving any moneys from the Chicago model cities program?

Mr. NOLAN. Yes, we are. We are receiving, as of April 1, $1 million to conduct a program which we are putting into effect immediately, that will run us through, budgetwise, June 30, 1974.

Mr. LYNCH. And that will enable you to function with 81 aides; is that correct?

Mr. NOLAN. Eighty-one aides and nine police officers.

Mr. LYNCH. And that would be as compared with 422 aides prior thereto and some 71 police officers.

Mr. NOLAN. Yes.

Mr. MURPHY. Counsel, may I interject at this moment?

Superintendent, what effect on crime statistics will reduction in aides and police officers have?

Mr. NOLAN. Well, it would relieve us of the uniformed patrol of the aides into all aspects of the community and I am sure that some of the things that already have been brought to our attention, such as businessmen who felt a degree of safety from the very fact these satellite stations were located in the community; there were police personnel around as well as community service aides.

Again, the myriad of the services that have been offered by the aides over the last few years is certainly going to have a great deal of effect on what we would refer to as street crime.

Mr. MURPHY. In other words, you see street crime rising as a result of this cutback?

Mr. NOLAN. In these particular areas where these centers were located, yes, I do.

Mr. MURPHY. And the purpose of the Federal LEAA program was to reduce your crime, was it not?

Mr. NOLAN. It certainly is, sir; at least that is what we were told.

STATEMENT OF HON. RALPH H. METCALFE, A U.S. REPRESENTATIVE FROM THE STATE OF ILLINOIS

Chairman PEPPER. Mr. Metcalfe, we will be glad to have you participate and ask any questions you desire.

Mr. METCALFE. I would like to simply say I am of the opinion that the relationship between the Chicago Police Department and the Federal Law Enforcement Assistance Administration is not very cordial, because the Chicago Police Department has not been very amenable to the demands and wishes of LEAA.

Recently they had an examination and they asked to come in and monitor the captain's examination and they were denied that opportunity to come in. In March of this year they appointed three consultants to look into the question of police policies and hiring practices of blacks and other minorities. I think the record will show that the blacks constitute 33 percent of the Chicago population, and yet on the police force in excess of 13,000, the blacks constitute only 17 percent.

In the rank of captain we have only 1 percent black and above the rank of captain, the appointed office such as the distinguished office you have, only 7 out of 78, and 46 out of 226 youth officers are black.

Aren't you really receiving the brunt of the problem with the Federal Law Enforcement Assistance Administration because of your desire to cooperate with them and from the statements given by Superintendent Conlisk after the report was mentioned by the Law Enforcement Study Group that it was discredited and was found not to be factual, when actually it was?

Aren't you suffering as a result of this in the program that is administered by the community service program?

Mr. NOLAN. Mr. Congressman, I would hope that the Law Enforcement Assistance Administration would not judge the worth of this program by the kind of survery made of the department a short while ago by its representatives. There are 13,000 police officers in our city and I agree with your other facts entirely.

Yes, we, as minority members—and as I say, this is in a selfish way, sir—would certainly like to see more blacks, Latins, in command positions within the department.

Unfortunately, we only have 17 percent at this time and I am sure that you and the help you have given the department in finding the recruits are very well aware of the fact the department left no stone unturned in trying to get the young blacks, the young Latins to take the police exam. I think the turnout was very good.

Unfortunately, the police department does not give the police exam. Also, as the Congressmen is aware, and the gentlemen are, it is given by the civil service commission. For those that have failed the exam, unfortunately, the greater number percentagewise has been black.

Tutoring programs have been set up. We even conducted classes for patrolmen and policewomen in our centers. This is also the function of the centers, to find schoolteachers with the ability to volunteer to come into the center to help the blacks and help the Latins take the police exam. I think our problem is similar to other cities throughout our Nation.

But again, sir, I would hate to think the LEAA would use that as a criterion to deny funding for a program such as this, that I think

goes above that factor, inasmuch as they are serving the human needs of all people in the community in which they are now serving.

Mr. METCALFE. Can it not be the fact the police department is under the city administration and the civil service commission also is under the city administration, and therefore they felt the city administration should take steps to eliminate the discriminatory practices that actually exist at the hiring levels, and that is the reason there are only 17 percent blacks where they are turned down for the slightest excuse and many of them not based upon fact?

At one time they were turned down because they said blacks have flat feet and it was proven that flat feet were not a deterrent to a policeman being an effective officer of the law. As a matter of fact, the police department is motorized and, therefore, that did not hold water.

Recently, in the last few years they have turned blacks down and accused them of having heart murmurs when, in fact, they have not had heart murmurs. So as to cut down purposely on the number of blacks in the police department.

Now, you cannot expect to have more black officers working in the community services or any other department as long as this particular practice exists. And it seems to me that you are in a vacuum here because you are in need of additional black police officers, and yet the civil service is not certifying them because of their discriminatory practices.

Mr. NOLAN. I would agree, Congressman, certainly the community feels there is a need for another look at civil service entrance exams for all people coming into the department today. They feel this is something that is important, and we have found has been causing quite a few problems, especially among minority members.

The flat feet concept, as you mentioned, as you know, since the first opposition to it had arisen a few years ago, has been taken out of their concept of physical exam.

The heart murmur, whenever it occurs we certainly try to reach the young man and ask him to go to his doctor and reapply. We found many of our organizations in our city. Operation Push, Urban League, other places such as that, have all contributed, seen to it the young man was able to afford a medical examination and to attest to the fact he did or did not have a heart murmur.

So I would agree with you.

Mr. METCALFE. And is most cases they found that person did not have a heart murmur, although the family physician for civil service said that he did. Then upon submission of a statement from a duly licensed cardiologist, they then admitted to him, when they should have admitted him in the first place.

Then, this situation got even worse, because then it became a matter of them bringing in a statement signed by a licensed physician, who was a heart specialist, and they said: "We say you have a heart murmur," and the expert says, "You do not have a heart murmur," and he is still rejected.

Mr. NOLAN. We certainly encourage all individuals who have been turned down for that facet of physical problems to reapply. And the matter you spoke of has certainly turned to the better for the man in question and in some instances it has turned against him.

Mr. METCALFE. You understand, Superintendent, of course, I am not directing my remarks to you, because this is something over which

neither you nor the police department have any control because of civil service.

Mr. NOLAN. I understand, sir; yes.

Mr. LYNCH. Mr. Superintendent, you indicated you would hope that LEAA would not evaluate this particular program on the basis of the evaluation that was done in the department by their consultants. In that regard, is it not the fact, sir, that on three separate occasions the Chicago Police Department's police community service aides program has been independently evaluated; once in 1970 by a private consulting firm; shortly thereafter by Loyola University of Chicago; and finally by the International Association of Chiefs of Police?

Mr. NOLAN. Yes, it has.

Mr. LYNCH. In your judgment, what were the salient findings of those evaluations?

Mr. NOLAN. Very good, sir. I will be happy to answer that.

As you know, the Criminal Justice Educational Foundation that evaluated our program in 1970 had some very valid concerns and recommendations, and which have all been followed.

Prof. Paul Mundy of the Loyola University undertook a study of the department, of which he commented on his phase I of the Illinois Enforcement Committee hearings in 1972, in which Professor Mundy stated that if this is how his taxes were spent, he wouldn't mind paying taxes. This was a public statement made by Professor Mundy at this particular time.

Professor Mundy is now in this second phase of his evaluation of our program. Also the Model Cities Administration is conducting their second-year evaluation. We have been evaluated, I should say, also by the Government Accounting Office, and I must say in all respect, with the recommendations, and that is the first year growth that everyone has, in such things as squad leadership, such things as sufficient quarters, such things as community response.

We have found the evaluations—and we have copies here to be passed out if you would care to look at them—the evaluations have been extremely favorable to a program of this nature. Naturally, no program can rest on laurels of last year, but we are very happy to say this program is continually evaluating itself.

The superintendent requires this on a monthly basis and we certainly attempt to direct it toward positive goals and accept recommendations as we are able to handle them. The only recommendation that was handed to us that we were not able to handle was to place aides in squad cars. We felt because aides do not have arrest powers, because the aides do not carry weapons, that placing them in squad cars in the target areas in which they live and work would be too much of a danger that we would not want to subject them to at that particular time.

So they have not ridden in squad cars in the community in which they are assigned.

Mr. METCALFE. Superintendent, why is the police department so secretive about releasing reports? I made a request for the report of the International Association of Police Chiefs when they made their study. And our Library of Congress informs us that the only way we can get that report is for Superintendent A. P. Conlisk, Jr., to release it. He has refused to release it to the Library of Congress and there-

fore it has not been made to me, as the Congressman, and especially my district in Chicago.

Why it is we cannot get that report?

Mr. NOLAN. I am not aware of that, Congressman, but it would appear to me, just talking off the top of my head at this particular time, that if a Congressman of the United States requests a report I am sure the superintendent of police, if this is a matter that has been brought to his attention, would certainly have answered at this particular time. I imagine it has been some time. The report is 2 years old.

Mr. METCALFE. Normal channels is to go to the Library of Congress, because they are our source for information and they, in turn, will ask it and I am sure they asked for it in my name and indicated I was desirous of getting that report.

Mr. NOLAN. Could I take the liberty of following that up and getting back to you?

Mr. METCALFE. I would appreciate it if you would do so.

Mr. NOLAN. I will take the liberty of following up.

Mr. LYNCH. Mr. Superintendent, it is your judgment that in a general sense all of these separate evaluations of this program—and they were field evaluations. I take it—were generally positive in nature?

Mr. NOLAN. Yes; they were, sir.

Mr. LYNCH. I would like to read to you the introductory paragraph from one of the evaluations. It says:

For the better part of the summer

and this is referring to the summer of 1970——

The Criminal Justice Education Foundation with the assistance of the firm of Ernst & Ernst has been engaged in evaluating the Chicago Police Department's Police Community Service Aide Project. The summer has been a violent one. During the months of June, July, and August 105 murders have occurred within those police districts within which the community service aide project is operating. During the same months, five Chicago police officers were murdered, two of them in districts within which the project is operating.

Your testimony is that subsequently, perhaps due to this program, the level of homicides in those districts dropped by almost 50 percent. Is that correct?

Mr. NOLAN. Yes; 73 to 36. And I say this in this respect, sir: Our figures naturally are taken from the police reports. I cannot say, realistically, that every reduction in murder was due to an aide being part of that prevention of a crime. But I say through the statistical reports of the Chicago Police Department, in those particular areas—and I am talking about beat numbers of district—in which the community service aide project operates there was this type of a reduction in a 6-month period from September 1971 until February of 1972.

Mr. LYNCH. Was the same reduction level, for instance a 50-percent reduction in homicide from 73, I think you said, down to 36, apparent in those police districts in which this program was not operating, or do you know?

Mr. NOLAN. We did not take a run of that type of statistics; no, we did not.

Mr. LYNCH. So there can be no question of prejudice, I suppose that the record ought to show I served as project director for one of these evaluations and had the pleasure of dealing with Superintendent Nolan.

Superintendent, I wonder at this time if you could ask Lieutenant Rottman to describe to the members of the committee what function he serves in the department, what service center he commanded. And I think we would all be interested in hearing some of his new experiences as a community service aide unit commander after a long period of service as a regular Chicago policeman involved in street-level enforcement.

Mr. NOLAN. I would be happy to.

I would first like to say with respect to Lieutenant Rottman and also Sergeant Chamberlin, as you know, this is a departure from normal police procedure. A man working in this particular type function has to have desire and attitude. All of the 71 sworn personnel who came into this program volunteered. I am happy to say this gentleman that will now testify was on furlough at the time of the selection, and on the very last day, came to work, heard about it, read up on what the requirements were, applied, and was accepted almost outright.

Lt. Herbert Rottman.

Mr. LYNCH. Before you speak, Lieutenant Rottman, I would like to tell the committee that the last time I saw you you were showing me a shotgun blast through the front door of your center and took me upstairs to show me where a molotov cocktail had been thrown the night before.

Statement of Herbert R. Rottman

Mr. ROTTMAN. That is true.

Mr. Chairman, gentlemen, as the deputy mentioned, I came into the program at its very inception. I serve as the commanding officer of the center in the Lawndale District of Chicago. It is the Fillmore Police District, Lawndale Section.

I am located—you Congressmen have perhaps been in Chicago—at Harrison and Sacramento.

Mr. Lynch mentioned the fact he made a visit to our center and, unfortunately, the previous night or two nights to that, I had had an attack upon the center. Presumably it was a gang we were in disfavor with. But to prove a point, discussing the effectiveness of our program, I think it was brought home so dramatically at this time.

I had conversation with residents who lived directly across the street from the center. I am in a two-story brick structure. It was formerly operated by a wire company. On the second floor level are offices and here we conduct our class rooms, our inservice training. This is where we hold our inspections and this is where we operate from.

The first floor level was formerly used for storage and it is similar to a huge garage. The first floor level is now used mainly for the youngsters in the neighborhood who come in very frequently after school, but I don't want to digress.

Getting back to Mr. Lynch's visit. As I say, we had been attacked the night before and presumably it was a gang whom we weren't in too good favor with and they threw a few Molotov cocktails against the side of the building and one in my office.

But, talking about the effectiveness of our program, I had people across the street come in to me personally, saying: "We see what is

going on over here. A group of boys came over and started to throw these gasoline containers against the building."

But the surprising thing, gentlemen, around the corner came another group of kids and they drove them off. They protected our little center. It made me feel real good, the feeling that the residents wanted us, they needed us, and they protected our little property. They, in turn, are taking advantage of our center.

Getting back to the many things we do, I want to emphasize the things that identify. We always do it in a team control concept, be it visiting shut-ins, be it a door-to-door canvass to identify children who may be victims of lead poisoning, sanitation irregularities, or lights out.

We are open until 8 o'clock in the evening; the late evening hours the aides are out identifying reports on alley lights out or street lights out. It is always with the team patrol concept.

We have uniforms like this young lady is wearing, green uniform identifying her as a member of the police department, always accompanied by an officer.

I wear my uniform very proudly to work every day. I don't say it as a cliche. I did. The sergeant here would appear in uniform. Also, we are performing functions that maybe you wouldn't generally consider a police officer should be performing. It was of necessity we did some of these things, because there was no other agency to fill the void.

So, while we were out on surveys we were also out in a patrol concept and we were, I feel, preventing an incidence of crime by our presence on the street.

Mr. LYNCH. Lieutenant, I wonder if I could interrupt to ask you if you would tell the committee the service the organization performed in reference to abandoned automobiles, and explain for those who are not aware of the size of that problem in Chicago how bad it is, and why abandoned autos can constitute a threat to the safety of people.

Mr. ROTTMAN. Surely. The number of cars abandoned on the streets of Chicago is horrendous. People abandon them for various reasons; perhaps mechanically it just doesn't run any more and they can't afford to have it fixed; they can't afford the license, things of this nature; and they let them sit on the street. They park them and there they are. They can create a real hazard.

No. 1, children are attracted to them; No. 2, they are a means of people, derelicts, sleeping in the car. After weeks they become rat infested. I think they contribute, I know they contribute, to the deterioration of the neighborhood.

The responsibility of the aides when they went out on this patrol was to identify these cars, to report on them, to prepare little reports that were forwarded to the Fillmore district police who have "abandoned" officers working in this capacity to see the cars are eventually towed.

We would set up the mechanism and forward the reports to them. Normally this report is done by beat cops, police officers, so by relieving them of this responsibility, we would take the time—"we" meaning the aides—to identify these cars and prepare the reports and allow the beat officer on that particular beat more time to concentrate on the serious crimes.

Then subsequently, the cars would be towed and we have a followup program. They go back the next number of days to see that this work was being done. And if it wasn't, we would have another report we

would prepare or would call the district commander, personally—and we had a very good cooperation between the districts—and would bring it to his attention and the car would be towed.

Mr. LYNCH. You worked directly with the mayor's office of information and inquiry. Explain how that operates.

Mr. ROTTMAN. Yes, sir. Right down the street from the center. These reports we prepare, regulatory reports, will be forwarded to the mayor's office and then they, in turn, would direct them to those agencies that have the responsibility to correct the conditions that we were reporting on: Broken sidewalks, abandoned cars, street lights out, sanitation, dangerous porches, refrigerators abandoned, and things of this nature.

Mr. LYNCH. Lieutenant, I wonder if you could describe the racial makeup of your aides and tell us how many aides were under your command while you still had your service operating.

Mr. ROTTMAN. I had 39 aides, 5 patrolmen, 3 sergeants, and myself, operating that little center. About 60 percent were female and 40 percent male. Toward the end of the program we were trying to correct it and bring it up to a 50–50-percent level.

Mr. LYNCH. Is the neighborhood you were operating in predominantly black?

Mr. ROTTMAN. All black.

Mr. LYNCH. Were the aides predominantly black?

Mr. ROTTMAN. All black.

Mr. LYNCH. How were they selected?

Mr. ROTTMAN. Well, as the deputy mentioned, there was no criteria other than residence criteria. We are obliged to live in the target area.

Mr. LYNCH. What was the age range?

Mr. ROTTMAN. From 18, roughly, to 35. They made some exceptions on the end of the 35. I know, in my instance I had a grandmother in my program who, I would say, would be close to 50 years of age; very effective, though; very effective. This woman had an understanding and compassion that we needed, desperately needed.

Mr. LYNCH. The fact that there was no entrance examination, was, I take it, intentional, and the motive was to pick people who could communicate and who could understand the neighborhood in which they lived; is that correct?

Mr. NOLAN. Yet, it is.

The major factor, as stated, the only criterion being, to be a resident of the neighborhood. We were seeking individuals, again, as I say, no matter if they had a nice background or police record. In this respect we had young men who had been involved in stealing cars and purse snatching; a young woman who had been involved as a prostitute or arrested for shoplifting.

It was our feeling these individuals deserved a second, and in many instances, a third chance.

Back to our employment criteria: Residency, as we mentioned earlier, is the prominent one. Police record, if one has had problems with the police, we believe the second and third chance is necessary. There is a written examination given. The written examination has no effect whatsoever on the person being employed. It just gives to us a better idea of the need for an educational concentration.

The other criteria relating to height, weight, or anything else, is completely ignored. We tried to select people who want to get involved in work.

We found many of your young ladies and men also, who had been on welfare, were very receptive to applying and reapplying and almost demanding we hire them. As Lieutenant Rottman has stated, we found we had to relinquish the 17 to 33 age limit on men and 18 to 35 age limit on women simply because there were these kinds of people that had the talent and desire and wanted to get into the program. We decided to use a few and scatter them around and see how well they would do and we found out they turned out to be some of our better workers.

Mr. LYNCH. Could you have Sergeant Chamberlin describe his service?

Mr. NOLAN. We would be happy to.

Sergeant Chamberlin, by your wishes, Mr. Chairman, has brought along a few slides. Unfortunately, they relate to his particular center. If the committee would care to review them, they would take but a few minutes.

Mr. RANGEL. Before we get into the slides, I was interested, Mr. Superintendent, in the fact that you seemed rather impressed with the type of aides that you have been able to recruit to work in this very exciting program. And yet earlier in your testimony you had indicated that many of them were precluded from joining the police department because of a civil service examination.

My question is: Is this examination administered by the city or by the State?

Mr. NOLAN. It is administered by the city of Chicago, the civil service commission, a separate agency from the police department.

Mr. RANGEL. From reading the activities of the aides and listening to your testimony, I assume that after months or years of this type of experience, that these aides—that is those without criminal records—have gained quite an expertise in many facets of police work.

Mr. NOLAN. Yes, they have, sir; and many have also gone on to law enforcement activities other than the Chicago police. One of the deterrent factors has been, Mr. Congressman, the height and weight requirements of the civil service commission, and also the test Congressman Metcalfe spoke of has been a deterring factor. It is a very rigid type test and, unfortunately, it has been a deterring factor for those aides who have met the height and weight requirement, even with the tutoring we have been able to give some of them in our particular classes.

Here again, we find our civil service commission is not unique in this area. This is something that is done throughout the country. All police departments, and I think there is possibly something that is being tested now in court—and that is civil service exams throughout the Nation. It is felt, due to the current level of young people that we have, those of them that are interested in law enforcement, there is going to have to be a need to look hard at civil service tests throughout the Nation.

Mr. RANGEL. I agree with you, Mr. Superintendent. I think this is especially true of the Spanish, who do have less than the average height requirement, but I am rather surprised that there is a difference

between the height and weight requirements as opposed to your age. Could you elaborate on that, because we have rather rigid physical requirements in New York, but our youngsters certainly can outrun many of the people that are on the police department.

Mr. NOLAN. I am not surprised. Some of us in the department have a tendency to lose our physical condition immediately afterward.

But in 1966, the Chicago Police Department at that time saw fit to lower the height requirement from 5-foot 9 inches to 5-foot 8 inches. And in 1966, because of our Latin citizens, it was necessary to lower those requirements to 5-foot 7 inches.

In my communication with Puerto Rico it was determined that that is also the requirement for police personnel there; namely, 5-foot 7 inches. So that is the height requirement as it stands now, and weight is in comparison to one's height.

We recognize this problem could be further advanced as far as bringing women into the program. Again, along your line of thought it is found a woman 5-foot 2 inches is considered eligible for the police department and will soon be assigned to the same type job—almost same type job—as policemen are now handling.

So the question I am sure will come about: Why isn't this true for men also?

We visualize many types of problems of this nature coming up. But again, I say these are the rigid requirements of our civil service commission and until they are changed by law, we have to obey them.

Mr. RANGEL. Am I to believe the physical requirements are the greatest impediment to men getting on the police force, other than the written examination?

Mr. NOLAN. Those are all components. Each has a weight value. The written test has a weight value, and the height. The physical requirements have another weight value and unless a man is able to balance all of those into a passing grade, then he is summarily dismissed or unable to pass the exam.

Mr. METCALFE. Would you yield? I think it ought to be also pointed out, in the written examination there is no designation as to race, wherein in the physical examination it is obvious what a person's race maye be, and that may be a deterrent factor in having a minority.

Mr. RANGEL. The direction of my question was whether or not the civil service commission might consider the experiments that the aides meet other requirements—other than the written requirements—might consider that a factor without violating the high standards of the municipal civil service in determining qualifications.

Mr. NOLAN. We have attempted in the past, sir, to ascertain if points of any type could be given to an aide taking a civil service exam. This was not considered for the very obvious reason it was not included in any of the civil service rulings, except a man or woman being a veteran of the service. Other than that, no points could be given.

We were able to insert points in a civil service exam for aides who were brought into a new position opened by the Chicago Police Department, superintendent of police, of January 1, 1973, and that was senior public service aides.

Now, of the 200 people who took that examination of which many were our community service aides, not only because of the points, we feel, but also because of their own aptitudes, out of the first 100, only

8 were not community service aides. All of the balance were community service aides. In fact, the first 40 that were called were all community service aides.

Mr. RANGEL. Do you have a Chicago police union or benevolent association; that type of thing?

Mr. NOLAN. We have many in our city; yes, we do. We have a patrolmen's association, which amounts to five different ones, each rank has its own association: the lieutenants, the captains, and the sergeants.

Mr. RANGEL. What was their general attitude toward these proposals to incorporate aides into the police department?

Mr. NOLAN. They were not surveyed as to this. None of our police associations were surveyed. I think I misinterpreted your question. I think your question might have been, if I understand it correctly now, do we have in our city one union that speaks for the police department?

Mr. RANGEL. No, sir. My experience is that our Police Benevolent Association, which is the major police association, really fights desperately hard, political, to exclude any breakthroughs for minorities in joining the police department, even if it is a new category or new grade level being set up. I was concerned about the attitudes of the police unions in Chicago.

Mr. NOLAN. No; we have one of our police associations that actually conducts classes to bring minority groups in. In fact, we have two. One is Latin American and the other is a black association. And Guardians—three associations—also conduct classes and recruit young men, minority groups, to teach them how to take the exam and come into the department.

Mr. RANGEL. Is there a residence requirement to become a regular member of the Chicago police force?

Mr. NOLAN. Yes, there is. That has been changed on the last exam of December 4, 1971. Now a person must be at the time of the examination a resident of the city. Previous to that it was within 6 months move into the city, if one was called into the service. But now one has to be a resident prior to taking the examination.

Mr. RANGEL. I am shocked by the progressive nature of police departments in Chicago compared to my home city of New York. Thank you.

Mr. NOLAN. I understand in some cities, for instance Washington, a man can live within x number of minutes away from his assignment, a suburban area or elsewhere, but due to the nature of large numbers of people, we have 33 percent black. We have a great many Latin citizens in our city and we felt it would be unfair to them to open the examination up to those who were not city residents.

Mr. MURPHY. Superintendent, are a lot of young people applying for a job as a policeman today? Is it a very competitive field?

Mr. NOLAN. Yes, it is. The last exam I spoke of, December 4, 1971, we had 13,000 men on the job. The examinations that were received by the Civil Service Commission totaled in excess of 9,000; 8,300 men showed for the examination itself. Only 35 percent or 3,500 passed that examination. So we have a tremendous amount of people that do apply.

We have an excess amount of men that have passed the exam. In fact, we are trying to pull an additional 500 into this particular position of patrolmen prior to June 30, 1973, because of the need.

Mr. MURPHY. What is the starting salary of patrolmen?

Mr. NOLAN. In excess of $10,000. And at the end of 4 years his salary increases to $14,000—$13,800.

Mr. MURPHY. In other words there is a lot of competitiveness for these jobs?

Mr. NOLAN. There is. It is a salary that is in comparison to the average kind of salary. We recognize, too, education plays a very big part, although a college degree does not enter into the picture of a man applying to the department. We recognize also in today's fair employment practices that many industries and businesses also are searching for that minority citizen. We see him being pulled into other areas other than law enforcement. Naturally, we applaud that.

Mr. MURPHY. I yield to Congressman Metcalfe.

Mr. METCALFE. Superintendent, is it not true that the Chicago police patrolmen are the second highest paid in the United States?

Mr. NOLAN. Yes; they are, sir.

Mr. METCALFE. Isn't it also true, now that they are the second highest paid there are more whites who are now applying because the job is more appealing to them, and if the discriminatory practices were eliminated there would be far more blacks with the police department?

Mr. NOLAN. I would agree at this time only with the first part.

Mr. METCALFE. In the last three or four examinations for patrolmen, you have had an unusually large number of white applicants, have you not?

Mr. NOLAN. Yes, because of the salary.

Mr. METCALFE. Thank you for yielding.

Mr. MURPHY. I have no more questions.

Mr. METCALFE. Mr. Chairman, may I ask Lieutenant Rottman some questions?

Chairman PEPPER. Yes.

Mr. METCALFE. Lieutenant Rottman, I think you indicated that you have 39 aides, do you not?

Mr. ROTTMAN. Yes, sir.

Mr. METCALFE. And five sergeants?

Mr. ROTTMAN. Three sergents, five patrolmen.

Mr. METCALFE. Five patrolmen?

Mr. ROTTMAN. Yes, sir.

Mr. METCALFE. Is each patrolman assigned a certain amount of aides?

Mr. ROTTMAN. Yes, sir; we have a regular organizational chart. Our little center makes up a company, and the company is broken down into platoons, and platoons into squads. The platoon is commanded by a sergeant and the squads are headed by patrolmen. They have 8 or 10 aides under their direction in the squad formation.

Mr. METCALFE. In hearing Superintendent Nolan's testimony, he took credit for the reduction of crime to some degree, but did not take full credit for it, and yet I find that much of your work is, as your title indicates, in community services.

Lead poisoning, you indicated you conduct surveys, you work in sanitation, stolen automobiles. How much does that leave for actually the deterrent of crime?

Mr. ROTTMAN. Their primary requisite when they leave that center is crime.

Mr. METCALFE. How does sanitation relate itself to crime?

Mr. ROTTMAN. In order to report on sanitation, they must be out and they are visible in the neighborhood. They do wear a uniform; they are accompanied by a police officer. So, sanitation would actually, in a crime incidence, be secondary, naturally, to reporting on a sanitation delinquency.

Mr. METCALFE. It is the same with making surveys on the poisoning?

Mr. ROTTMAN. That is right. They are available to the people in the area.

Mr. METCALFE. Isn't that a duplication of effort? In the case of your CCO's in Chicago, your urban progress centers send out teams to check on lead poisoning. Aren't you duplicating that effort?

Mr. ROTTMAN. This is the amazing part. We have an urban progress center a few blocks from our center that actually does the lead poisoning testing, but it is surprising how many of the families—first of all, they are not aware of it for some reason. They do not comprehend all of the services that are available for them.

Mr. METCALFE. I submit to you this is one of their major projects, to send out their aides from these centers to do a door-to-door survey. It seems to me it is a duplication of effort that they are going to do. Maybe you are saying they are not doing the job if you have to come behind them and find these families to educate them on the serious effects of lead poisoning.

Mr. NOLAN. I would make the apology, Mr. Congressman, if the impression was given that our function alone is that of a contributing factor to the reduction of a degree of crime. As Lieutenant Rottman stated, certainly we recognize in all of the communities, confusion, attitudinal change, the acceptance of police responsibility, as that agency is available 24 hours a day, 7 days a week when one needs service, this is the agency that they call.

If it is something that is of a nonpolice nature and we find that it is necessary, we address ourselves to it. We do work in conjunction with the agencies you spoke of. Naturally, because there is expertise, we find it necessary that working with them helps our job as well as it helps ourselves.

As being said by Lieutenant Rottman and myself, we feel that by providing service, or showing people how they can give service, it would take away the opportunity to rise up in frustration, to allow themselves to get just in a state of frustration about what goes on in the community.

One of the most disturbing factors I think we find among our low socioeconomic groups in our country is that there is no opportunity to make change and if people can get involved in ways of making change, such as a child being sick and where to take it; how to avoid the lead poisoning. We recognize in the black community that sickle cell anemia is one of the most disruptive types of diseases that occurs in our race, that these young people—as part of their duties—can direct families, even force families to submit their children to this type of examination in conjunction with the Chicago Health Department.

We feel this service, although it is far removed from normal police procedure, is something that is a contributing factor to that community's welfare.

Mr. METCALFE. I would like to ask Lieutenant Rottman a question and then I want to ask Mrs. Annette Jungheim a question along the same lines.

You are a supervisor by virtue of your rank, so is Sergeant Chamberlin. Would you give me a typical day for a patrolman. What does the patrolman do on a typical day? I would like to know from you what does an aide do after he finishes.

Mr. ROTTMAN. Working hours, we have two watches—a second watch and third watch. The first watch works from eight in the morning until 4 in the afternoon. The aide comes into our center, they sign in. They are required to sign in. Then we have rollcall. And it is conducted either by a sergeant, by a patrolman, or both. Generally, the patrolman is involved with his sergeant in making his rollcall.

We discuss matters pertinent to the neighborhood; we distribute daily bulletins—bulletins published by the police department—containing lists of stolen automobiles, licenses, persons wanted. The patrolman conducting this rollcall would refer to anything in this daily bulletin that may have occurred in our particular target area—perhaps persons wanted, missing persons primarily. We are very concerned about this, plus bringing to the aides' attention the fact that there are a number of licenses now published. "Please when you are out on the street, carry this daily bulletin and be aware of it."

We have uniform inspection conducted by the sergeant in conjunction with the patrolman. We have inservice training of mostly a half hour—45 minutes in the morning. A majority of our mornings are kind of rush because we are out on school patrol. The patrolman in the squad patrols our local schools because we have quite an incidence of older children attacking the younger children.

The aides, their work responsibility in the morning is our school patrols. In fact, in conjunction with some of the directors of the different schools we have set up safe school routes where the children are advised to "Take this route; it will be controlled by community service aides along with this patrolman." The patrolman has a responsibility of the activities of the aides on the street. He directs them; he guides them; and he is with them.

The school patrol—we are there in the capacity, our attitude was and is: here we are; how can we help you? I repeat again, that is so important. The officers in uniform, the aides in uniform.

Mr. METCALFE. How do you coordinate that activity of patrolling a school along the safe routes, telling them how to avoid the turfs controlled by the street gangs, as related to the work of the youth division of the police department?

Mr. ROTTMAN. First of all, when the safety routes are designed, or are identified, then the children in an assembly are advised to take these particular routes. We also work very closely with local district youth officer and he is advised of these routes. These are identified to him, and all three of the schools in my area have an officer or school patrol officer right in the school; he stays in the school proper.

We also keep in contact with the regular school patrols. We have *x* number of vehicles throughout the city manned by police officers who do emphasize their attention to the school areas. And we work,

all three are working in conjunction with each other regarding the safety of the kids, not only in the morning hours, but at noon recess.

Recently we had what we called "closed campuses," they haven't been going home; they find it better to keep the kids at school. Also in the evening, in the afternoon when the children leave the schools, the aides are there out on patrol.

Mr. METCALFE. That is a typical day for you?

Mr. ROTTMAN. Yes, sir. Then when they finish their school patrol they are assigned to beat areas. They carry a regular beat map that the officers in the district carry. They are assigned to particular areas. We may concentrate one day on one particular irregularity—"Let's be very observant for thefts."

We may change from day to day, whatever they are emphasizing, they are looking for. But it is a case of walk and talk to the people in the area.

Mr. METCALFE. How many vehicles do you have in an area?

Mr. ROTTMAN. I have two station wagons assigned to my center.

Mr. METCALFE. Mrs. Jungheim, would you tell me what a typical day is for an aide?

Statement of Annettee K. Jungheim

Mrs. JUNGHEIM. First of all, I would like to talk with regard to lead testing in our program.

In our program, while you may say it was a duplicate of what community reps did, we used to view our job as kind of a duplication, but we realized that if we worked together we would do more. So last year our program in Chicago was brought to Washington at the Mayor's Conference on Lead Testing and Poisoning and it is going to be used as a model throughout the Nation because we were highly successful.

This was coordination of community service aides, community reps, mayor's office and I. I worked very closely with that program, coordinating it uptown and then to the Lakeview area.

So I say, while we do duplicate it, we really extend the effort. The previous summer we had 250, last year 1,500.

Mr. METCALFE. May I interrupt your testimony to ask you: Are you in a supervisory capacity?

Mrs. JUNGHEIM. No, sir.

Mr. METCALFE. You are a typical aide out in the community working?

Mrs. JUNGHEIM. Yes, sir.

Mr. METCALFE. What else do you do?

Mrs. JUNGHEIM. We have our school patrol like the lieutenant mentioned. Not only are we on the street to make our presence known, to guide the children, see they get home safely, we kind of like to rap with kids, see what kinds of problems they have. We organize trips, organize activities, realizing there is a lot of idle time. We organize the movie programs because the kids in our neighborhood don't have the money to go to the local shows and it gives them something to do.

We talk to residents, let them know what is available. Part of the problem, the uptown has like 110 social service agencies. It was to get this information out to community residents, how best to use these

social service agencies available. So we would pass out fliers informing the people what was available.

I must have attended something like 200 workshops in people's homes and senior citizens' homes, telling them about our program, about the services the police department provides, how best to use these services, how to report crime efficiently, properly, who to call. There is a lot of misinformation about crime or how policemen do things.

So we try to do this, in addition to being on the street and getting to know community residents. You had the cop on the corner; now you have the aide on the beat. And this is some of the things I have been involved in.

I think Wayne has been involved in other sorts of things. I organized a lot of programs.

Mr. METCALFE. Before we go to Mr. Crosby, you pointed out how to report crime. Have you had any success in actually reporting crime in the community?

Mrs. JUNGHEIM. Yes, sir; I think we increased the reporting of crime. Maybe they won't call the police sometimes, but they will walk into the center and say, "Hey, you know, something is going on on the corner," or "Yesterday I had my purse snatched. I would like to report it." So then we make the call. We have the beat car come and the report is made.

Mr. METCALFE. From my experience it has been just the opposite, that people are very reluctant to report crime. I imagine it is because they fear the criminal, they fear being intimidated by the criminal, and they lack confidence in the police department. That is the reason I asked you whether or not you had any success.

I tried, and so did an organization I headed up. They met with absolutely no success, even with 6,000 members who signed up for the Third Ward Committee on Crime Prevention. People were not reporting it because of their evaluation of the policemen and of not having any confidence in them. That is the reason I wanted to know what success you have had in getting people.

I agree, and I think you will agree with me, that they see crime, all of us see crime committed in the inner city. And especially in the Model Cities areas, but they don't report it for those reasons.

Mrs. JUNGHEIM. I will say one thing, Mr. Metcalfe, and that is if we go out in one of our local meetings and explain to folks how to report crime and they do report it and they don't get the kind of service they expect they should get, they will let us know about it. And by living in that community I have people come to me at the grocery store, at the stoplight, and say, "Hey, you told me how to do something and it didn't work."

So we do a followup and see what went wrong and bring this to the attention of our supervisor, lieutenant, or district commander and work toward improving police response to a call for service.

Mr. NOLAN. I might add just for a moment to the question asked—I think it is a very important one—and that is with respect to confidence our citizens have in police.

I recognize that in the area the Congressman is speaking of it is a difficult matter. It was a difficult matter for many reasons and that is the citizens have the feeling in many instances, police service will

not be granted. I think this is the kind of thing we are talking about in programs of this nature. The confidence of the citizen and the need of cooperating with the police, their participation in law enforcement for at least controlling crime, which we recognize is a very, very difficult matter.

Crime prevention and crime control are easier said than done.

But what I think is important is there are 422 aides scattered in the city of Chicago that has something like 3.5 million people and I know a good third of those people need all of the help that is possible. And the fact of calling the police and the police don't respond, our superintendent has set up many safeguards where there is an avenue of complaint that should be answered.

We recognize we are never going to satisfy all of our citizens, but I think it is important, as Mrs. Jungheim stated, that where there have been failures, and I agree with the Congressman saying it has to be brought to the police attention immediately, something has to be done.

Mr. METCALFE. Superintendent, at one time the Concerned Citizens for Police Reform, of which I am a member, had some negotiations cut off by the superintendent at the request of the mayor. We had policemen who were instructed by the superintendent to get out of their squad cars 1 hour a day and walk the streets. I found that to be very effective, but what has happened to that program? They are not doing it now.

Mr. NOLAN. Unfortunately, at that particular time we were using mostly one-man cars and we used it with the one exception of beat patrol and the use of the hand-held radio. Unfortunately, because of an increase of crime it was taken for a short period of time. But as the Congressman is most likely aware, just 2 weeks ago we transferred over 250 men out of traffic. These men are now assigned to beat cars, partly on the day, but especially the afternoon watch, 4 to 12 and the first watch, 12 at night to 8 in the morning.

All cars, especially in 95 percent of our beats, are now manned by a two-man system and part of these people's function, especially in the neighborhood and business area from 4 to 12, is to park the car, for one man to get out of the car, to stay within sight, if you will, of that particular beat car, but to patrol on foot.

We agree without a doubt that the essence of the police concept of removing men from the post on the foot patrol has not been a good factor in our mobility of trying to cover all of the beats in our city. We recognize it is a must that people get back on the street. Many of the men who came out of traffic were placed in our Loop area. Loops throughout the Nation, or shall I say the downtown area of our Nation, have suffered for lack of police patrols.

In the city of Chicago the superintendent has issued as of April 1, a department order that policemen would patrol on foot in the Loop area all hours of day and night. This is being done for the sole purpose of curtailing crime and giving all of our citizens a feeling of safety in that particular area.

Mr. METCALFE. It is also because of the vast billions of dollars that are vested in the downtown area and that is protection for the businessman's interest, but not in the community where the crime exists. I submit to you that this program is not in effect now and I would like to be proven wrong. I know it was in effect and it was very effective,

but I submit to you it is not in effect. These two-man squad cars are not getting out of their car and walking the streets as they did for a short period of time right after we conducted our hearings in Chicago, and brought so much attention to the poor police community relationships that exist in Chicago.

Mr. NOLAN. Approximately 1 year ago, in our 19 police districts in the matter now being addressed by the Congressman, a pilot project of a police officer using the hand-held radio, patroling a designated post, was utilized by the superintendent and found to be fairly successful. This same program was, should I say, put aside for a short period of time for lack of personnel. Now these new men we are speaking of have been hired. Now the cars have gone into the two-man concept.

I am very sorry to hear that in the area that has been addressed to by the Congressman it has not occurred, but I would like to say we certainly would like to have an opportunity to have it brought to the Congressman's attention as quickly as possible, that this type of patrol system is in effect, hopefully in effect with the cooperation and support of business, and as he stated earlier, resident people to have a feeling of safety.

It is important that policemen patrol the inner city. It is important that policemen get out of their cars in the inner city because this is where the problem lies. If the lady does not feel safe in going to the store at 6 o'clock in the evening that is just a block from her home, then our cities are in trouble, and this is the kind of condition we are to alleviate.

Mr. METCALFE. Mr. Chairman, I appreciate your indulgence. You have been more than kind, but there is one question I would like to ask of you.

Was Superintendent James Conlisk, Jr., invited to come before this committee and testify?

Chairman PEPPER. I am informed the superintendent was invited.

Mr. METCALFE. May I, at this particular time, enter into the record some questions I would have asked the superintendent? One is: As a result of the LEAA study of the Chicago police, that it found out the Chicago civilian death rate in the hands of law enforcement officers was almost 1½ times the rate of Philadelphia; more than three times the rate of New York, Los Angeles, Detroit; and 75 percent of the civilians killed by police officers in the Chicago area are predominately blacks.

I would have asked him about the charges of police brutality and why there is a lessening of confidence on the part of the people, which goes to the heart of the question I asked Mrs. Jungheim a moment ago—because of the lack of confidence in them.

I would have asked him whether or not the efficiency rating system, the disciplinary system, and appointment of specialized duties systems, have been changed to eliminate discrimination in the city departments.

I would have asked him also how is it that within the police department—this is not civil service—they have psychological examinations, and why it is that the policemen who have been found to be psychologically unfit are passed in the examination and then are assigned to high crime areas, which is in the inner city, during their first tour of duty, rather than to have them eliminated when it has been proven they are sadists or they are racists or they are inclined to be.

I would have asked him those questions, because my information comes from a former member of the police department. He was a civilian, Mr. Mendelson, who is a psychologist, and who made these examinations, gave his report to the police department, and still they hired them.

And this has been a cause of it.

I would have also pointed out to him that as a result of being a member of a commission that was appointed by Mayor Daley, known as the Austin Commission, which I sat on, it was found out that the basic cause of the riots on the West Side following the assassination of Dr. Martin Luther King came as a result of the pent-up feelings that people had in that particular community against the police.

I would have pointed out to him that the other riot they had, again where a woman was killed by the lamp post that was knocked down by a firetruck, was the result of the pent-up feeling. And I say that you are working at a distinct disadvantage when you have to work under that cloud of a condition where the people if they do make a report they then become the defendant in the case and therefore you have not had many people to come forward.

Those would have been some of the questions I would have asked the superintendent; but I do not ask the deputy superintendent, because he is not in authority to make that determination.

Thank you very much.

Mr. NOLAN. I would like to make one exception here. The superintendent of police has been sick since the first of the week and that is one of the reasons why his presence is not here today, sir.

Chairman PEPPER. We will move along. We are running a little behind in our time schedule.

Mr. Lynch, do you have other questions?

Mr. LYNCH. Yes, I think it is important to point out that the police officers and the aides who are here with us today are involved in a program which is certainly attempting to alleviate some of the conditions which Congressman Metcalfe has discussed.

I would like to clarify one point, getting back to the community service aides program. Is it not the case, Superintendent, that when aides perform street level duties involving school patrols, lead poisoning surveys, abandoned auto surveys, housing code violations, and the like, that they are at the same time performing a very conspicuous patrol or quasi-patrol function?

Mr. NOLAN. Yes, they are. Their mere uniform's presence being a deterring factor. As we all know, it is difficult to identify and to make statistics on what effect a patrolman in a squad car would have on the prevention of crime. And the same thing goes with an aide.

I think it is fair and I think it certainly can be documented at this particular time, and we relate to you some of the incidents where these aides have assisted in the arrest or causing the arrest of individuals committing crimes.

Mr. LYNCH. I wonder if we might do that a few minutes later. Would it be fair to say, that while this may duplicate work other agencies are doing, it is work in which they are making police contacts with the citizens and pointing out that the police department provides services and help?

Mr. NOLAN. Yes. Very much so, Mr. Counselor.

Mr. LYNCH. I wonder if you could now ask Mr. Chamberlin if he would be kind enough to show the committee the slides about the program.

Mr. SANDMAN. Before you get into that may I ask the superintendent another question.

I read over your objectives and I think they are good. The thing that concerns me a little bit here is that although almost all of your activity is directed to the streets, mainly young people, I don't see anything here—you may have covered this during my absence and if you have, I apologize—with what happens on the school grounds.

This committee had hearings around the country and we found that especially in the cities the drug trafficker was safer in a schoolyard than he was outside the schoolyard. And I am wondering why in your discussion of what you do there isn't more activity here on the supervision within the school grounds. Has there been any activity in that line?

Mr. NOLAN. Yes, there has. First, I would like to say that within the school ground itself, within the building, it is necessary for us to obtain permission. As Congressman Metcalfe stated we do have in our school grounds school patrol officers that work out of the youth division. We also have school visitation officers whose main job is to bring to the students within the school those concepts of things such as narcotics and drugs; what the law is; what their responsibility is.

But as far as the aides themselves are concerned, we have found it necessary to go into the schools at the elementary level, at the sixth grade level, to give instructions, with the permission of the board of education, as to the evils of narcotics. This is done, not necessarily in all of its entirety by the aides themselves, in conjunction with another factor of this bureau, and that is the neighborhood relations sergeant and the school visitation officer.

Charts are made up, examples of drugs that are not real, examples of drugs shown to young people in these grades. We felt they might have been too young at one time, but through the board of education's decision we were allowed to come into the schools to start this.

We recognized in too many instances the drug problem begins at that young level, especially the high school.

Mr. LYNCH. Superintendent, could you tell the Congressman whether or not aides, in their 455-hour training program, are given any training in drug addiction problems?

Mr. NOLAN. Preservice and inservice; yes, they are.

Mr. SANDMAN. In our hearings we had in New York we were told stories that you just couldn't possibly believe, but they were true, about the trafficking. It was safer to pass any kind of drug inside the yard than it was outside the yard.

We brought in the school board and we asked them what activities they were conducting to try to curtail this and they pointblank took the position that theirs was an obligation that pertained to the training of the students and theirs was not an obligation pertaining to the enforcement of the law within the school.

Have you run into that kind of difficulty?

Mr. NOLAN. On the first of April, the department issued a new organizational chart—and this is another reason why the superintendent isn't here—called bureau of investigative services. Within that bureau there is called a game crime unit whose specific responsi-

bilities will rely on young people, especially those around the schoolyard peddling drugs. I am sorry, I was not aware the questioning would have gone into this area or I could have brought some of this premature evidence of their success in trying to stop drug traffic.

This is one of the greatest problems that faces our Nation. The school systems do have a problem addressing themselves to that particular point.

Some citizens in our city, I don't know about other cities, took it upon themselves in June of 1971 to conduct classes for their own teaching staff to make them aware of the evils of drugs and how to detect the same being used in their classrooms.

Mr. SANDMAN. Do you believe, Superintendent, that it is necessary to have police on the high school grounds in the big city area?

Mr. NOLAN. I think in some of the schools in our city that it is not only necessary but it is almost compulsory we have police officers in some respect. I recognize this is not a good thing. I recognize this does not lend toward good education. But I think in order for the schools themselves to be conducted in an orderly fashion, law enforcement forces are there at auxiliary or assigned on a regular basis.

I think it something some of our schools do need.

Mr. SANDMAN. Do you have any kind of law in Chicago, or Illinois for that matter, that requires a schoolteacher, if she has reason to believe the student has any kind of drugs or paraphernalia, must take it away?

Mr. NOLAN. In our school system we have a different system. The board of education provides auxiliary personnel who are off-duty policemen, hired by the board to work in the schools. They notify the office where the police officer is usually found and he immediately goes to the room and conducts whatever activity is necessary in this area.

The schoolteachers themselves, we would prefer for them not to get involved unless of actual necessity.

Mr. MURPHY. Would the gentleman yield in that regard?

The mayor and city council in Chicago passed an ordinance prohibiting loitering around grammar schools and high schools. Police intelligence indicated that cars driven by people obviously beyond the school age would attract clusters of kids for the purpose of selling pills and hard narcotics. That ordinance was struck down by the court as unconstitutional in that the city did not have the right to police the school grounds in that way. That was one of the handicaps we faced.

Mr. SANDMAN. Out of curiosity, what court?

Mr. MURPHY. The Federal court.

Mr. SANDMAN. Under this system that you talk about in Chicago—let me give you this kind of hypothetical case: The schoolteacher has reasonable cause to believe a particular student has drugs in his desk drawer, his locker, or his pocket. As I understand what you say, she doesn't have a responsibility to require him to give that to her, but she must notify someone in that school that does. Is that true?

Mr. NOLAN. I think she has a responsibility, which all of us should understand and follow, that when any activity of crime, believed to be crime, is within a person's scope that they should notify that person in authority, be it her opinion to notify the officer to get up there immediately or to, if he has reasonable grounds to believe the individual has

contraband within his locker, within his desk, it would give the officer reason to believe this person should be searched, then this is done.

Naturally, with the individual's rights in concern.

Mr. SANDMAN. Under your law, does that individual, meaning the police or whoever it is who is called in, have the right to require the student to surrender the contraband?

Mr. NOLAN. In our city, by State law, he does have that right.

Mr. SANDMAN. Thank you.

Chairman PEPPER. Mr. Lynch, are you ready for the slides now?

Mr. LYNCH. Yes, sir, I am.

[At this point in the hearing slides were presented by Sgt. John Chamberlin.]

Mr. LYNCH. Mr. Chairman, I wonder if I might proceed to ask Mr. Crosby several questions?

Statement of Wayne Crosby

Chairman PEPPER. Yes, please do.

Mr. LYNCH. I wonder if you would tell us how long you have been a community service aide?

Mr. CROSBY. I have been a community service aide for almost 3 years.

Mr. LYNCH. How old are you?

Mr. CROSBY. Twenty-four.

Mr. LYNCH. What kind of employment did you have prior to joining this program?

Mr. CROSBY. I was a taxi driver.

Mr. LYNCH. Why did you join this program?

Mr. CROSBY. Well, it gave me an opportunity to help out in the community, plus further my education.

Mr. LYNCH. Further your education in what way?

Mr. CROSBY. I was a dropout prior to coming into the program.

Mr. LYNCH. How has this program helped you in that regard?

Mr. CROSBY. It has helped me obtain a G.E.D. diploma, plus college credits.

Mr. LYNCH. Do you attend classes at the program's expense?

Mr. CROSBY. Yes, I did.

Mr. LYNCH. And you are given time off for that?

Mr. CROSBY. Well, as stated earlier, we are allowed 9 hours a week to attend school, G.E.D. training or college courses.

Mr. LYNCH. Is this a common thing among the aides? How many of your colleagues who are aides also attend school? A large number?

Mr. CROSBY. Yes.

Mr. LYNCH. Would you tell us what the normal course of a day's activities is—what do you do as a community service aide?

Mr. CROSBY. Well, I normally go out on foot patrol and school patrol, covering the schools, making sure that kids aren't harassed or abducted into abandoned buildings close by.

Mr. LYNCH. Do you regard yourself as performing at least quasi-law-enforcement functions?

Mr. CROSBY. Beg pardon?

Mr. LYNCH. Do you perform law enforcement functions?

Mr. CROSBY. Well, no—yes, in a sense.

Mr. LYNCH. In what sense?

Mr. CROSBY. We write up violations to city ordinances.

Mr. LYNCH. On a typical day, how much time might you spend on actual foot patrol, walking through a neighborhood?

Mr. CROSBY. Seven hours.

Mr. LYNCH. And are other aides with you on that kind of patrol duty?

Mr. CROSBY. Oh, yes.

Mr. LYNCH. How many?

Mr. CROSBY. Quite a few. There's about eight of us.

Mr. LYNCH. Are you accompanied by a regular Chicago policeman?

Mr. CROSBY. Yes, we are.

Mr. LYNCH. How many?

Mr. CROSBY. Well, one supervisor, and there is a sergeant up over him.

Mr. LYNCH. Do you attend community meetings with citizens in your community?

Mr. CROSBY. Yes, I do.

Mr. LYNCH. What do you do at those meetings?

Mr. CROSBY. We have various workshops such as you have seen in the film up there, but the tutoring programs we have for kids and various different things that we intend to have at later dates.

Mr. LYNCH. Based on your 3 years' experience, is it your feeling that you have in some way contributed to reducing crime in the neighborhood in which you serve?

Mr. CROSBY. Yes, I feel we have. Just by our presence alone, you know.

Mr. LYNCH. Superintendent, I wonder if I could ask you whether or not it would be your judgment that this kind of program ought to be continued at its former level in your department?

Mr. NOLAN. I believe it should be continued at the level that it was at. I daresay, and I would be the first to admit that there are a lot of kinds of things we were doing that we found in later months of continuous operation that could be done a different way that would better the citizens.

I think some of the programs that we initially started out on, we finally dropped to pick up better programs. Unfortunately, there was nothing we had throughout our Nation to model this type program after. So, consequently, as we see the variations of crime and how a paraprofessional can become involved that has no arrest power, that carries no weapons, but still can make a contributing factor toward the reduction of crime, and I think there are many kinds of improvements that could be made on programs of that nature.

We would not stay in a staid position. I think it should be carried on.

Mr. LYNCH. In fact, you are implementing a program which was, in a sense, recommended by the President's Commission on Law Enforcement and Administration of Justice in 1967?

Mr. NOLAN. Yes, we are.

Mr. LYNCH. And probably constitutes the only department, certainly to my knowledge, that is doing it on a large scale. Would it be your judgment that this is the kind of program which should receive Federal support on a priority basis?

Mr. NOLAN. I would say yes; and I would think it would be a fine thing for our Government to recognize a program of this nature with

citizen participation as one way that the total Nation could be involved and benefit from reduction of crime, which is a major factor in our society today.

Mr. LYNCH. Mr. Nolan, as a policeman with many, many years of law enforcement experience, would it be your judgment that this kind of program should be adopted for use in most of our major urban centers?

Mr. NOLAN. Yes. I think certainly it would have to be patterned as to their particular needs, but I think all of our major cities could use a program of this nature and certainly of this size in comparison with their population, to help in this effort.

Mr. LYNCH. Superintendent, if you have not already done so, would it be possible for you to send us comparative crime data on the district in which your program has operated?

Mr. NOLAN. Yes, we would, sir. And by permission of the chairman, we would like to ask permission to enter an item, various items of specialized efforts by this particular program as it relates to edicts from the department and also rules and regulations under which they work. If it is permissible we would like to have it entered in the record at this time.

Mr. LYNCH. Mr. Chairman, the superintendent has given me a very good summary describing what this program is all about, and describing its accomplishments. I would ask that this be entered in the record, with your permission.

Chairman PEPPER. Without objection, it will be admitted into the record.

[See material received for the record at the end of Mr. Nolan's testimony.]

Mr. LYNCH. I have no further questions, Mr. Chairman.

Chairman PEPPER. Mr. Murphy.

Mr. MURPHY. I have no further questions, Mr. Chairman. I would just like to commend Superintendent Nolan for the fine job and the leadership that he has demonstrated on the Chicago police force. As a Congressman from the Chicago area, I know that Chicagoans are very proud of their police force and men such as Superintendent Nolan. I would also like to thank the fine group of associates Mr. Nolan has brought with him for their attendance and valuable comments.

Chairman PEPPER. Mr. Metcalfe, have you further questions?

Mr. METCALFE. I have no further questions. I would like to also express my thanks to Superintendent Nolan and all of the very fine people who are here to demonstrate what this community service program is. Regretfully, I have to look upon it as being an oasis in the police department.

You are doing a good job and you are giving a good image to the police department. If all of the rest of these departments were contributing to society's needs, I think we would have a good police department in the city of Chicago, which we do not have now.

Mr. NOLAN. Thank you, Congressman.

Chairman PEPPER. Mr. Nolan, I wish, on behalf of the committee, to thank you and your associates for coming here this morning and giving us the very interesting presentation you have made. The idea of the police department wishing to identify itself more closely with all of the different areas and the different people of the district it serves, I think, is a very commendable one.

Undoubtedly, the people can help the police enormously to reduce crime and make it possible to prosecute crime if they work in cordial cooperation with the police department.

The folks must be made to feel that the police department is their protector, their friend; not their enemy. It is to their advantage and to their interest that they work cooperatively with it, because as they help to protect somebody else, some other citizen, that same procedure may later protect them against crime.

The purpose of these hearings is to bring out these innovative programs in the country that various police departments are carrying on. We still have, despite all of the excellence of what is now being done in the country, a large volume of violent and serious crime. That is still a challenge that we have to meet some way or another. What would you suggest could be done?

What could be done if you had the cooperation of Congress, the cooperation of the State legislature, the cooperation of your municipal authorities in addition to what is now being done to further reduce violent and serious crime in Chicago?

Mr. NOLAN. Well, Mr. Chairman, I wish there was a simple answer to that, but I am sure that your committee and yourself are probably way ahead of us as law enforcement personnel. We recognize this as probably one of the biggest problems facing our nation. We recognize the problem of crime encompasses more than the violations of law and the breaking of the laws themselves.

Our citizens have so many frustrations of the social economy, of the housing problem, of the unemployment. If our Federal Government would look kindly on finding ways to helping in this solution, the whole concept of impartially regarding all of our citizens in employment and in housing, I think it would be a step, a long step, in the right direction.

I think most of our crime, some of it of a petty nature that grows into a major nature, is born from frustration; is born from emotional impact from which there is no way out, that people are not considered equal citizens.

I think that many of these things are necessary to bring to the attention of the citizen that he has a responsibility, a serious responsibility, of obeying the law. I think it is a responsibility that many of our citizens are not cognizant of or do not follow.

I think with the cooperation of the Federal Government, of the Congress, these kinds of things certainly could be addressed.

Chairman PEPPER. Last Friday morning in Miami, which is my home, I participated in some hearings before the Education and Labor Subcommittee of the Congress. We talked about the inadequacy of Federal aid in keeping young people in school from being dropouts. I asked, "What would be the significance of the student in school dropping out?"

And they answered that generally speaking they found their way into the juvenile courts. And we found out from juvenile judges who testified before our committee that about 50 percent of the boys and girls who are seriously involved before the juvenile courts go on into greater and more serious crime and wind up in our State penal institutions.

Do you have a school dropout problem in Chicago?

Mr. NOLAN. A very serious one, sir. And it is very high among minority groups, blacks and Latins. I think it is higher among the Latins than the blacks.

Chairman PEPPER. Do you find a relationship between school dropout and juvenile crime?

Mr. NOLAN. Without a doubt. Our crime statistics will show that a larger portion of our crime is committed by juveniles; and we find of those juveniles that are committing crimes a greater proportion of those young people are school dropouts.

Chairman PEPPER. So that if we could just adequately cope with that one problem——

Mr. NOLAN [continuing]. It would be very helpful.

Chairman PEPPER. We would reduce the commission of serious crime and violent crime by a high percentage, would we not?

Mr. NOLAN. Very much so, Mr. Chairman.

Chairman PEPPER. This committee had some hearings in Philadelphia 2 or 3 years ago because they had gang warfare there. And the year before we were there, 31 young men were killed in that gang warfare that went on in the city of Philadelphia.

I remember a businessman testified before the committee as to what the business community was trying to do to diminish that situation. I asked this gentleman, "With all respect for the sincerity of your efforts and the good work you have done, how many recreational areas are in the area where the gangs fight one another?" He said "One."

"How many coaches, how many playground supervisors are there?" "Just one at that particular place." I asked, "Did it ever occur to you, gentlemen, the good results you might get if you hire some playground supervisors and get some more playgrounds and bought some playground equipment for these young boys who just do nothing and roam around idly on the streets?

"If you could get them involved in athletic programs or some sort of wholesome activity, you would reduce their participation in violent crime."

He said: "Well, maybe so, but it hadn't occurred to us that one way to reduce crime would be to divert the energy and activity of those boys into recreation or some sort of wholesome activity."

Mr. NOLAN. We feel, all crime prevention programs should work at giving an individual an alternative, an alternative to participating in non-law-type activities.

Chairman PEPPER. We had hearings in Chicago and had very fine cooperation from your great distinguished mayor and your police officials and your TV stations. Educational TV had us on TV all day during our hearings and summarized our program for 2 or 3 hours in the evening.

I recall you had there a very serious drug problem, also. We had one instance of where money was given to a high school student and that young lady went out and came back within 2 or 3 hours with almost every kind of drug that one could use, that she had bought in her school.

That is one of the things this committee is trying to do, trying to get the Federal Government to help with money that can be used in the schools, to employ drug counselors and to teach the teachers more

about drugs, to aid the parents in learning something more about drugs.

Do you regard that as a serious problem in your area?

Mr. NOLAN. We certainly do and I would like to speak for the 13,000 members of our department and certainly our superintendent and other staff. We compliment this particular committee in working in our behalf and all of the other cities' behalfs. Drugs are a very serious problem in our city and I can only speak for Chicago. Any kind of help that is given, giving youngsters alternative to let them know, recognize as we do, that drugs are not only being misused or have been misused by our minority citizens, but certainly by those in the wealthy areas in the Chicago metropolitan area; those people are suffering, also.

So it is not a problem of minorities alone. We feel that money spent in this area by our Federal Government would certainly be returned twofold by better citizens.

Chairman PEPPER. Very good; one other question. Do you have any serious delay in the courts of Chicago in the trial of people that the police arrest and bring into the prosecution system?

Mr. NOLAN. Yes; we do have a backlog. This is being worked at steadily by our chief judges and other individuals of the criminal justice system. It is something that because of the inadequacy in the past that has been allowed to grow upon us in such a sense that some of our serious crimes have been addressed to rather late, but fortunately there has been a move in another direction, where progress is seen, and we now feel in the city of Chicago our courts are catching up with the backlog of cases.

Chairman PEPPER. I see. Thank you again, Mr. Nolan, you and your associates, for coming here and helping us.

Mr. NOLAN. We thank you for inviting us.

[The following material was received for the record:]

REPORT OF THE SUPERINTENDENT OF THE CHICAGO POLICE DEPARTMENT TO THE POLICE BOARD, DECEMBER 14, 1972

1. *Personnel and training.*—There were 444 Department recruits enrolled in the 39-week Academy training program on November 30, 1972. Of this number, 146 are scheduled to graduate on December 29.

In addition, 48 recruits from nineteen suburban police departments and various county and state law enforcement agencies graduated on November 3 from a 7-week Academy training program. On November 13, 25 more recruits from eleven suburban police departments as well as county and state law enforcement agencies started a new 7-week training program.

Eighteen Department Policewomen recruits were enrolled in a 21-week pre-service training program. This class is scheduled to graduate on March 23, 1973.

Other training programs conducted at the Department's Academy during November include:

14 Sergeants completed a two-week pre-service training program for Lieutenants.

61 Members completed a three-week pre-service training program for Sergeants.

48 Members completed a four-week pre-service training program for Investigators.

63 civilian employees of the City graduated on November 10 from a 6-week pre-service training program to qualify as Community Service Aides.

29 civilian City employees started a 6-week pre-service training program on November 13 to qualify as Community Service Aides. This class is scheduled to graduate on December 22.

306 Members participated in various firearms range activities. In addition, 376 men from five county and state law enforcement agencies took part in supervised range activities.

2. *Awards and commendations.*—Department Commendations for bravery in action were awarded to eight Members. Honorable Mentions for outstanding activity were awarded to 962 Members. During November a total of 201 Officers were complimented for their official actions in letters received from citizens.

3. *Model cities program.*—There were 413 Community Service Aides on active duty on November 30, including those currently enrolled in pre-service training, as heretofore cited.

Aides filed reports during the month relating to 3,684 service requests from the public. They also conducted 1,775 follow-up investigations relating to public complaints about services.

Aides were instrumental in the recovery of sixteen stolen vehicles; conducted investigations into animal bite complaints which involved 22 persons, and investigated reports of four missing persons.

The arrests of a man involved in a drugstore robbery attempt and a second man who was operating a stolen vehicle were made possible by alert reporting of the incidents by Aides.

Aides also participated actively in conducting a program of field trips, educational tours and recreational outings for residents, chiefly youngsters, in the six target areas.

4. *Complaints against members.*—During the 11th period, from October 12 through November 8, a total of 358 complaints were filed against members by citizens and Department personnel.

In the same time frame, the investigation of 453 complaints was completed of which 85, or 18.7 per cent were sustained.

It is pointed out that investigation of 38 additional complaints was terminated or held open because citizens declined to cooperate with Department investigators.

In the 85 sustained cases 109 members were disciplined as follows:

6 received oral reprimands
20 received written reprimands
50 were suspended for from 1 to 5 days
9 were suspended for from 6 to 15 days
24 were suspended for from 16 to 30 days

In addition to the above, eight accused members resigned from the Department while subjects of investigations.

5. *Crime and traffic statistics.*—During the 11th period, from October 12 through November 8, there were 9,267 index crimes reported. This total represents a decrease of 4.8 per cent in comparison to the same period in 1971 and a reduction of 5.7 per cent in comparison to the previous 10th period.

On a cumulative basis, there were 102,968 serious crimes reported during the first eleven periods in 1972, a reduction of 2.9 per cent in comparison to the same eleven periods in 1971.

Further, on a cumulative basis, four crime categories showed decreases and three showed increases in comparison to 1971 as follows:

Homicide, 598, down 16 per cent; robbery, 19,418, down 0.3 per cent; burglary, 30,869, down 3.7 per cent; auto theft, 27,742, down 6.4 per cent.

Increases occurred in the category of:

Serious assault, 9,651, up 0.8 per cent; rape, 1,312, up 4.3 per cent; theft ($50 & over), 13,378, up 0.4 per cent.

Traffic statistics for the month of November follow:

	November 1972	November 1971	Cumulative to date 1972	Cumulative to date 1971	Increase or decrease
Fatalities	28	23	261	256	+
Personal injury accidents	2,170	1,788	25,450	24,093	+1,35
Property damage accidents	12,239	9,912	131,738	111,617	+20,12

As of the end of October, Chicago ranked lowest among cities of over a million population in the number of traffic fatalities per 10,000 registered vehicles:

Rate per 10,000 Registered Vehicles[1]

Chicago	2.5
Los Angeles	2.8
Philadelphia	2.8
Houston	3.0
Detroit	3.7
New York	4.3

TOTAL FATALITIES JAN. 1 THROUGH OCT. 31[1]

	1972	1971	Increase or decrease
Chicago	231	233	−2
Los Angeles	364	366	−2
Philadelphia	157	172	−15
Houston	146	153	−7
Detroit	204	186	+18
New York	712	758	−46

[1] Source of the above comparative intercity figures is the National Safety Council.

GENERAL ORDER

Subject: Community Service Aides Project

I. PURPOSE

This order:

A. Continues in effect the Chicago Police Department's Community Service Aides Project within the Preventive Programs Division of the Bureau of Community Services.

B. Details the functions and responsibilities of Command and Supervisory personnel with respect to the project.

C. Outlines the functions and responsibility of the Community Service Aides.

II. COMMUNITY SERVICE AIDES PROJECT

The Community Service Aides Project is the Chicago Police Department's part in the Model Cities Program of the City of Chicago, which is operated under the component; Law, Order, Justice and Corrections. The Community Service Aides Project has been designed to address two problems concurrently:

(1) reduce crime in the Model Cities neighborhoods to a level at least comparable to non-model cities areas.

(2) improve relations between members of the community in the Target Areas and the police who serve them.

III. RESPONSIBILITY

The Superintendent of Police will direct and administer the project. He will direct and control the combined and coordinated efforts of the Personnel, Research and Development, Training, Patrol, and Preventive Programs Divisions. The Director of the Preventive Programs Division, under the direction of the Deputy Superintendent, Bureau of Community Services, has been delegated the necessary authority to see that this project conforms to the goals of the Model Cities Program.

The Community Service Centers and their assigned personnel are placed under the direct supervision of the Project Director, who will operate under the direction and guidance of the Deputy Superintendent of the Bureau of Community Services, and the Director of the Preventive Programs Division. The Project Director will assign the various jobs and missions to the Community Service Aides, and assure the proper care, appearance, and efficiency of the service centers.

IV. ORGANIZATION AND FUNCTIONS

The Community Service Aides Project will operate from six Community Service Centers, and be administered and controlled from a Headquarters Office.

A. *Headquarters.*—The Project Director will be assigned one sergeant as administrative assistant and one patrolman. He will also be assigned an accountant, a principal stenographer, a senior stenographer and two principal account clerks. These people comprise the administrative staff and will perform all the necessary accounting and reporting duties.

B. *Community Service Centers.*— The community service centers are akin to satellite police stations, and also serve as a training center and headquarters for the Community Service Aides. The centers will be open 12 hours a day, operating on two eight-hour, overlapping shifts. To each center there is assigned a lieutenant, several sergeants and patrolmen.

(1) Lieutenants. The lieutenant is a visible representative of police management in the target areas. He will administer the center, coordinate the efforts of the sergeants, is responsible for the overall conduct and efficiency of the personnel assigned.

(2) Sergeants. The sergeants will operate a station desk in each center. The desk will be staffed at all times when the center is open and be available to members of the community to express complaints, seek protection, make inquiries, and request not only police service, but service from other concerned city agencies. The sergeants also act as training officers for the Community Service Aides. In addition, the sergeants supervise the patrolmen and are available as counselors.

(3) Patrolmen. The patrolmen will work with and supervise the Community Service Aides in the field. He will be responsible for the output of the Aides assigned to him, assuring that they are on their assignments, checking attendance, and performing other duties of a line supervisor.

V. COMMUNITY SERVICE AIDES

A. *Recruitment.*—The Personnel Division of the Chicago Police Department will have responsibility for recruitment and determining the eligibility and qualifications of applicants desiring to become Community Service Aides. Applicants will be appointed at the direction of a selection board consisting of the Deputy Superintendent, Bureau of Community Services; the Director of Personnel; and the Project Director of the Community Service Aides Project.

B. *Duties.*—Community Service Aides will perform the following duties:

(1) Foot Patrol. Aides will be assigned as a member of a Squad, supervised by a Patrolman, to patrol a specific section of the Target Area on foot. While on patrol the Aides will observe and report on such things as: Abandoned Vehicles—In addition to reporting the abandoned vehicle, check the registration against current listing of vehicles reported stolen; abandoned refrigerators: abandoned buildings that constitute a hazard; dead animals on the public way: dangerous holes or obstructions in street, sidewalk or curb: street or traffic signs that are missing, inoperative or obscured: lost children; aged or infirm persons in need of assistance; missing persons; truants; open fire hydrants; unauthorized persons loitering around schools; live wires down; other hazardous conditions.

(2) Crime Prevention. The Aides will be visibly deployed at all types of public gatherings to minimize the opportunity for citizens to be victims of theft from person (pickpockets, purse snatchings).

The Aides will be utilized to pass out literature such as pamphlets and brochures advising citizens on how they can protect themselves or minimize the likelihood of their becoming a victim of the crimes of burglarly, robbery, rape, etc.

Aides will, by their many face to face contacts with citizens during their patrols and attendance at neighborhood meetings, be in a position to explain the role of the citizen in combating crime and delinquency.

While on patrol in business districts be alert and call to the attention of the proprietor conditions that may make him vulnerable to such crimes as shoplifting, burglary, etc.

(3) Clerical Duties. Aides will be assigned as Assistant Secretaries and Assistants to desk personnel in District Stations; assigned to assist the Review Officer in District Stations; assigned during early evening hours in

Libraries, Schools, and Churches to assist in regulating the demeanor and decorum of school age children in these locations; be utilized as tour guides in Police Stations.

(4) Police-Community Relations. Aides will be assigned to assist the District Commander and the Neighborhood Relations Sergeant in promoting Police-Community Relations Workshops; assist in organizing Block Clubs and other neighborhood clubs, and assist in arranging for these clubs to meet with police personnel on a regular basis; take advantage of every opportunity to explain police procedures and practices to members of the community.

(5) Miscellaneous. Aides will be assigned to assist the Neighborhood Relations Sergeant with youth activities; patrol playgrounds and perimeter of school grounds, reporting undesirable conditions and/or conditions that may lead to crime; provide special escort for children from school, such as a child that becomes ill during school hours, and is sent home.

C. *Disciplinary procedures.*—Disciplinary procedures relative to complaints and/or disciplinary actions against Community Service Aides are prescribed in Bureau of Community Services Special Order Number 70–6, dated 19 May 1970. Complaints against Community Service Aides are reported to Unit Commanders of the Community Services Aides Project, and NOT to the Internal Affairs Division. Complaints against sworn members of the Community Service Aides Project are processed in accordance with the provisions of General Order Number 67–21 as amended.

THE CHICAGO POLICE DEPARTMENT TRAINING BULLETIN

THE COMMUNITY SERVICE AIDE PROJECT

Since February of 1970 the Chicago Police Department has sponsored a "Police Community Service Aides Project" under the auspices of the federally funded Model Cities Program. A total of 422 Community Service Aides have since been hired by the Chicago Police Department to work under the guidance and direction of 72 sworn members of the Department in an attempt to reduce crime and improve the quality of urban life.

To insure a better understanding of the Department's role in this innovative program, a brief description of the origin and operation of the total Model Cities Program will first be presented. This will be followed by a more detailed account of the Community Service Aides Project and the hiring, training and duties of the aides.

"Improving the quality of urban life is the most critical domestic problem facing the United States" reads the opening statement of the congressional legislation which created Model Cities. This statement, plus the recognition by Congress that cities do not have adequate resources to deal effectively with the serious problems confronting them, was the basis for the creation of the Model Cities Program.

On 1 December 1967 the City of Chicago was offered a planning grant by the Federal Government to develop programs in four Chicago communities—Lawndale, Woodlawn, Uptown and Grand Boulevard. These communities have a combined area of about six square miles and a combined population of approximately 327,000 persons. In May of 1969, after months of study, planning, review and revisions the Chicago Model Cities Program was submitted to the Federal Government for review and, hopefully, funding. On 26 June 1969 the first year plan was approved. On 8 August 1969 Chicago received authority to spend $38,159,000.00 in supplementary funds to carry out the first year action program.

Model Cities plans, funds, monitors and evaluates programs, although it does not operate them directly. Public and private agencies having extensive experience in the target areas are contracted to administer projects which fall into ten major categories or classifications. They are Housing; Health; Education; Law; Order; Justice and Corrections; Child and Family Services; Economic Development; Environment; Transportation; Leisure Time; and Manpower. The programs in each category were developed in response to problems that area residents and the City agreed should be given the highest priorities.

LAW, ORDER, JUSTICE AND CORRECTIONS

Of the ten areas of concern being funded in each target area, the one most important to the Chicago Police Department is that of Law, Order, Justice and Corrections. This category involves four projects. The largest of these is the

Chicago Police Department's Community Service Aides Project, which deals primarily with improving the quality of urban life. The other three projects deal with the problem of youths in the correctional system.

ORIGIN OF THE COMMUNITY SERVICE AIDES PROJECTS

In 1967 the President's Commission on Law Enforcement and Administration of Justice recommended the creation of a Community Service Officer position for police departments operating in larger urban areas. According to the Commission's Report, the Community Service Officer would work on the street in close cooperation with police officers. He would not have full law enforcement powers or carry arms, neither would he perform only clerical duties. He would be a uniformed member of the working police who performs certain service and investigative duties on the street. He would maintain close contact with the juveniles in neighborhoods where he works. He might be available in a neighborhood store front, office or Community Service Center. He would perform the service duties that inner city residents need so urgently and that law enforcement officers have so little time to perform. He would be an integral part of a police team.

These suggestions offered by the President's Commission served as the basis for the creation of the Chicago Police Department's Community Service Aide Project.

GOALS OF THE PROJECT

The purposes and goals of this undertaking were set forth in the initial stages of the months of planning that preceded the opening of the first Community Service Center. As enumerated in the First Year's Action Program and as they remain to the present, the purposes of the project are:

1. to prevent and reduce the incidence of criminal and anti-social behavior by saturating the areas with foot patrol teams.

2. to improve police community relations by employing Police Community Aides to interpret the roles of the Police Department to the community and the community to the Police Department.

3. to enhance the utilization of sworn personnel in the areas of law enforcement and arrest by substituting civilian personnel to handle non-arrest functions.

4. to develop community responsibility toward combating crime.

The strategic objectives outlined for the project are to:

1. raise resident income by employment of more than 400 Model Area residents as Police Community Service Aides.

2. improve housing and environment by detecting and reporting conditions detrimental to the environment.

3. enhance community responsibility by saturating the neighborhood with foot patrol teams of Community Service Aides to provide an immediate and accessible source of contact with law enforcement agencies.

4. enlarge human opportunities by providing training to those who desire and are qualified to become sworn personnel.

5. improve city capability to protect persons and property in target areas by relieving the sworn personnel from non-arrest and human service activities and allowing them to direct their efforts to crime prevention.

THE COMMUNITY SERVICE CENTER

In February of 1970 the first Community Service Center was opened in the 11th District at 2945 West Harrison Street. Presently centers are open in each of the four (4) target areas: one center each in the 2nd, 3rd, 10th, 11th and 21st districts and one combined center in the 19th and 20th districts. The exact locations of these centers are as follows:

2nd District—542 East 47th Street
3rd District—871 East 63rd Street
10th District—1308 South Pulaski Road
11th District—2945 West Harrison Street
20th District—4552 North Broadway
21st District—1040 East 47th Street

The Chicago Police Department Community Service Aide Project Administration is headquartered at 1029 South Wabash Avenue.

Each of the above listed centers can be likened to a satellite Police Station, serving also as a training center and headquarters for the Community Service Aides. The centers are opened to the public 12 hours a day from 0800 to 2000 hours.

A lieutenant and several sergeants and patrolmen are assigned to each center. The lieutenant, a visible representative of police management in the target areas, administers the center, coordinates the effort of his sergeants, and is responsible for the overall conduct and efficiency of his command. The sergeants operate a station desk in each center. Members of the community use the centers to express complaints, seek protection, make inquiries and requests, not only for police service but for service from other concerned city agencies. The sergeants also are the training officers for the Community Service Aides. They primarily direct their training efforts toward efficient job performance but emphasize the need for outside formal education. In addition the sergeants supervise the patrolmen and are available as counselors for the aides. The patrolman is the backbone of the operation. He works with and supervises the Community Service Aides in the field. He is responsible for the output of the Community Service Aides assigned to him, assures that they are on their assignments, checks attendance and performs the other duties of a line supervisor.

HIRING, TRAINING AND DUTIES OF AIDES

At about the same time Model Cities Police personnel were undergoing three weeks of training for the Community Service Aide Project, advertisements announcing the hiring of Community Service Aides were being placed in local newspapers and at the neighborhood State Employment offices. Qualifications for the position were prepared by the Chicago Police Department Personnel Division. They are:

1. Males must be age 17 or over; females age 18 or over.
2. No height requirement but weight must be proportionate to height.
3. Passing of a minimum physical examination.
4. Taking a written examination. The exam serves to determine the educational level of the applicants but is not a criterion for employment. This is most essential for designing the training program and in counseling the Community Service Aides as to their educational needs.
5. United States citizenship.
6. If any military service, a discharge paper and a medical history are required.
7. Acceptable character background and driving record.
8. Model Cities target area residence, (MANDATORY).

The salary for the aides is $445.00 per month to start, $467.00 per month after 3 months, $491.00 after 6 months, $515.00 after 9 months and $540.00 per month after one year. This salary does not include the Community Service Aides uniform allowance of $100.00 the first year. Hospitalization insurance is paid for by the city.

Prior to assignment to field duties each aid is given approximately 455 hours of instruction by the center staff. These courses range from criminal law to physical education and from social sciences to Police Department policies. In addition to this classroom training, after four months of employment each Community Service Aide is counseled about his educational background in an attempt to encourage the Community Service Aides to continue schooling. Basic and advanced G.E.D. courses have been established in each center for those aides who do not have high school diplomas. For those who qualify for college, tuition is free and the student is reimbursed for books. In addition the aides are allowed 9 hours a week away from normal duties to attend these classes.

The team patrol is the basic work unit in the Community Service Aide Project. This patrol team consists of one patrolman and seven to twelve Community Service Aides. It is hoped that these team patrols will serve as a crime deterrent by their mere presence in the community.

The Community Service Aides investigate abandoned autos, report sanitation violations, watch for pollution violations and refer building and zoning violations to the proper agencies. Since the aides perform other miscellaneous services that are usually performed by the police, the beat officer is freed from time-consuming service type calls and can concentrate on crime prevention.

Community Service Aides also provide clerical help in the district station and in the Community Service Center. Aides have formed block clubs in the community and floor clubs for some of the projects; they have assisted police per-

sonnel at elementary, upper grade centers and high schools; helped locate missing children; obtained Red Cross assistance for families displaced by fires; distributed food to the hungry and have organized and advertised Police Community Relation Workshops.

In addition to the above duties, several Community Service Centers have instituted the following special projects:

1. Community Service Centers have prepared tables of crime statistics, by beat, time of day and type of crime, and aid heretofore unavailable at the district level on a day-to-day basis. These tables are used to prepare team patrol assignments.

2. Aides have been assigned to work with the courts in an effort designed to reduce the number of repeater "drunk and disorderly" cases coming before that court. Familiar with the full range of city services, the aides are able to make referrals to the proper agency offering opportunities for rehabilitation.

3. During the summer of 1970, Aides of a Community Service Center chaperoned approximately 120 youngsters on four camping trips to Camp Malibu in Illinois. Several of the center's aides had worked long hours preparing the necessary proposals which had to be presented to the Department of Human Resources Leisure Time Committee. The preparation and presentation of the Camp Malibu proposal to this committee was necessary to obtain the funding for the trip. After funding was approved, neighborhood groups were contacted to provide names of deserving youngsters for the trips. These outings proved very successful, and it is hoped that funding can be allocated for similar trips in the future.

4. Aides from another Community Service Center held "splash parties" on numerous blocks in the target area. This assignment involved having a team of aides turn on fire hydrants equipped with sprinkler attachments for several hours each day. The streets were blocked off at either end and the owners of automobiles in close proximity to the hydrants were notified of the splash party. The aides remained at the hydrant to supervise the children's activity. This assignment was intended to decrease the number of hydrants being opened by unauthorized persons and then left to hamper traffic, overload sewers, and cause a police officer to leave more important duties and turn the hydrant off to the dismay of the neighborhood's youngsters. The 10th District program has alleviated these problems to some extent.

5. Several of the aides were enrolled in a 10 week course on Consumer Fraud. The valuable lessons learned by the aides will then be presented to the general public at Community Workshops meetings organized by the Community Service Aides.

6. Acting pursuant to an indicated need in one of the target areas, sworn personnel and their aides have initiated a tutoring program for youngsters from 7 to 14 years of age. Thus far, approximately 150 students have enrolled in the program which is designed to improve reading and writing skills. Aside from removing any fears of the police the children have prior to enrolling, the program hopes to decrease the number of slow-learning school age persons who conceivably may drop out when they reach the high school level.

There are however some duties the Community Service Aides are not permitted to perform. The Community Service Aides do not:

1. make arrests.
2. work in detention facilities.
3. take case reports on crimes.
4. drive Department vehicles.
5. work in building maintenance.

SUPPORTIVE SERVICES

The Police Department Model Cities budget provided for two sedans and 12 station wagons to assist the police personnel in carrying out their duties. The station wagons are used to transport the Community Service Aides to their various assignments and are used by the team patrol officer as a means to widen his span of control.

PREVENTIVE PROGRAMS DIVISION COMMUNITY SERVICE AIDES PROJECT

To: Ms. Junerous M. Cook, Director of Evaluation and Urban Studies, Model Cities/CCUO, 640 North LaSalle Street, Chicago, Ill.

From: Captain John T. Kelly, Project Director, Community Service Aides Project, 1020 South Wabash Avenue, Room 201, Chicago, Ill.

Subject: Project Evaluation—In compliance with contractual requirements, attached hereto is the Project Evaluation of Year Two, encompassing the dates of 1 June 1971 to 1 September 1972.

JOHN T. KELLEY,
Project Director, Community Service Aides Project.

Approved: Samuel W. Nolan, Deputy Superintendent, Bureau of Community Services.

PROJECT EVALUATION

I. PROGRAM DESCRIPTION

The Community Service Aides Project was initiated to accomplish the task of:
A. reducing the incidence of crime in the designated Model Cities Target Areas.
B. improving police-community relations.
C. improving the quality of life in these areas, and
D. allowing the police patrol force in the neighborhood to spend more time on crime prevention.

The Administrative Headquarters for the Project is located at 1020 South Wabash Avenue. The administrative staff consists of: 1 captain, 1 sergeant, 1 patrolman, 5 civilian personnel.

Six Community Service Centers are established and operating at the following locations:

1327 East 63rd Street (Mid South Woodlawn).
542 East 47th Street (Near South Grand Boulevard).
1038 East 47th Street (Near South Grand Boulevard).
3150 West Ogden Avenue (West North Lawndale).
2945 West Harrison (West North Lawndale).
4552 North Broadway (Uptown).

The Mid South Center was moved into the new location because of a fire at their prior location at 871 East 63rd Street. West North Lawndale Center facility was moved to its present location at 3150 West Ogden Avenue from 1309 South Pulaski because the building on Pulaski Road was sold.

The Community Service Centers are staffed by the following police personnel: 6 lieutenants, 22 sergeants, 40 patrolmen.

All sworn Chicago Police Department personnel assigned to the project are volunteers with a minimum of 4 years experience and an overall average of 15 years with the Police Department. All personnel, with the exception of the Director of the Preventive Programs Division, devote 100% of their time to the Project.

The Community Service Aides Project was designed to produce employment for 422 residents of the target area communities. The average monthly employment of aides during Year Two was 355.

The Community Service Aides receive approximately 250 hours of In-Service Training yearly conducted by sworn police personnel assigned to the center from the Criminal Investigation Division, etc. In addition, they receive counselling from professionals with emphasis placed on education who are assigned to the center.

The project coordinated its activities with many public and private agencies. In resolving most non-police related complaints and requests for service the project dealt closely with the Mayor's Office of Inquiry and Information.

The Illinois State Employment Service provided valuable services in the recruitment and testing of aide applicants. The Public Service Institute and the Civil Service Commission provided professional services in the aide education program. The project headquarters maintained continuous liaison with a host of public agencies. Project personnel have established rapport with numerous community and church sponsored organizations which operate in the areas serviced by the Community Service Centers.

II. PROJECT OBJECTIVES AND METHODS FOR ACCOMPLISHMENT

A. *Enable police to increase preventive patrolling and enforcement activities.*—The Community Service Aides accomplished this objective by locating 8,238 abandoned autos, submitting reports on 2,790 abandoned buildings, and reporting and following up street and sanitation conditions; thereby releasing the beat patrol officer from acting upon such conditions so that he could concentrate on effective preventive patrol and enforcement.

B. *Provide the community with increased access to Police Services.*—The presence of the six centers in the community enabled residents to maintain a closer and more personal relationship with the Police Department. To cite an example—arrest at 550–011 on 27 March 1972 wherein six Community Aides observed a strong arm robbery in progress involving three offenders and one victim. The aides ran to aid the victim. Two of the offenders were chased and caught by the aides who effected the arrest with the assistance of an 11th District Tactical Team. Many residents find it much easier to relate to persons who are members of their community. Most aides know or have formed acquaintances with the residents, thus the problems of the residents were more readily understood by the aides. Coordinating the efforts of the aides with those of the Neighborhood Relations Sergeant gave the residents greater access to services of the Police Department.

C. *Improve cooperation between the community and the police.*—Community Aides were able to encourage the residents to attend Police-Community Workshops and other related meetings. Through personal encounter and literature prepared at the centers and Police Headquarters, the aides made residents more aware of the police role in the community. This was evidenced by the increased attendance and participation in a number of community projects.

D. *Employment of local residents as Community Service Aides.*—The Community Service Aides Project produced and continues employment for residents of the target area communities thereby raising resident income and funnelling salaries into communities for people who would otherwise be unemployed.

E. *Improving housing and environment.*—The Community Aide as part of his daily activity communicated with residents and landlords. He was instrumental in forming block clubs and encouraged landlords to maintain their properties. We have found that after a block club is formed by a Community Aide that if we do not remain active within the club they cease to operate. He constantly observed, reported and followed up on the condition of streets, alleys, lighting, and attractive nuisances that presented a deteriorating affect on the community.

F. *Provide training for 422 Model Cities Target Area residents.*—Place emphasis on potential careers with the Police Department and other public and private agencies.

Fifty-nine (59) Community Aides completed requirements for GED certification. Most of these aides continued their education through enrollment in college programs. Presently there are 120 aides enrolled in college level prgrams. Aides have been urged to take examinations for Civil Service positions. Classes were held at all centers for aides and residents of the community for the Policewoman, Senior Public Safety Aide, and Patrolman examinations. Four (4) Community Service Aides passed the Patrolman examination. Eleven (11) Community Service Aides passed the written portion of the Policewoman's examination and out of the 340 persons passing the Public Safety Aide examination, 276 were Community Service Aides. The fact that the first 123 persons on the list were Community Service Aides is a good indication of the value of training the aides received in this program. Numerous Community Service Aides have gone into career fields of employment, such as police officers, airline stewardesses, Merchant Marines, and self employment.

III. COMMUNITY SERVICE AIDES PROGRAMS—CRIME RELATED

In its objective to reduce the incidence of crime in the Model Cities Target Areas, the Community Service Aides Project pursued the following programs:

A. *Protect life and property in the Model Cities Neighborhood.*—The Community Service Aides have been instrumental in the arrest of criminal offenders. Numerous examples of their diligent performances at fires and in administering first aid have been cited. See exhibit 1.

B. *Located and caused to be recovered stolen vehicles.*—Intensified training and execution of a program to detect and report stolen autos has been initiated. Training Bulletins, vehicle identification hand cards, and roll call visits by auto theft investigators were included. Training was on a professional level and included discussions on alley garage auto stripping operations, popped ignitions and slampullers.

Project records indicate that community service aides recovered 216 reported stolen vehicles from 1 January to 1 September 1972. Total reported stolen vehicles recovered from 1 January through 31 December 1971 numbered 87.

C. *Located abandoned vehicles and caused their removal.*—Community Service Aides located and reported all abandoned vehicles observed in their patrol areas.

This information was forwarded to the District Abandoned Auto Officer who has the responsibility to have the vehicle removed. Aides further followed these reports up to determine if or when action was taken. When the vehicle was removed, they closed our suspense file. Abandoned cars present a problem to district commanders. The action taken by CSAs in having abandoned cars removed saves the commander from using a number of sworn personnel in eliminating this problem.

D. *The centers assign aides daily to regular foot patrol beats in the target areas.*—Two or more aides under the supervision of a sworn supervisor comprise a patrol team. Seventy-seven (77) foot patrol beats are manned daily.

IV. COMMUNITY SERVICE AIDES PROGRAMS—POLICE SERVICE RELATED

To enable the police to spend more time on crime prevention the Community Service Aides undertook the following:

A. *Conducted follow-up investigations of missing person cases.*—Community Aides followed up on 138 missing persons investigations from 1 June 1971 through 1 September 1972. Community Service Special Order 71–1 and Youth Division Special Order 71–12 were issued on 22 March 1971, implementing the Adult Missing Person Investigations Procedures. Effective 1 April 1971 the Community Service Aides were authorized to conduct investigations of missing persons. These investigations were previously conducted by youth officers who now with the implementation of the aides are afforded more time with youth related incidents.

B. *Conduct a Bicycle Registration Program.*—District centers established a Bicycle Registration Program. They obtained the cooperation of private and public agencies to encourage and urge youths of the community to register their bicycles. All Community Service Aides while on patrol carry and have available at all times a supply of bicycle registration cards. The aides also distributed the little red booklet, "*10 Little Bike Rides*" which covers the rules and regulations of bicycle riding.

C. *Conducted a canvass to update emergency listings for businesses.*—The Community Service Aides continued to canvass the target areas of businesses in the area to update the businesses listings and made note of complaints and/or suggestions the businessmen voiced. The centers maintained and furnished to the district stations a current file of addresses and phone numbers where merchants could be reached during emergencies, thus reducing police details at these locations. This service was formerly a police function. Current card files are used by district police to notify owners of fires in buildings, crimes, etc. Prompt response by property owners, release the assignment of beat cars stationed at the location, making them available for patrol duty.

V. COMMUNITY SERVICE AIDES PROGRAMS—NON-ENFORCEMENT

Board of Health

Sickle Cell Anemia and Lead Testing Programs

The Community Service Aides performed an excellent job in connection with this program. The program was operated in schools in the Grand Boulevard Target Area with the cooperation of the Board of Education and the Board of Health. Tests were conducted from January to May 30, 1972 in nine schools, and at Community Service Aide Centers where 3,479 children were tested, and 282 were found to be positive. See exhibit 2. Tests were also conducted on street corners in the Uptown Target Area using mobile units. Since May 1972, a total of 15 separate locations were used. A total of 748 children were tested, 647 for lead poisoning and 137 for Sickle Cell Anemia. See exhibit 3.

In connection with the testing program, it was necessary to secure the consent of the parents who were required to sign consent forms. Aides did this work by visiting the children's homes in advance of the testing. When the children did not appear at the mobile unit for a test the aides went to their homes and with the consent of the parents escorted the children to and from the mobile unit. We are again attempting to secure the mobile unit service citywide for 1973.

Rabies Control Program

Conducted initial and follow up surveys of animal owners to educate and encourage compliance with lawful requirements for licensing dogs and administering rabies inoculations. Community Aides have followed up on 557 dog bite investigations from 1 June 1971 through 1 September 1972.

Department of Water and Sewers

Educational programs and supervision regarding the city wide use of open fire hydrant sprinkling was engaged in by Community Service Aides in cooperation with the Department of Water and Sewers' Summertime Control Program. See exhibit 5.

Department of Streets and Sanitation—Department of Buildings. The aides have reported 30,543 irregularities or service requests between 1 June 1971 and 1 September 1972, which were registered by the residents or observed by the aides. These service requests/irregularity reports include abandoned autos, abandoned buildings, holes in streets, uncollected garbage, rodent control, exposed wire, heating complaints, and etc. The performance of the aide in this phase of his activity relieves police personnel to answer many more calls of a criminal nature. See exhibit 2.

COOPERATION WITH OTHER AGENCIES

Aides were deployed to schools where harassment of children was a problem; to the Mayor's Reach Out Program as coaches and supervisors; to the milk center for distribution of milk; to neighborhood relations sergeants in district stations for their community related programs; to the Youth Foundation, the American Indian Center, and the Uptown Youth Correction Center as counselors.

EXHIBIT NO. 1

(1) Community Aides Algernun Ballard, Willa Mae Emory, Dorothy Hunter, Marva Jaker, Willow Dean Jane and Charles Byrdo, while in the performance of routine patrol duty observed a strong arm robbery in progress involving three offenders and one victim. The Aides ran to the assistance of the victim. Two of the offenders were chased and caught by the Aides and were arrested by an 11th District Tactical Unit that was nearby. The 3rd offender escaped but was subsequently apprehended and identified.

(2) On 7 June 1972, Community Service Aides Ramsey and Hendrick observed some youths in what they thought to be a stolen vehicle. After ascertaining the validity of the steal, they called for a Patrol Car. The Aides were able to furnish the responding Beat car, not only with a description, but the names and addresses of the offenders. The officers were able to effect an immediate arrest.

(3) On 28 April, 1972, several Aides and a sworn member were in the Area of S11—15 East 43rd Street, where they observed a fire. The Aides went into the burning building and notified residents of the fire. They came upon a 78 year old woman suffering with crippling arthritis. They removed her and transported her to Michael Reese Hospital. Aides aided in relocation of families.

On 28 April 1972 at 1830 hours a 3–11 alarm fire occured at 4402 Greenwood. Several aides were dispatched to the scene and assisted in removing children and adults from the burning building. Further Aides aided in relocation of families.

(4) On 29 June 1972, Community Service Aide Ford while engaged in patrol duties, observed a man lying on the street suffering from multiple stab wounds of the face and head. Community Service Aide Ford administered first aid to the victim until the arrival of the police and was able to supply the police with the name of the offender.

(5) An unidentified woman ran into the 502 Center and related that a man had another man down across the street robbing him. Sgt. Hawkin and Lt. Brown immediately ran to the aid of the victim and arrested the offender. The offender in turn had passed the gun to a passing friend, this was detected and Officer Bratton arrested this offender, robbery case pending in court.

SERVICE REQUEST IRREGULARITY REPORTS

	Center number							Year to date
	502	503	510	511	520	521	Total	
Abandoned auto	93	103	139	93	159	38	625	8,238
Broken water main								108
Dangerous and obstructed sidewalk	23	33	105	9	14	60	244	2,011
Broken curb stone						4	4	287
Broken parking meters	2	4			8	4	18	336
Hole—street/alley	18	25	46	10	7	32	138	978
Hydrant cap missing	10	16	117	14	13	27	197	1,042
Fallen street signs		3				5	8	276
Dead fallen tree		1			11		12	190
Street light out								140
Traffic light out	3	11	6	5	9	19	53	138
Street cleaning	62	12	36	27	17	29	183	744
Dead stray animal	14	4	3	1	3	7	32	282
Abandoned building	12	41	65	112	2	17	249	2,790
Dangerous building	4	11	45	21	19	24	124	893
Fire hazard	1	1	11	3	2		18	64
Uncollected garbage	186	1	30	8	32		257	2,247
Bulk trash		74	206	165	120	205	770	5,214
Exposed wires		2	3	5	13	10	33	262
No lids, garbage cans	62	13	109	1	29	37	251	1,474
Rodent control	1		20	9	5	32	67	433
Other health hazard	11	7	48	9	19	21	115	564
General assistance					8	1	9	466
Attractive nuisance	32	29	24	20	6	15	126	228
No heat								581
Refuse vacant lot	3					3	6	579
Subtotal	537	391	1,013	512	496	590	3,539	30,543
Follow-up complaints	278	522	330	178	261	118	1,687	7,294
Total	815	913	1,343	690	757	708	5,226	37,837

OPERATION HEALTHY CHILD—1972

Date	Site	Lead	Sickle	Total
May 24, 1972	1200 West Winona	45	9	54
May 26, 1972	1200 West Winnemac	32	10	42
May 31, 1972	1000 West Winona	43	32	75
June 2, 1972	1000 West Ainslie	50	8	58
June 7, 1972	Leland and Hazel	55	4	59
June 9, 1972	1000 West Leland	28	12	40
June 14, 1972	1200 West Leland	38	3	41
June 16, 1972	1400 West Leland	28		28
June 21, 1972	Sunnyside and Beacon	30	9	39
June 23, 1972	Sunnyside and Racine	80		80
June 28, 1972	Sunnyside and Hazel	66	7	73
June 30, 1972	Cullom and Hazel	25		25
July 5, 1972	Buena Park	37	22	59
July 7, 1972	do	39	9	48
July 12, 1972	Cuyler and Broadway	51	12	63
Total		647	137	784

The following is a breakdown report of the people tested in the 2nd District Center and in School District #23:

	Fuller	Mollison	Oakenwald North (Co-plus)	Oakenwald South	Shakespeare	Woodson North	Woodson South (Co-plus)	Forrestville Uge.	Community service center	King High School	Felsenthal	Judd	Price
Total number of students tested	426	424	754	INR	690	INR	460	243	500				
Total number positive to test	24	46	46		57		40	19	50				
Total number who received oltrophoresis	24	46	8		57		15						
Total number of sickle cell traits	22	20	6		10		12						
Total number of true sickle cell disease	2	0	2		0		1						
Educational counseling: film strip, inservice, classroom, etc.													
Faculty	50	45	37		35		40			4			
Children	350	275	0		200		0	0			75		
Parents	40	10	12		15	25	25	0					
Auxiliary staff	10	16	10		18								

The following is a total of people tested from the 2nd District Center and in School District #23: Total number of students tested 3,497. Total number positive to test 282. Total number who received oltrophoresis 150. Total number of S.C. Traits 70, and total number of S.C. disease 5. Total number of Educational Counseling, film strip, inservice, classroom and etc.: Faculty 212, children 800, Parents 102 and Auxiliary Staff 54.

ANIMAL CONTROL PROGRAM

The following procedures are designed to reduce the number of man-hours presently being spent by beat personnel in handling animal bite cases. The Community Service Aides concentrate their activities in five basic areas of involvement in the Model Cities Target Areas:

A. An educational program has been developed designed to acquaint citizens with their lawful responsibilities with respect to ownership of animals. A brochure explaining the various laws regarding animals has been prepared. This brochure is distributed to all animal owners along with a dog license application for their assistance in licensing their animals. Aides that encounter owners of unlicensed dogs make prompt notification so that a summons may be issued. Movies depicting the citizens role in a rabies control program are shown at workshops and various meetings in the neighborhoods to acquaint the citizens with the importance of rabies control program.

B. In the event a person has been bitten by an animal and the Animal Care Section, or the beat officer, knows the name of the owner but has not been able to contact him. Aides are assigned to personally contact the owner. The Aide presents the owner with a Notice to Animal Owner form (CPD–11.186) which lists instructions and requirements.

C. In the case of a person bitten by an animal and the ownership of the animal has been established, but only verbal contact via telephone has been accomplished, Aides are assigned to follow-up the verbal instructions by contacting the owner with written instructions.

D. In the case of a person bitten by an animal and the animal has not been located or impounded, Aides are assigned to the general vicinity of the incident for the purpose of locating the animal. If the animal is located, the Aides do not attempt to catch the animal, but will keep it under surveillance and notify the Animal Care Section or beat vehicle.

E. All Community Service Aides, while on routine patrol, are alert for stray dogs roaming the streets, particularly in the vicinity of schools and parks. These animals are reported to the Animal Care Section via telephone.

OPEN FIRE HYDRANTS

In an effort to assist the Police Department in combating the problem of unauthorized open fire hydrants, the following procedures have been implemented by the Community Service Aides Project:

A. Each Community Service Aides Center has been supplied with ten (10) sprinkler caps and wrenches for affixing the caps to fire hydrants.

B. On those days when the temperature is exceptionally high, Unit Commanders will inspect, or cause to be inspected, their entire Target Area on a periodic basis.

C. If this inspection reveals a fire hydrant that has been opened and children are playing in the water, a spray cap will be attached to this hydrant, and two Community Service Aides left in attendance.

D. If this inspection reveals a fire hydrant that has been opened and children are NOT playing in the water, the hydrant will be turned off.

E. In all instances where a spray cap has been attached, the spray cap will be taken off not later than the conclusion of the second watch (2000 hours) on the day that the spray cap was attached. At the conclusion of the second watch of each day, each Community Service Center should have ten (10) spray caps in the Center.

F. In all cases where a spray cap is attached, great care and consideration should be given to vehicular traffic. Spray caps should not be attached where there is danger of vehicular accidents being caused or danger of a child being struck by a vehicle.

The foregoing procedures have been issued as guidelines governing the Project's initial plan of operation in this problem area. These procedures will be adjusted as experience dictates.

Chairman PEPPER. The committee will recess until 2 o'clock this afternoon when, in this room, we hear further witnesses.

I believe Chief Wilson of the District of Columbia Police Department will be the first witness.

Without objection, we will at this time receive for the record a statement from Hon. Tom Railsback of Illinois.

[Whereupon, at 12:25 p.m. the hearing was recessed until 2 p.m. this day.]

PREPARED STATEMENT BY HON. TOM RAILSBACK, A U.S. REPRESENTATIVE FROM THE STATE OF ILLINOIS

Mr. Chairman, Distinguished Members of the Committee, I commend you for holding hearings "Crime in the Streets", and thank you for providing me with the opportunity to discuss an aspect of crime which particularly concerns me—the involvement of so many of our young people.

If we are to substantially reduce the overall crime rate in our country, we must first solve the youth crime problem. We must distinguish the factors which could turn a young person to crime, and—before he actually commits his first criminal act—we must direct his energies toward a constructive life. For the individual who has already run afoul of the law, we must successfully *rehabilitate* him. I emphasize rehabilitate. As a result of touring numerous institutions as a member of the Judiciary subcommittee on prison reform, I am convinced we cannot simply put young people into institutions and assume that by some miracle they will become well-adjusted, law-abiding citizens at the end of their term.

Let me break down the problem of juvenile crime as I see it.

First, There has been a rapid rise in juvenile delinquency and crime. From 1960 to 1970, the juvenile arrest rate of individuals under 18 increased almost seven times faster than the total adult arrest rate. Just as startling is the fact that during this same period, arrests of persons under 18 for violent crime increased about three times as fast as the arrest rates for those over 18. And, even though drug arrests skyrocketed for all age groups in the 1960s, the increase exceeded 3,000% for juveniles under 18 years of age.

In 1971, nationally, persons under 15 accounted for 10% of the total police arrests; those under 18 accounted for 26%; those under 21, 40%; and those under age 25 were responsible for 54% of all police arrests.

Second, Over half of the serious crimes in the United States are committed by young people. In 1970, 63% of all serious crimes were committed by persons under age 21. And, in both 1970 and 1971, at least 50% of the arrests for such crimes were of persons under the age of 18.

Third, Youthful offenders have the highest recidivism rates. An FBI study conducted in 1965–1969 showed that of the offenders under 20 who were released in 1965, almost three-fourths of them were re-arrested by the end of the study.

In 1971, over half of the offenders under 20 years of age who were arrested were repeat offenders. And the repeat offenders under 20 were rearrested more frequently than any other age group.

It is clear that young people account for a disproportionate amount of all crimes—even serious crimes—and the younger the age at the time of the first arrest, the higher the recidivism rate. Further, and certainly as disturbing, when young people are rearrested it is more likely than not for an increasingly serious offense. Whatever we have done in the past to prevent delinquency and to rehabilitate juvenile offenders has just not worked!

In large part, I am convinced our failure can be attributed to insufficient training of those who work most closely with young people—lack of any real in-depth research in the area of juvenile crime and delinquency—and little coordination and communication by the various agencies dealing with juvenile justice. It is for these reasons I have introduced legislation which would set up an independent Institute to provide training, conduct research, and disseminate information. The research function was developed after a great deal of assistance from the Chairman of this Committee. The bill, H.R. 45, was passed by the House last year, and I am optimistic it will be enacted in the 93rd Congress.

We must initiate programs that are designed to cut down our crime rate by stamping out juvenile crime. For the sake of our youth and America's future, I encourage you to continue your deliberations and present some alternatives

for reducing juvenile crime ad delinquency to the full House membership at the earliest possible date.

Thank you.

AFTERNOON SESSION

Chairman PEPPER. The committee will come to order, please.

Chief, I am sorry we are a little late. The other members are on the floor and there are several committee meetings going on, one of which is a meeting of the Rules Committee of which I am a member. We have an important bill on the floor, so I might be called any time to leave. We don't want to take any more of your time and, of course, your testimony will be recorded for the information of the other members of this committee.

We thank you very much for coming this afternoon.

As you know, what we are doing is bringing here for presentation to the Congress and to the country the most innovative, imaginative, and effective programs that we can find anywhere in the country in the police area in respect to the reduction of the occurrence of crime, particularly violent crime.

We already have had a number of outstanding programs presented to the committee of new techniques, new manners of police methods which have reduced crimes in various cities of the country.

We are very pleased to have you here to tell what you have been able to do to bring about a significant reduction of violent crime in the District of Columbia. We would appreciate it very much if you would give us that story.

STATEMENT OF JERRY V. WILSON, CHIEF, METROPOLITAN POLICE DEPARTMENT, WASHINGTON, D.C., ACCOMPANIED BY GEOFFREY M. ALPRIN, GENERAL COUNSEL

Mr. WILSON. Thank you, Mr. Chairman.

It is a real pleasure to be here and I can certainly be here at the convenience of you and your committee, so don't be concerned if you need to leave.

As I think you perhaps know from your past interest, crime in the District of Columbia increased almost continuously from 1957 through 1969. This increase was attributed to a variety of causes: Economic and social ills of society, and processes of urbanization, the erosion of police authority through court decisions, the increased complexity of criminal trials, the backlogs which resulted in the courts and eventually, in the late 1960's, the increased use of hard narcotics. Crime in the District in terms of crime index offenses doubled from 1962 to 1966, and doubled again from 1966 to 1969.

In 1969, at the peak, there were 60,000 crime index offenses as compared with 15,000 in 1962. As I think you also know, in 1969 the Federal Government, the Nixon administration, established a priority of reducing crime in the District of Columbia and indeed it was a campaign issue; and one of the first issues addressed in the District of Columbia was the establishment of the reduction of crime in the city as a primary, first priority of the government.

And, of course, this was done in the face of recognized competing priorities and problems of housing and transportation and health care

and sanitation, and a variety of other items that face most of the urban areas of America.

But President Nixon unequivocably established the reduction of crime as the priority of the District government. This was approached in several ways in late 1969. It was a major increase in the police force to 5,100 men and about a thousand civilians, which made it, of course, the largest per capita police agency in America.

This, I would interject, had a side benefit in that the great increase in the police force improved our black recruiting and it allowed us also to use women in additional ways in the police force so that over a period of the next couple of years we were able to soften the image of the police force as an occupation force of the city.

A second program was in the U.S. Attorney's Office, which was increased in size, the prosecutor's staff was increased by 50 percent, and the clerical assistance to the prosecutor's staff was doubled. There was a coordinated effort instituted between the police department and the U.S. Attorney to give special attention to offenders committing major crimes. And major in the sense, meaning robberies and major burglaries.

There also has been increased emphasis in both the police department and the prosecutor's office of computerization of data in order to make it available to police on the street and in order to make it possible for the prosecutor to assign priorities in criminal cases in scheduling.

There was instituted in 1970 a major narcotics treatment program employing primarily methadone maintenance, and also some abstinence programs built in.

There were several changes in narcotics enforcement by the police. We trained our street patrolmen, our uniformed officers, in the 3-day Bureau of Narcotics and Dangerous Drugs course to deal with the street peddler. We increased the size of the headquarters narcotics unit by quadrupling it and shifting its emphasis to major violators and the consequence of this was narcotics arrests were increased from 1,000 in 1968 to 6,000 in 1971.

I would add that there has been a decline in 1972, primarily because the narcotics simply are not on the street for supply and arrest any longer. There was, of course, administrative priorities to the changes in law which particularly effected results in the reorganization and expansion of the court system which was enacted by the Congress in 1970.

The last of the measurable major city programs was a major street lighting program. I would add one measurably major ingredient, these ought to be done primarily by the government, but a major ingredient of our success in reducing crime in Washington as well, has been real support for law enforcement, which has been, I think, seen both in the community and in government leaders since 1969. It has just been a long time since we have heard any substantial community leader aver that he did not support the police and support law enforcement or did not want the police in this community.

The consequence of these major programs has been a great deal of success in reducing crime. Crime has been downward in just about every month since November 1969. We had a couple of seasonal upturns but we have been succesful in reducing the crime index rate from a peak of 202 crime index offenses daily in November 1969 to an

average of 89 per day for the last quarter, for the quarter ending last month.

Indeed, for March we had only 85 crime index offenses per day on the average, which was the lowest mark since 1966.

There have been some other programs within the department that I think may be of interest. They are not as broad as those I have discussed earlier, but there are programs such as the use of scooters to give mobility to foot patrolmen, a program which was begun in the middle 1960's under an LEAA grant, and has been since expanded to 360 scooters. It gives us the ability of essentially having an officer on a sort of foot patrol but with much more mobility, giving him more effectiveness than the ordinary footman.

We have instituted the neighborhood scout car program, which is aimed at trying to keep the scout car officer assigned continuously to the same area and getting him acquainted with the residents and the businessmen in the neighborhoods.

We have instituted a program of requiring officers to report their business checks, requiring them to go into businesses and talk with business owners, simply to insure that they get acquainted with businessmen and the police presence is reemphasized.

We have had some success with the auto interceptor units working on the problem of stolen automobiles and also with a special burglary alarm system which we use on a tactical basis in business places in order to cope with holdups.

The helicopter program which is used in many cities, of course, was instituted under an LEAA grant and showed significant success. We had a lot of success, Mr. Chairman, with tactical units, both mobile uniformed patrol officers operating tactically and also with casual clothes personnel working in tactical units, although we are presently experimenting with phasing those out with an emphasis on getting them back into uniformed street patrol on assigned foot beats, which I think is something that we will be successful in.

Tactical units have been used off and on in the United States since the middle 1950's and used here off and on since 1966. They were very successful but I think many programs tend to become a part of the bureaucracy and I presently see it as advantageous to move back toward more uniformed patrolmen assigned to beats permanently so they will know the residents.

Three other programs that I think may be of interest to you are in terms of trying to apprehend criminals and make cases which will stand up in court, which is one of the great problems, I think, in many of the urban areas, at least the problem of apprehending criminals, closing cases, and presenting cases to court which are prosecutable.

There is a great loss between the arrest and the cases which eventually get to court and result in a conviction.

We have done three things in this area: One is the use of crime scene search officers. In 1968 we had 12 men assigned to fingerprinting, and searching, and evidence gathering at crime scenes. The consequence of that was we had great backlogs of persons who were burgalized or had other crimes committed who were unable to use the premises until we could get a search man in.

We have increased that through training of men in the patrol districts who are normally on patrol, but are available for crime scene

search. We now have 125 men assigned capable of that function and have increased the number of cases closed primarily through latent fingerprints from 146 in 1968 to 720 in 1972.

We also last year, early last year, instituted a special case review section in coordination with the U.S. attorney's office in order to review the cases that are dropped by the prosecutor to ascertain the reasons for it, so we can train our men in making cases better and also bring to the attention of the supervisors and the prosecutor's offices those cases which we felt should have gone forward.

The third aspect of our investigative processes which I think had some effect is the devising of a modern lineup room and establishment of procedures which are in conformity with the 1968 court rules on lineups.

And the fourth aspect I would mention is the increasing use of guidelines, issuance of guidelines to the force, in order to strengthen the department in those cases which otherwise would be lost by the exclusionary rule.

On these last four things, if I could, I would like to have Mr. Alprin, my general counsel, speak on that because he worked closely with these programs and could give you some insight into them.

Chairman PEPPER. We would be glad to have you.

Mr. ALPRIN. Thank you, Mr. Chairman.

Mr. Chairman, I think the most important function of my particular job is to assure wherever I can that arrests that members of the department make, where possible, result in successful court prosecutions.

As Chief Wilson pointed out, there is a great lag and there always has been between arrests we make and convictions at the other end of the whole process.

In 1968, as you know, the Supreme Court decided three cases involving lineups. The result of that—irrespective of whether the decisions were right or wrong—was a very high priority being placed on the lineup process. We came to find out over a period of a few years that many witnesses who had made identifications from photographs in robbery cases, for example, were failing to identify the offenders, the defendants, in actual lineup proceedings because of the fear factor.

They were there in the same room with a group of men, one of which presumably was the defendant, and they were, in many cases, quite afraid that the defendant who was presumably, out on bond at that time or personal recognizance, would retaliate in some way.

So in August of 1971 we instituted a new lineup room. The major feature of the room was the installation of one-way glass. So that all defendants or all persons standing in the line, standing on one side of the line, would not be able to see through that glass, although the witness on the other side would, of course, be able to see through the glass.

Also, one other feature was that the place where the defendants or the people in the lineup would stand would be soundproof.

We kept statistics for 1971 and 1972 and we have noted a 12-percent increase in the number of positive identifications that have been made since installation in August of 1971 of the one-way glass.

In addition, I might point out that all of our lineups in the court order are counseled; lawyers appear for defendants in all of them. All of them are tape recorded, photographs of all of the lineups are made and presented to the court at the appropriate time.

In almost all of the cases that I have knowledge of our lineup procedures have been sustained since the middle of 1971.

If I may move on to the case review section: We instituted that in April of 1972 because we knew a lot of the arrests we were making were resulting in these being dropped by the prosecutor the first day they were brought to the court.

In other words, we would make an arrest and we would bring the case to the court the next morning and the prosecutor would drop the case or no paper, which is our own peculiar term of art for dropping a case in the District of Columbia.

We decided that it was time we took a look at all of those cases. So far as we knew at that time, perhaps at this time, no other police department in the country and no one in the country, on a systematic basis was looking at that whole category of cases that was dropped initially by the prosecutor.

So, under orders of Chief Wilson, the case review section was instituted in April of 1972. One of its purposes was that we knew that there had to be some areas in which our own performance, police performance, could be improved to perhaps save some cases. We required that wherever we found a case in which a police officer had made an error of some kind that his prosecution report after the case had been dropped would be returned to his commanding officer, who then would be required to reinstruct him or to have him reinstructed and counseled in what he did wrong; hopefully, so that the same kind of problem would not occur again and result in another case being dropped at a later time.

When we first started maintaining the unit in April, for the first 3 months: April, May, and June of 1972, we found that approximately 30 percent of all cases that we presented to the U.S. attorney in the superior court were dropped immediately on the first day. This struck us as a high figure, but my own judgment, from talking with various administrators around the country it is no higher, and perhaps even lower, than a lot of major cities which have a serious crime situation and backlogged courts.

In any case, through the reinstruction process and also through putting pressure and discussing matters with the U.S. attorney, and with the court, in many areas that don't involve police performance at all but result in no papered cases, we have succeeded in lowering the rate approximately 7 percentage points so that the average rate for all of the months since 1972 until the present is approximately 23.5 percent.

Now, that still, in my judgment, is not nearly as good as it should be and it is still approximately one out of four cases we make being dropped which is not a good thing and we hope we will be able to lower the rates even further.

Chairman Pepper. Excuse me. Does the prosecuting attorney give you the reason, in writing, why the cases were dropped?

Mr. Alprin. He certainly does. The unit couldn't work without that, Mr. Chairman. Since it began, the experiment has been conducted with the cooperation of the U.S. attorney, who makes available to us his prosecutors' jackets in each of the no-papered cases, and the reasons which we catalog and keep statistics of are his reasons most of the time.

I would point out that we have found that for the last 10 or 11 months of the survey, only approximately 10 percent of all of the cases

that are no papered result from a police, what we call a police, problem—a police misperformance or nonperformance of some kind.

Almost everything else results from systemic problems within the system. For example: witness problems and intra family assaults, of which we have many in the District of Columbia and which account perhaps for 50 to 60 percent of all no-papered cases.

With regard to intrafamily or intrapersonal assaults, normally there is no desire on anyone's part to prosecute.

Chairman PEPPER. Excuse me. In most of those cases, what was the reason given?

Mr. ALPRIN. In most of the cases, the reason that was given was the complaining witness did not want to prosecute the defendant. The complaining witness in many cases would be the wife, the girl friend, the boy friend, a friend of some other kind, who was assaulted in some way, perhaps injured, perhaps taken to the hospital, and an arrest was made.

The case went down to the U.S. attorney the next morning and, by that time, everybody was calm again and the complaining witness did not want to prosecute so the U.S. attorney dropped those cases.

But certainly there is no police nonperformance or fault involved in those cases, and that is a great number of cases.

Also, we have a lot of cases in which in other kinds of situations witnesses do not appear the next morning; complaining witnesses or other identifying witnesses. They just don't appear and can't be found and if they don't appear and can't be found the case can't be made and those cases are dropped.

The point I am making is although the rate is high and although it has come down since we have been running this experiment, most of it—perhaps 80 to 90 percent of it—results from factors which really don't have anything to do with police performance.

Chairman PEPPER. Justice Tom Clark was telling me a few days ago about a practice by a certain prosecuting attorney who, rather than waiting until the case was called for trial, would take a look at what the evidence was. He would, at the very time of the arraignment of the defendant get his lawyer, or the court-appointed lawyer, to meet with him and he would run down the list of the defenses this man would make that would indicate what the defense was going to be.

In the case the Justice put, he was in a certain place at a certain time and could prove it by a certain witness. "Do you think that is going to be your defense?" "Yes, sir; that is going to be my defense." "Well, let's check up on that."

And he would have that checked out and if it did appear that he really did have a valid alibi that he could probably adapt then the prosecuting attorney might dismiss the case without holding him in jail, having him make bond, or waiting until they were set and ready.

Does the prosecuting attorney here follow any procedure like that at all?

Mr. ALPRIN. Do you mean, Mr. Chairman, with defense counsel?

Chairman PEPPER. Yes.

Mr. ALPRIN. Yes. I think the local prosecutor would like to do that in as many cases as he could. But my own experience as a prosecutor for 3 years has been to the effect that defense counsel won't tell you what their defense is, or might be, at the time of trial. I can recall

many cases in which I said to defense counsel, when I was an assistant U.S. attorney, "Here's my file, you can have it, read it all, all of it, if I can look at yours and read all of it," and not one of them ever took me up on this.

Chairman PEPPER. That is one thing we are going into. The courts ought to have authority to have something akin to what we call a pretrial conference in civil cases. And you know, attorneys are required to come before the court before a case is brought to trial.

I think the court could require a defendant at a reasonable time after his arrest and arraignment, as soon as he can get a lawyer, a reasonable time at least after he gets a lawyer, to be required to disclose what his defense is going to be. There is no reason to wait until he gets right up to the trial and has the police there and witnesses all there, the delay, the expense, and everything. The public has some interest, too, in the expedition of this trial.

Mr. ALPRIN. I think so, definitely. I would like to see that happen. There is in the local district court, a notice of alibi rule which does, upon proper motion by the prosecutor, require the defense counsel to notify the prosecutor if he is going to use the alibi defense, and that does occur at the present time.

Chairman PEPPER. I think we will have the prosecuting attorney and maybe one of the more senior judges to testify here and we will go into that to see whether or not something like that could be done.

Mr. ALPRIN. One other important area I think that we have been involved in for the last several years is the promulgation of written guidelines for police officers in legally connected areas, in the form of orders, general orders of the department, rather than training bulletins to which the men are not necessarily held accountable. We have done this at the present time in two areas: In the area of eyewitness identification, and also in the area of automobile searches. We have promulgated strict rules the policemen must follow in connection with returning suspects to the scene for identification purposes about which the Supreme Court and other courts have written, and with regard to that order which came out approximately 2 years ago, it has been noted with approval by the local U.S. Court of Appeals on a number of occasions.

We are planning for this year to promulgate orders in the area of "stop and frisk" authority, and searches of persons and places without warrants.

I think that it is very important to the man on the street, the policeman on the street, to know what you as an administrator expect of him rather than leaving everything to his discretion and judgment. You have to tell him what you want him to do and if he doesn't do it then there is a reason to be unhappy with his performance.

That really concludes about what I have to say, sir.

Chairman PEPPER. Chief, do you have a further statement to make?

Mr. WILSON. No, Mr. Chairman. That was essentially what I had as an opening statement.

Chairman PEPPER. Mr. Lynch, would you like to inquire?

Mr. LYNCH. Yes, sir; thank you, Mr. Chairman.

Chief Wilson, would it be fair to say your Department has been substantially reorganized since 1966?

Mr. Wilson. The Department was totally reorganized in 1967, January 1967, and there have been some refinements in that organization. But it is essentially the organization of 1967.

Mr. Lynch. Could you very briefly describe what the major elements of that reorganization were, sir?

Mr. Wilson. Well, inasmuch as it grew out of the IACP survey which had 534 recommendations, it is hard to pick out any principal ones. It was essentially a complete reorganization. Prior to 1967 there were about, I think by varying counts, 25 to 30 different divisions reporting directly to the chief or his executive officer. These have been consolidated into four bureaus, plus the General Council's Office, which report directly to the chief of police. Beyond that, we have consolidated the 14 precincts in the city into seven police districts. There was a complete reorganization of the Detective Operation which, incidentally, we tried and did not like and we reverted to a system somewhat like the one we had prior to 1967.

There was establishment of several new bureaus, a planning and development division, a field inspection division. At the time of the reorganization, we were in the process of instituting a data processing division. So it was a complete overhaul of the Department of 1967.

Mr. Lynch. Would your judgment be that the reorganization has at least indirectly, aided the Department insofar as the efficiency of its operations and therefore, indirectly as a crime reducing agent.

Mr. Wilson. Well, I don't want to talk down the reorganization because I think the reorganization was good, but the reorganization took place in 1967, and the crime almost doubled between then and 1969. So you can't really come up with a cause and effect. But, of course, I realize that future benefits often are purchased after problems.

For example, we had a great deal of difficulty with the consolidation of the precincts into districts, primarily, because we were in a state of crime crisis at the time we did it. I was chief when we did it and I thought we should go ahead and do it. And in the long run, I am not sure I wouldn't rather have done it in more stable times. My answer is, I think the reorganization was good for the Department, but I don't know that the reorganization is fundamental to achieving reductions in crime. I think the Department can achieve reductions in crimes without massive reorganization.

Mr. Lynch. The LACP survey you mentioned was, in fact, commissioned by the President's Commission on Crime in the District of Columbia.

Mr. Wilson. That is right.

Mr. Lynch. That Commission was promulgated by the Johnson administration; is that correct?

Mr. Wilson. Right.

Mr. Lynch. Since 1968 or 1969, I believe, the size of your Department has approximately doubled. I think it is 78 percent.

Mr. Wilson. Not really doubled. The Department, as I recall, was at about 3,000 men in 1966, 3,000 police plus 700-odd civilians. The force was increased to 4,100, I believe, in 1968, 1969, and then the authorization was increased to 5,100. So, it has not doubled but it has increased substantially.

Mr. Lynch. The FBI UCR Section has advised us that you have approximately 7.6 police employees, including civilians, per thousand

population. I think, however, that is a metropolitan figure and not one confined to the geographic limits of the District. Do you know, approximately, what your police-citizen ratio is per thousand?

Mr. Wilson. It is a little less than that now because they are taking it at the peak of 5,100 and, of course, because of budget limitation we are down to 4,950 as an operating strength now; so that is a little high. It is probably in the neighborhood of seven per thousand population.

Mr. Lynch. Yesterday afternoon Chief Winston Churchill of the Indianapolis Department testified before this committee. He has a police-citizen ratio of 1.7, which, incidentally, is the lowest of all of the 12 cities which are presenting information before this committee.

He has reduced crime by 26 percent or thereabouts, which is approximately the same as your 1971–72 reduction, I believe. I think it is 26.9 or 29.6. It is in the same ballpark. He gave an unequivocable "no" to a question as to whether or not he needed more policemen. I realize it is difficult to make comparisons, but how would you explain how a chief of police, with no increase in personnel and with an incredibly low ratio of police to citizens, could achieve that kind of reduction?

Mr. Wilson. I think it is possible. Of course, one of the problems of comparing the District of Columbia with Indianapolis is you have to recognize that the District of Columbia is the core city of a metropolitan area of some 3.5 million people and has a population of its own of 736,000, more or less. But it is the core city and it is the core which houses most of the problems of the area. And it is at the center of a major metropolitan area; whereas Indianapolis, on the other hand, which has a population of about the same, is the entire metropolitan area. Which means somewhere within that 750,000 they have a much smaller core than the District of Columbia.

Mr. Lynch. Excuse me. That is not quite accurate. He is at the core of a metropolitan area of 1.123 million people, according to 1971 data.

Mr. Wilson. Okay.

Mr. Lynch. But his population is much less than yours.

Mr. Wilson. The fact is he is substantially the metropolitan area, whereas we are not.

Mr. Lynch. Right.

Mr. Wilson. And, of course, beyond that, I admit we have a heavy police force in the District of Columbia. There is no point in denying it.

Mr. Lynch. Do you need more?

Mr. Wilson. No.

Mr. Lynch. In addition, Chief, to the 5,000 members of your own Department, this city also has the advantage, it seems to me, of having a number of other police agencies who are performing some kind of street level enforcement duties. Are you familiar with those figures? Could you give us a rundown? We have for instance, the Capitol Police——

Mr. Wilson. Of course, the Capitol Police—on the order of a thousand policemen—are confined to the Capitol Grounds only and do no service within the city. The Executive Protective Service does some service in the streets in terms of Embassies. The Park Police has some—frankly, I don't know the numbers they have that actually are working on the streets.

Mr. Lynch. Do they materially, in your judgment, add to your capabilities as the chief of police here?

Mr. WILSON. The Executive Protective Service certainly has been of assistance in reducing crime because they are a patrol force on the streets of the city. The Park Police are on the streets but they are a relatively small force in comparison and, of course, the Capitol Police, quite frankly, are confined only to the Capitol grounds and are not that substantially a part of the city, itself.

Mr. LYNCH. So at least to an undetermined extent the 7.6 figure or thereabouts per capita could be slightly increased by adding those people who, while they don't perform full-time enforcement function on the streets, do contribute.

Mr. WILSON. That is possible. Of course, that is typical in many cities where there are special park authority police or transit police or industrial police. There are other industrial-type police here, in terms of the General Services Administration police.

Mr. LYNCH. As I recall, Chief Wilson, the motor scooter patrol which you have used for a number of years was initially the result of an Office of Law Enforcement Assistance grant.

Mr. WILSON. That is correct.

Mr. LYNCH. I believe in 1966.

Mr. WILSON. About that time, yes.

Mr. LYNCH. Could you tell us approximately how much LEAA funding your Department has received since that legislation was enacted in June of 1968?

Mr. WILSON. No, I could not. I, frankly, do not have the figure off the top of my head.

Mr. LYNCH. Could you give us an idea as to what programs a substantial amount of LEAA funds were used?

Mr. WILSON. We obtained a substantial amount of LEAA funds. The biggest part of the funds that came to us since 1968, would have been in 1969–70, with regard to bolsters of the uniformed patrol force. It was a substantial grant at that time. There have been other grants, which are not all that substantial, in terms of money for improved training and for technological assistance.

Mr. LYNCH. Are you indicating that at least a substantial portion of LEAA funding went to pay salaries of policemen in this jurisdiction?

Mr. WILSON. It went to the support of the increased police force in this jurisdiction in 1970; that is correct. A substantial part of the money that came to the Metropolitan Police Department, not the District of Columbia funds, as a total.

Mr. LYNCH. I understand that. They went to the Metropolitan Police Department. And there is, is there not, a general LEAA guideline regarding the amount of support that the LEAA is supposed to give any city, or any municipality, or any kind of law enforcement agency that is supposed to go to salaries?

Mr. WILSON. I am quite sure our grants were in accordance with the law.

[For the information requested above concerning LEAA funds and programs, see letter received for the record, dated May 3, 1973, at the end of Mr. Wilson's testimony.]

Mr. LYNCH. You have, I believe, worked closely with the Narcotics Administration here. Is it your judgment that that agency has materially contributed to your success in reducing the rate of crime in this city?

Mr. WILSON. I would judge that it probably has. Now, it is difficult to say. The reduction in crime began in November 1969, the agency became effective in June, but I think that as well as a lot of other things contributed as well: for example, the revitalized court system and street lighting. I would say, yes, it was an indispensable part of the program which President Nixon initiated to deal with the crime here.

Mr. LYNCH. As the chief police administrator in your jurisdiction, how do you view the present narcotics and dangerous drugs situations? Is it getting better or is it getting worse?

Mr. WILSON. It is substantially improved.

The problem of narcotics, of course, is that unlike other crime—even with other crimes there are problems with the statistical data available, but in narcotics there is practically no data that is solid, so we often don't know we have a problem until it almost is a crisis. But, on the basis of what we have been able to tell in the last year, or perhaps in the last 6 months, it would be more accurate, there has been a significant improvement in the problem of heroin, at least. The use of heroin seems to have dropped off substantially and the traffic in heroin seems to have dropped off substantially.

It is difficult to ascertain exactly why this is. It is possibly a combination of enforcement efforts. It may be the reduction of troop strength in Vietnam. It may be the political impact in overseas countries which were producing heroin. But, in any event, there is a notable reduction in the heroin traffic in this city, beginning last summer, and an apparent reduction in the general use of heroin.

In terms of marihuana usage, it seems to be up. In terms of other drugs, it is much more difficult to tell. None of them are serious enough to be the crisis which heroin use was.

Mr. LYNCH. Have your narcotic squad officers indicated in any way to you whether there has been a marked increase in barbiturate and amphetamine use?

Mr. WILSON. There has been but not to the point I would characterize it as a crisis. And, of course, as a side benefit, the use in barbiturates and amphetamines does not have the broader law enforcement implications heroin does inasmuch as that usage usually does not require the user to commit crimes to support their habits.

Mr. LYNCH. Chief, it is my understanding, at least, for a certain percentage of all persons arrested for serious crime in the District, there is now a program administered at the jail requiring, or asking, those people to submit to your urinalysis examination. And if that examination shows positively they are taking heroin and/or other dangerous narcotics or drugs, they are then referred to an NTA counselor. Do you participate in that program?

Mr. WILSON. We do not. That is after they have been arraigned and are in the custody of the court and correctional authorities.

Mr. LYNCH. Have you acted in cooperation with that program? How do you regard it? Is it a good thing?

Mr. WILSON. I think it is a good thing. We are not actively involved in it. The liaison between my agency and the Narcotic Treatment Administration is through my narcotics division and we do keep in close contact with them, but we are not actively involved in this treatment program.

Mr. LYNCH. Chief Wilson, of the 5,000 or so policemen—is that an accurate figure, 5,000?

Mr. WILSON. No. We presently are about 4,900.

Mr. LYNCH. Of those 4,900 policemen, I wonder if you could tell the committee how many you might have on the streets performing street-level enforcement functions at any given time, especially during the high-crime period of the day?

Mr. WILSON. I didn't bring statistics with me. I will be glad to furnish them, but I don't have any offhand statistics with me. In a general time, I would judge at a peak crime period in terms of patrol, about 600. But that varies from day to day and from time to time, depending on what other activities are going on in the city in terms of demonstrations or other details.

[For the information requested above, see letter dated May 3, 1973, at the end of Mr. Wilson's testimony.]

Mr. LYNCH. Let's use that figure of 600 a day. If you would be kind enough to supply us with that data it would be most helpful. Of that approximate number of 600, how many would be in motorized patrol?

Mr. WILSON. I would have to provide the data. I, frankly, couldn't off the top of my head.

Mr. LYNCH. Do you have a substantial number of uniformed officers who perform foot patrol in the District?

Mr. WILSON. We have a substantial combination of foot patrol, scooter patrol, and tactical patrol. Our emphasis during the last year has been on tactical use.

Mr. LYNCH. What would that be?

Mr. WILSON. Scooter patrol men in casual clothes. Or in essence, nondescript clothing, and now we are shifting to one of men on foot patrol, which I would also characterize as a combination of foot-scooter patrol.

Mr. LYNCH. Tactical men would be used on a saturation basis?

Mr. WILSON. Saturation basis rather than assigned to a permanent area within a permanent beat of their own.

Mr. LYNCH. They would be designed to respond to a particular crime problem in a particular area?

Mr. WILSON. Right.

Mr. LYNCH. Chief, as you know, in 1966 the President's Commission on Crime in the District of Columbia indicated in a rather protracted statistical analysis that an overwhelming percentage of crime in this jurisdiction was committed by young males, and because of the particular racial balance in this community it happened to be young black males. Is that still the case?

Mr. WILSON. That is still the case. It is substantially the case. I think with some variations, depending upon the proportion of blacks in the total population, that seems to be the case across the country that most crime is committed by males between 15 and 24 years of age.

Mr. LYNCH. You have a juvenile division in the Department? What does that division do; how large is it?

Mr. WILSON. The juvenile division in our Department has two functions: One is essentially a liaison with the juvenile court in terms of processing through individuals who are arrested into the juvenile court and providing liaison service to the court. We do not any longer

hold specific disposition, make disposition of cases ourselves, at least, in serious cases.

The juvenile division also encompasses our Police Boys Club, which is a unit of about 60 men who are engaged in running athletic programs for police rapport with youth in the age range from 6 to 18. About 25,000 is the current membership of youngsters.

Mr. LYNCH. Do you have a crime prevention bureau, Chief?

Mr. WILSON. We do not.

Mr. LYNCH. Have you considered establishing one?

Mr. WILSON. I have considered and rejected it.

Mr. LYNCH. What is your objection about those bureaus?

Mr. WILSON. I considered it and decided in terms of the general use. We do some of the functions through other units of the Department and through the Boys Club, through the community relations division which engages in programs such as identification, operation identification, and in terms of advising citizens on locks. But, in terms of a crime prevention bureau, no. I have decided not to organize one.

Mr. LYNCH. Could you describe what you referred to as "operation identification."

Mr. WILSON. It is a fairly common practice in the United States now of the police department, or some other agency, sponsored in conjunction with the police department providing electric etching tools and encouraging citizens to mark their television sets, hi-fi's, other things susceptible to burglary and theft, with their social security number so they are identifiable in the event they are stolen.

Mr. LYNCH. Is there any way to judge whether that has an impact?

Mr. WILSON. There is really not. Our judgment is that it probably does have an impact. A part of the program is stickers are issued by individuals to place on their windows, indicating their material within the household has been so identified, and we do not have any solid statistical information that would indicate whether or not it is successful. Burglaries are declining, so is crime, generally, so whether it helps or not it is difficult to say. It is a fairly inexpensive program in terms of investment so it is worth undertaking on the assumption it may be helpful.

Chairman PEPPER. Chief Wilson, you have the highest number of police per thousand population of any city in the country?

Mr. WILSON. We do.

Chairman PEPPER. And you have had a reorganization of the Department, which is commendable; and you have had an increase in personnel in the area of prosecution. Definite progress has been made.

Mr. WILSON. Yes, sir.

Chairman PEPPER. And you had an increase in the number of judges, and attention has been paid to speeding up disposition of cases in the courts.

Mr. WILSON. Yes, sir.

Chairman PEPPER. And you had an increase in the drug treatment and rehabilitation program and the number of addicts that are being treated in that program. All of those things have been contributing factors to the reduction of crime in the District of Columbia, I am sure.

Mr. WILSON. Yes, sir; certainly.

Chairman PEPPER. All of which are desirable. Anything which would make an effort to reduce crime is significant.

May I ask you about juvenile delinquency. Have you had any improvement in that area?

Mr. WILSON. The improvement that we have had, Mr. Chairman, appears to be a part of the general downward trend in crime. The answer is "Yes." There is, I would judge, a significant improvement in the problem of juveniles. We do not see any longer, as we did 3 years ago, very young juveniles committing on a frequent basis. We had a number of holdupmen who were 13 and 14 years of age. We had a serious problem with juveniles in 1969. We had some serious problems in the school system in 1969. All of which, while they are not completely eradicated, are certainly ameliorated by now.

And there is some improvement.

Chairman PEPPER. Do you have more juvenile judges appointed?

Mr. WILSON. Yes, sir; as a part of the court reorganization the juvenile court was reorganized into the superior court system. Additionally, provision was made for juveniles of the age of 16 and 17 who are charged with crimes such as robbery to be tried as adults, if in the judgment of the U.S. attorney they should be. So there have been some changes.

Chairman PEPPER. Do you offhand recall the figures as to participation of young people in commission of serious crime?

Mr. WILSON. I couldn't give you a specific, Mr. Chairman, but my recollection is that in terms of crime index offenses, youngsters, at the peak, were running on the order of 35- to 40-percent of serious crimes. Juveniles were on the order of 35- to 40-percent of serious crimes, including robbery.

Chairman PEPPER. I believe, if I recall correctly, in a conversation with you one time that you mentioned something to the effect that about two-thirds of the serious crimes were committed by males under 28 years of age.

Mr. WILSON. That is absolutely correct, Mr. Chairman; yes, sir.

Chairman PEPPER. So you regard the process by which we deal with juveniles or young adults who commit crimes, as a very critical area in the crime process?

Mr. WILSON. Mr. Chairman, if we could solve the problems of juveniles and young adults who commit serious crimes we could stand what the rest of the people do.

Chairman PEPPER. In other words, that is the input into the criminal system?

Mr. WILSON. That is the input into the criminal system—and much of the criminal system.

Chairman PEPPER. And that is one of the subjects we are particularly going into during these hearings. We are going to try to get the best thought and wisdom in the country with respect to how best to deal with juvenile crime. We share your view that is one of the critical areas in dealing with the crime problem.

Chief, as much as we commend you for all that you have done—and it is very noteworthy—nevertheless, one of our distinguished Senators was shot down on the street in front of his home. We read in the paper every day about the commission of violent crime, and I believe if the figures I have before me are correct, that there has been an increase in the District of Columbia in homicides and rapes in the relatively recent past. The other categories have gone down except for grand larceny.

But I believe, according to an article I have here from the New York Times quoting figures about the District, there has been some increase in homicide and rape.

Mr. WILSON. Well, every category of crime, Mr. Chairman, in 1972 was down from its peak period. Homicide in 1972 was down from 287 in 1969 to 245 in 1972. Rape was down from 776 in 1969, to 714 in 1972. The problem with offenses, particularly offenses such as homicide and rape which are not affected all that greatly by police activity and which constitute a small number of offenses, is, it depends on where you take your measure from. There is no category of crime I know of in the District that is not down from its peak. Maybe a temporary upsurge.

Chairman PEPPER. This was for 1 month, I am advised.

Chief WILSON. Yes, sir; those things do occur and that, of course, is one of the problems with measuring on a monthly basis. There is reason to be concerned in both of those categories, I would hasten to add.

Chairman PEPPER. The last question I want to ask you is this: In spite of all that has been done, the people of the District of Columbia, I think, still do not feel that they have secured safety on the streets and in their homes and in their places of business, and many violent crimes against a person are committed every day in the District.

If you didn't have to concern yourself with money, what could you do if the President of the United States called you and said:

I am proud of what you have done but we very simply have got to make the streets and homes and working places, recreation places of the people who frequent the District of Columbia, relatively safer. What more can we do than we are now doing?

Mr. WILSON. Mr. Chairman, the President of the United States has done just that. And let me make the point that neither I, nor the mayor, nor the President is happy with the crime in the District of Columbia. While we have substantially cut crime a little bit more than half since 1969; we are still at the level of 1966, you know. You have to recognize that crime did double from 1966 to 1969. We are now at the level of 1966, which was twice the level of 1962. And in 1965 crime was so serious the President, at that time, felt it necessary to appoint a crime commission to find ways to deal with the problem.

So there is certainly ample reason for us to consider the fact that citizens still are concerned.

Mr. LYNCH. Chief, I wonder if I could interrupt for a moment on that. I have some statistics—and with your indulgence, Mr. Chairman—which show that in 1966 there were 7.7 homicides in the Washington SMSA, as compared with 12.3 in 1971. In 1966, there were 15.5 rapes as opposed to 36.5 in 1971. In 1966 the robbery rate was 189.4 as opposed to 510 in 1971. In 1966, aggravated assault was 198.5 as opposed to 237.1 in 1971.

Mr. WILSON. I am not talking about 1971, Mr. Lynch, I am talking about 1972; and there was a 27-percent decrease in crime from 1971 to 1972. I think you cut into all of those categories of crime.

Chairman PEPPER. Excuse me just a minute, Chief, and Counsel. The bell has rung and I will have to go. What I wanted to ask you is this: Are the people of this country and this District, this city, going to have to accept the fact that we have got to live with the volume of crime we now have? Can't we do more to bring about a significant reduc-

tion in the amount, at least of violent crime, we have in the country today; and, if so, how can we do it?

Mr. WILSON. Mr. Chairman, they are not going to have to, and I don't think they are going to be satisfied with crime in this Nation. The January Gallup poll showed crime is viewed by most Americans as being the primary urban problem. I think in the District of Columbia we have demonstrated that crime, as a very serious situation, can be substantially reduced. I think we are on the road in terms of doing more here. I think we have to continue doing some of these things we are doing now. We still have to maintain a very large police force; we have to continue with the court reorganization. I think these things are going to have to reduce crime to the point we can reduce the police force. I think in other cities much the same is going to have to be done, although there is reason for optimism in that 32 of the 50 larger cities had reductions in crime last year and, as I recall, there were 10 cities in the Nation——

Chairman PEPPER. Excuse me just a minute. I didn't ask you about the correctional system.

Mr. WILSON. We had some substantial problems with that over the last few years, although I have the belief that has been improved in the last year. But it does need close attention, certainly.

Chairman PEPPER. The basic reason we are holding these hearings is not only to bring before the Congress and the country the best things being done in all of the critical areas that deal with crime, but to try to tackle the problem with the best brains we have in the country, and discover what more can we do than we are now doing?

Mr. LYNCH. Chief Wilson, is there any question in your mind that a very substantial proportion of serious crime is committed by recidivists?

Mr. WILSON. It is hazardous, Mr. Lynch, to talk in terms of percentages, in terms of what is serious crime. One of the problems that is inherent in crime statistics is—if you take any category such as burglary, for example, and say burglary is a serious crime—an awful lot of burglaries are sort of trashy little cases you can't characterize as serious crime. If you take serious burglaries, a lot are recidivists. If you characterize robbery as a serious crime and assume that purse snatching or pickpocketing is robbery, you have one thing. But if you take holdups, there is no question holdups are committed mainly by recidivists. Our indication is that upward of 70 percent of holdups are committed by individuals who are rearrested indeed for that crime. So there is a heavy problem in terms of particularly holdups and sometimes burglaries and rapes, as an example, with repeat offenders.

Mr. LYNCH. Taking for a moment, holdups or armed robbery, Chief, you did indicate that is a crime committed at least in some heavy proportion by people who have done the same thing in the past.

Mr. WILSON. That is correct.

Mr. LYNCH. Are there a significant number of robberies committed in this jurisdiction by people who are out on bail or who are otherwise pending adjudication for a prior, similar charge?

Mr. WILSON. There are. Figures vary from month to month, but it runs on the order of 60 to 70 percent of individuals who are either on bail, probation, or parole; with bail being, I would say, the greatest proportion of those.

Mr. LYNCH. What in your judgment can the criminal justice system, as a system, do to remedy that problem?

Mr. WILSON. I believe that we need to do a lot more work and are doing work on it. I think we are coming closer to the solution. You have to recognize the superior court reorganization only assumed responsibility for holdups last August, and now have the full responsibility for that. I think the continued reduction in types of crime, plus the identification of major offenders by the U.S. attorneys, which is now being done through LEAA financed computerization of offender records, will serve to assist with the problem.

I have given up any hope of a workable change in the bail law, quite frankly. I think that is what is needed, but the last attempt at a change did not work out and I have given up much hope we are going to achieve a change in the bail law which will have a substantial effect.

Mr. LYNCH. You say you have given up hope on the bail law? Would your judgment be that speedy trial legislation would be at least half a loaf?

Mr. WILSON. I have some concern that speedy trial legislation may become a tool for the defense rather than for the Government, so I have some reservations about that. I don't know if it is really going to solve the problem. It may if properly constructed to place sufficient constraints on defense to go to trial.

Mr. LYNCH. Chief, the recent March 28, 1973, preliminary crime data released by the FBI—and I am sure you have more current data for your own jurisdiction—indicated all major categories of crime, with the exception of rape, were down in the District of Columbia. Aggravated assault was down a pittance, homicide was down somewhat substantially, robbery was down by a very substantial amount, rape was slightly up. That is the 1971–72 data. You probably have more recent data. On a nationwide basis that same information indicated that index crime was down.

However, violent crime across the Nation was up, and after one analyzed the data it was apparent that it was up from 2 to 13 percent in all suburban, all rural, and all urban areas of 500,000 or less population. Usually, the index crimes, as you know, are regarded by the FBI and by law enforcement experts as a good index of how much crime we have. How would you account for the general reduction in property crimes but a general increase in crimes of violence?

Mr. WILSON. Well, first, I would dispute there was a general increase in the crimes of violence nationwide. My recollection is there was a 1-percent decrease in violent crime, if you took your urban areas.

Mr. LYNCH. Excuse me. The FBI indicated there was a 1-percent increase in violent crime.

Mr. WILSON. I beg your pardon. During the last 3 months of the year, my understanding is, the index was down by 8 percent and violent crime down by 3 percent, which is one of the problems with annual data. Changes frequently occur in the middle of the year and trends are concealed by the annual data.

I think that our own experience here has been that it is far easier to cut into property crime than violent crime, simply because things such as auto theft, for example, have been cut by the auto lock, for one thing, and also it is fairly easy cut into by aggressive police intercept patrol and by computerization, for example, which cuts into auto theft

simply because it makes it possible for the man out on the street to know when a car is stolen or not, whereas he could not in the past. The same is true with regard to burglary. These are crimes which are generally much easier to cut into than even the crime of robbery.

The crime of rape and murder, of course, are very difficult for the police to cut into, since frequently they most often occur off the street, out of police patrol, and it is something that has to be cut in through apprehension and effective dealing with the individual through the rest of the system.

But I think much of the statement was our experience in the District of Columbia; we were able, first, to cut into property crime and it has only been in the first year, 1970, for example, when we achieved our first reductions in crime. My recollection is we did poorly in terms of robbery reduction. Robbery was the later offense to move down.

I see a lot of room for optimism in the national crime statistics. I think that the decrease, although it was not all that substantial during 1972, indicates a turning. I think the turning was indicated even earlier than that—in 1971—by the fact there was a leveling off in crime. And we showed about the same effect here. When you look at the annual data you get a leveling effect instead of a decrease. I can't say specifically why violent crime doesn't move as rapidly. I think it is largely that property crime is just more susceptible to police control. Aggravated assault, for example, is almost an entirely off-the-street offense.

Mr. KEATING. Chief, may I ask a couple of questions, please?

I would like to be specific on one particular topic, and that is, the rape that occurred, or the assault that occurred, at George Washington University campus. Two girls were involved. My first question is: Immediately after the acquittal, was there any increase or decrease in reported rapes to your department?

Mr. WILSON. I frankly don't know, Mr. Keating. Rape is such a small, relatively small number, that if you take it on a monthly basis I doubt you could make a statistical inference. I will be glad to see what it showed, but I, frankly, don't know.

Mr. KEATING. Rape has increased across the Nation. We talked to some of the other police departments and there is some indication they are concerned about the element of proof necessary, and the difficulty if a girl submits to a boy's violence upon her, then there seems to be a presumption that she submitted voluntarily and, therefore, there is no crime committed.

Are there any efforts being made by your department to change that at all to make it easier for a conviction or, at least, to protect the women more in our society today?

Mr. WILSON. The city council is presently engaging in, or arranging hearings to ascertain what changes in the law can be made. That problem is recognized primarily as an outgrowth of the George Washington University incident. There is no question the law is grossly unfair to women and, of course, it is not reflected only in rape, but I guess that probably is the worst example of all of the crimes. And, of course, a lot of concern, more concern from the police point of view for persons probably guilty than for victims. I think rape is probably the one example which needs the attention most.

Mr. KEATING. That case has caused quite a bit of controversy around here locally, as I understand it.

Mr. WILSON. Yes, sir; very much.

Mr. KEATING. Because of the role played, or allegedly played, by different people involved. But it is not unique to this area to have a lot of acquittals and I am wondering if you feel that people who have been assaulted in this manner are reporting as often as they should in the light of the difficulty of obtaining a conviction; what they have to go through.

Mr. WILSON. My feeling is they are not. There is a theory which probably has some basis in fact that part of the increasing crime in recent years has been the increasing willingness of women to talk about sex offenses than was true in the past. It has long been known that many rapes come to police attention on the basis of confessions of rapists: that rape is a grossly underreported crime in terms of the reports made by victims. It is confessions of rapists. We have known many unreported rapes that have occurred.

So there is no question it is underreported and there is no question a lot of it goes, first, out of the embarrassment of the incident to the victim and, also, by the knowledge that the victim may essentially end up on trial if the case does go to court.

Mr. KEATING. I only heard your previous comment that you felt speedy trial legislation might develop another advantage for the defense. I would submit that the way the system is now, there is an advantage for the defense in the long delays that are occasioned by the lawyers, not necessarily for the defendant himself because he might be languishing in jail. But isn't it to the advantage of law enforcement generally to have a quick, speedy trial and obtain either a conviction or acquittal?

Mr. WILSON. There is no question of that. I think that the improved situation with regard to trial in the District of Columbia has had a lot to do with the success that has been achieved in reducing crime. There is no question that quick trial and quick disposition of the case is far to the benefit of law enforcement.

Mr. KEATING. One of the difficulties in achieving a speedy trial is what kind of teeth in enforcement are you going to have getting it tried within 60 days, which would be the optimum. About the only thing can be dismissal of the charges, and my comment on that is that if a prosecutor permits that to happen, or a judge permits that to happen in his court, and it is a pretty violent crime, he is not going to be on that court very long or not going to be prosecuting very long. You are going to give the incentives for the judge who is presiding in the criminal court to say, "OK, fellows, you are going to trial in a week." Do that and enforce it. But some way we have to put some teeth into getting this job done.

Mr. LYNCH. Mr. Keating, I wonder if we could ask Mr. Alprin if, in his judgment as general counsel of the Department, whether that defect might not possibly be cured by the institution of a major offender bureau? Would that assist?

Mr. ALPRIN. Something like that, Mr. Lynch.

You see, Congressman, that 60 days would be the optimum. I think it could be substantially less than that for certain categories of offenses. Substantially, less than that.

The problem with the dismissal after 60 days is that it creates an assumption that it is the prosecutor—at least here, which is the system I know about—who is causing the delay most of the time. I don't believe that is true. The delays are caused by a lot of factors, many of which the prosecutor has really no control over.

I would like to see teeth—maybe that would be one possible alternative—to enforce speedy trial for certain categories of offenses. But teeth also directed at defense counsel, absconding defendants, or what have you, any of the many factors which cause delays in the system.

Mr. KEATING. Let's explore that for the moment. What teeth can you put in it? We can continue as we are with delays and so on, and there is a lot of human element involved in consenting to another continuance for one more time.

Mr. ALPRIN. I have done it myself.

Mr. KEATING. And the judge really has a primary responsibility to control it. But what other alternative do you really have? You can't say that if we don't try within 60 days, and if the defendant doesn't come in, he can be convicted. There is no way under our system of laws you can do that.

Mr. ALPRIN. No, you can't. But if the defendant can't be found, if the trial is delayed for a long time and——

Mr. KEATING. I am not suggesting it can be dismissed if he skipped town or if he has forfeited his bond. I am suggesting that if he is sitting in the jurisdiction and he is not physically incapable, nor are the witnesses, that is whether he is a victim or not, there is no reason he shouldn't be tried in 60 days.

Mr. ALPRIN. If I were the judge, I would order him, the prosecutor, and defense counsel, to go to trial in 30 days and if they didn't I would hold whoever was at fault in contempt.

Mr. KEATING. The judges are doing that and I am suggesting that might be one way. The jurist faces the public wrath because you know, justice delayed—that old adage—is justice denied for everybody. Not only for the defendant, the victim, the witnesses who have to constantly appear, the policeman who made the arrest because he may have to come back six times which takes time away from that policeman being on the beat or wherever he is supposed to be, but justice is denied for everybody. And I submit that, and very strongly that one of the greatest deterrents to crime we could have is bringing the defendant or accused to the bar of justice at the earliest possible date and dispose of that either by criminal conviction at the earliest possible date—and then the punishment to follow shortly thereafter so that he knows he is being punished for that crime, not 2 or 3 years down the road—or acquittal. It is fresh in the minds of everyone.

Mr. ALPRIN. But you understand we put 1,200 cases through the superior court every month. And while I agree with every word you said, sir, and it is obviously true, there have to be priorities. Obviously, a robbery is more important than petty larceny or grand larceny which is a felony. I think the whole system ought to put priorities on the kinds of crimes we are concerned with and require those to go to trial very quickly.

Mr. KEATING. But you are also saying that the misdemeanant might have to sit in jail for a longer period of time because he didn't commit a more serious offense.

Mr. ALPRIN. Almost every alleged misdemeanant in the District of Columbia is released on his personal recognizance or released under certain conditions, at the present time. So, I don't really think that is a problem most of the time. There are exceptions.

Mr. KEATING. Well, it seems to me that if my experience is correct, and it is at least in my jurisdiction, there are many days the courtroom is vacant and some days when you have a lot of trials and can't get enough jurors together. I imagine a lot of these things would come into most other jurisdictions. There must be some way, through a modernized computer system, of putting all of the people together so defense counsel can't come in with the excuse, "I have to be in Federal court or be in superior court or city court and, therefore, I need a continuance." There has to be a great deal of pressure to get each case tried and I think possibly the defense counsel is no more orderly about continuances in this whole equation. That still doesn't make it right. We have got to get these matters to trial because it is going to help the citizen.

Mr. ALPRIN. We have come a long way in the court reorganization. The last statistics I saw a month or two ago showed between the indictment and trial for felonies the average delay now in the superior court is 72 days; 2 years ago it was a year or a year and a half in the district court.

Mr. KEATING. I guess while I am pressing so hard, I should also take the time to commend you because the District has done a good job. They do an increasingly good job. I am saying also we can't be satisfied until we have tried in a much shorter period of time. You have done a tremendous job and the crime rate here has been decreasing, generally, and we have used those statistics often. So I think you are certainly to be commended. But I have this thing about speedy trials because it is extremely important to all concerned and I am searching for a way to put more teeth into it.

I recognize the peril of the dismissal of the charge, but I have yet to be able to find another way of doing it that will put pressure on those involved. If you have a suggestion, I would love to hear it, other than the dismissal within that period of time.

Mr. LYNCH. If I may, Mr. Keating?

Mr. Alprin, from the police point of view, it is your judgment that there, at least, is not enough priority attention presently being given to serious and/or major criminals.

Mr. ALPRIN. That is my belief, sir.

Mr. LYNCH. Thank you.

Mr. KEATING. I see there are some other members present. I will yield back, Mr. Chairman, so others may ask some questions.

Mr. RANGEL. Chief, recently there was an article in the Washington Post which talked about a 15-block area which had the highest crime rate in the District and perhaps in the general area. Could you elaborate on the facts and circumstances surrounding that story?

Mr. WILSON. Not with regard to that specific story, Mr. Rangel. I read the story but I didn't follow through on that. We have the Carney block system in the District of Columbia defining areas in which we measure our crime, and at the time this story was written I believed that happened to be the highest. It is in the general area of what is essentially the third district which has been consistently our high crime area over a period of many years, actually. That particular one is in

the lower part of the fourth district but the general area has been a high crime area over a period of many years.

It is reducing. I don't believe there is any Carney block in the city that hasn't had a reduction in the last couple of years. But it is in the very center of the city, it is a problem area, an area of some problem. Although I would elaborate by saying a couple of citizen leaders in the area called my community relations division and complained they weren't nearly as afraid as the reporter would have led people to believe.

Mr. RANGEL. I suppose no one likes his neighborhood being the subject of such open criticism, but the story did say it was a high crime area.

Mr. WILSON. It is that.

Mr. RANGEL. We are all really trying to find out how we can apply the progress that is made in the District to similar type metropolitan areas throughout the country. I sit on this committee. I sit on the House Judiciary Committee, and I sit on the District of Columbia Committee, on its Subcommittee on the Judiciary. What I am trying to find out exactly is how you have been able to get a decline in crime while most major cities have been on the uprise. Have any specific studies been made as to the causes of crimes in an area such as described by the Post?

Mr. WILSON. I would say yes, as a generalization. The causes of crime in that particular area and, indeed, in the generalized area surrounding that are pretty self-evident. It is the core of the city, it is a congested area, it is an area of high poverty, it is along one of the 1968 riot corridors. It is an area where there are a lot of vacant buildings, a lot of poor people living in the area. It is an area that suffers from the worst of the social ills of the city.

Mr. RANGEL. I thought your testimony said that you do find some decreases?

Mr. WILSON. There were decreases indeed in the early years; our best decreases were in the high crime areas because it was in the high crime areas, and still is, where we concentrate most of our manpower. And since there is a great deal of crime there, it is much easier to reduce where you have a great deal of crime than in some Carney block.

Mr. RANGEL. Could you tell us what manner or what method you have used? To what do you attribute the decrease? Was it because of something different that the police department was doing?

Mr. WILSON. I don't know that it was anything all that different, Mr. Rangel. It was largely traditional things. The vastly increased police force here, as was discussed earlier, the largest per capita police force in the country. We increased the recruitment of blacks, we have increased the use of scooters, which get foot patrolmen effectively out and in the community. We have increased the street lighting, particularly in that area along the 14th Street corridor. We have concentrated high-intensity lighting in that area and throughout the city, there has been a major impact on narcotic drug use which was a particular problem in that area.

Mr. RANGEL. Most of us on the District of Columbia Committee really don't believe that we have the answers to the problems that the District faces, but we are hopeful that since this is the Nation's Capital perhaps we could institute programs that would serve as a model for the rest of the country and we could gain from all the experi-

ences here, not only in the area of antisocial behavior but in meeting all major city problems.

I assume the President of the United States has expressed a like concern as to the Nation's Capital being what most of us would want it to be. Has the President had the opportunity to discuss crime in the area with you?

Mr. WILSON. In the District of Columbia?

Mr. RANGEL. Right.

Mr. WILSON. Yes, sir. On several occasions, as discussed earlier. Beginning in late 1969, there was no question the President had, as I testified earlier this afternoon, established the reduction of crime in the District of Columbia as really the first priority of the city government for a couple of years and still maintains it as a high priority and still is very dissatisfied with the fact we have far more crime than we should have.

While we have been successful in substantially reducing the crime rates since 1969, as I indicated earlier, we are still double the 1962 rate, and certainly that is a goal which I think we all would strive to achieve. When we get to the 1962 level, we may be at a point where we will have to sit back, I think, and question the priority then with regard to crime. But at the point we are now, we are certainly not at the point anyone can sit back and say the job is done.

But there is no question the President is interested in further reductions in crime and is going to insist the city government achieve further reductions in crime before he will be satisfied with this situation. As I judge his mood and the rest of the Nation, he sees crime as does most of the citizenry of America, as a major urban problem that needs to be dealt with. And while naturally there were some improvements last year, certainly the President sees that as just the slight improvement on the top of a peak of crime which has to be reduced to a level where people feel free again.

I am very much concerned as I go around the city and see taxicabs here and, of course it is true in other cities, you can't get change for your money and you can't get on a bus without change and you ride around Capitol Hill and see all sorts of homes with grilles on the windows. There is no question that we still—in this city and many other American cities—have people living in fear and really have a lot of people imprisoned in their own way.

Mr. RANGEL. In describing not only this 15-block area we talked about, I would suppose it was your testimony in these general high-crime areas, that you described them as being of high-density populaties, a high-poverty level, and probably unemployment. I assume that if these conditions were alleviated that it certainly might make your job a lot better.

Mr. WILSON. Oh, there is no question that if it were possible to alleviate the social causes of crime it would make the police problem a great deal better. I am always hesitant about saying that because, while I believe it, I sometimes wonder if—I don't want to make the problem so large, that nothing gets done about anything and I think you can do something about crime without saying that we have to deal with social problems, first. Although I think it would be desirable to do that. I think we need to do both.

Mr. RANGEL. But you do believe these factors are contributing factors?

Mr. WILSON. There is no question of it. You just absolutely cannot deny they are contributing, and heavily contributing, factors.

Mr. RANGEL. Does the President share your belief that these are the factors that contribute heavily to crime?

Mr. WILSON. I frankly could not say. I don't know. I would assume so but I, frankly, could not say that. I have not sat down with him and discussed that with him, so I could not say that.

Mr. RANGEL. In your conversations with the President—and believe me, when privilege starts, you can let go—I am concerned——

Mr. WILSON. I will have to call the Attorney General on that.

Mr. RANGEL. Call anybody else but him.

But I am concerned, recognizing the President's concern not only about the crime in the District of Columbia, but in all other major cities, that when he deals with you it necessarily has to be as a professional and he has to tell you what tools will be made available to you if he expects appreciable change in terms of crime in the District. He does ask you what are your problems and what tools do you need to deal with them, for probably you have the same budgetary problems as most police chiefs in major cities. So my question is, if you believe that your highest areas of crime are caused by certain social factors, regardless of what they are, the tourist trade, demonstrators, whatever it is, I assume the President would be concerned with that, too?

Mr. WILSON. I would assume so, Mr. Rangel. Although I think I have to repeat, perhaps more emphatically, what I said before. While I don't have any doubt in my mind that root social causes are what lead to crime I am not one who believes that I would recommend we attack root social causes as a way of eliminating crime because I, frankly, think that root social causes are perhaps too complex a problem.

Mr. RANGEL. Let's not talk about eliminating crime, because I am convinced wealth certainly does not preclude one from committing crime.

Mr. WILSON. I guess what we are really talking about is reducing crime to a tolerable level, and I think we all recognize, even when we talk about crime index offenses, that we are only talking about a very small proportion of total crime, if you think of what crime is.

Mr. RANGEL. If, in this political subdivision, there are certain factors which in your expert opinion contribute toward crime, certainly your Department would be concerned about alleviating those conditions and starting to attack the root causes of the crime?

Mr. WILSON. I have not seen attacks on root causes which have had substantial impact on crime. I am sure it is possible, but I, frankly, do not see that. I do not feel we should—as has been suggested in the past—do nothing about crime until we deal with the root causes. I don't think so.

Mr. RANGEL. I am sure I agree. I think you could say one way to eliminate crime is to eliminate people, but we wouldn't suggest that.

Mr. WILSON. There is very little crime in the desert of Arizona.

Mr. RANGEL. But, certainly, with your background and experience, you recognize there are many things outside of the control of the police department, directly, that certainly could make our job a heck of a lot easier if other agencies were just as concerned about the things they are supposed to do. If we are talking about any given demonstration day, certainly you have nothing to do about the buses that come

into the District of Columbia and yet that certainly makes your problems more difficult.

Mr. WILSON. Yes, sir.

Mr. RANGEL. So you wouldn't have to really ban buses to say you are doing your job, but you would consider this a factor and you would deal with it; you would do whatever you do in terms of assignment of your men to deal with that problem. And recognizing that this is the Nation's Capital and recognizing that you can find certain areas which are measurably high-crime areas—in other words, I am willing to do with you what I know New York City is not willing to tackle, because we don't have the President as the mayor. If he wants to eliminate, alleviate or reduce crime in the area, and you are able to look at your crime charts—I assume you have charts measuring crimes of violence and crimes against property by neighborhoods?

Mr. WILSON. Yes, sir.

Mr. RANGEL. You probably know over the years just where you have most of your major problems. Now, the reasons that you have given for these real rough areas have been poverty, unemployment, and deprivation. I am not asking you to assume the responsibilities of the Human Resources Administration, but I would just like to believe that if the Chief Executive tells you to make this the type of city that all Americans can be proud of, the factors that create crime are also discussed.

Mr. WILSON. Well, he didn't ask me to be the mayor; he only asked me to be the chief of police. And I think from my point of view that crime can be reduced. In fact, I agree we have demonstrated crime can be reduced with what has been done. I am not sure these other problems are not being dealt with to some extent; they certainly have not been dealt with totally successfully. I don't think, insofar as I am aware of the history of America, they have been dealt with successfully. That is, in terms of elimination of root causes.

Those are the things that need to be dealt with, but I don't consider them things that are priority items, from my point of view, to achieve reduction in crime. I think crime can be reduced with or without elimination of root causes. I think from a humanitarian point of view I would perfer to see the root causes eliminated as well.

Mr. RANGEL. I think if we do understand each other, your testimony has been a little different from the police chiefs that we have heard testify from New York City, from Indianapolis, from Chicago, where more and more they concern themselves, not just with the manpower and patrolling the streets, but in dealing with the root causes of criminal activity. Some of the ideas they had were absolutely amazing to me because of my biases against cities like Chicago, coming from New York. All of their testimony this morning was not humanitarian but in dealing with high crime areas, they were talking about employing the person with the propensity for crime, to have them involved with law enforcement and other social services. They were talking about people who looked like policemen being involved in lead poisoning and showing people where services are available so they could improve the quality of their lives, so the frustrations they had would not be taken out against their fellow citizens or against the person wearing the uniform.

I am certain they didn't hold themselves up to be the mayors of the

towns, but it just seems to me that they felt in communities such as this 15-block area in the District of Columbia, they had to deal with people and their problems in order to be effective in reducing the crime rate. They were pretty proud of themselves when they achieved a decrease.

Mr. WILSON. That is an interesting viewpoint. I don't really think I share that, though.

Mr. RANGEL. I don't suppose you are prepared to say the President shares your professional opinion about this. I really hope he doesn't.

Mr. WILSON. I testified earlier I haven't discussed that with him so I, frankly, can't say what his view is.

Mr. RANGEL. I don't want to prolong it because I don't really believe you have to be—you are not hired as—a humanitarian, but let's assume you are concerned about people, and certainly your record as police chief would indicate that you have a concern. It just seems to me that if you are in love with this city as much as most people are, that in order for you to be effective in your professional area of law enforcement, this would not be playing the mayor, you would involve the unemployed or concern yourself with the problems of the deprived and the poor.

Mr. WILSON. I don't think I said I was unconcerned about the problems of the poor. I said I do not really see that as a viable approach from the point of view of the chief of police to reduce crime. I said those are things the city needs to do, but I did not say I need to be doing it.

Mr. RANGEL. These things would not be agreeable to you? If some program were developed in this area, so dense and so unemployed and so poverty stricken, to have these people help themselves and show they have the can-do spirit and they do become employed, would you professionally forsee a decrease in crime in this area?

Mr. WILSON. I think so. I would have to see the program. As a hypothetical answer, yes, certainly. I have testified that social improvement of the area undoubtedly would improve crime.

Mr. RANGEL. Wouldn't that be considered as good law enforcement to suggest programs that would put people in a position where they would not have this propensity to commit crimes, without converting you into a social worker? That would not detract from your office as police chief?

Mr. WILSON. I simply don't see that as my function in the organization of the government, Mr. Rangel.

Mr. RANGEL. Even though it is a contributing factor to crime?

Mr. WILSON. Even though it is a contributing factor to crime. I see education as a problem to crime, but I don't see taking over the educational system as my function as chief of police. There are a lot of contributing factors to crime, which——

Mr. RANGEL. I don't know, Chief. I assume the District of Columbia still has its narcotic addiction problem?

Mr. WILSON. It has substantially improved in recent times, and it does have still a narcotic addiction problem. But it has substantially improved.

Mr. RANGEL. And I would like to believe there must be a lot of testimony given by you, on or off-the-record, that educating children against the dangers of narcotics has been considered a part of your official responsibility?

Mr. WILSON. That is correct. No, I have not considered it as part of my official responsibility, but I have certainly supported the narcotic treatment agency and, to some, we have done some lecturing in terms of narcotics.

Mr. RANGEL. In your official capacity, I assume you support the Narcotics Treatment Administration?

Mr. WILSON. That is right.

Mr. RANGEL. How do you jibe that as being within your official responsibility and not being able to concern yourself with——

Mr. WILSON. I think you are misstating what I said. I did not say I was not concerned with the problems.

Mr. RANGEL. I mean officially.

Mr. WILSON. I said officially. I do not see it as my responsibility to go up and talk with the President about employment in the high-crime area as something I should do.

Mr. RANGEL. I didn't mean to include the Presidency in all of my questions to you.

Mr. WILSON. I am sorry; that is the way they were coming to me.

Mr. RANGEL. Then perhaps it was because I misframed the question. Then you do discuss the social ills of the community and the high-crime rate with the Mayor?

Mr. WILSON. Yes. Absolutely.

Mr. RANGEL. And you are involved with programs to alleviate the conditions that cause crime?

Mr. WILSON. Involved, yes. I am not running programs to alleviate conditions, aside from my police force.

Mr. RANGEL. I assume in your conferences, as the police chief, you would have to have some input, even though it had nothing to do with patrol?

Mr. WILSON. Absolutely. I am sorry. I thought you were asking me whether I had discussed it with the President.

Mr. RANGEL. Now, let me go back to that.

Mr. WILSON. I am not going to, either.

Mr. RANGEL. You have officially discussed the social ills of——

Mr. WILSON. I have discussed the social ills of that specific area with the Mayor.

Mr. RANGEL. In an official capacity?

Mr. WILSON. Absolutely.

Mr. RANGEL. As a measure of crime and lack of crime?

Mr. WILSON. And as it relates to the general area we were referring to, as a matter of fact.

Mr. RANGEL. This would be especially true in narcotic rehabilitation, and seeing crime as it relates to the increase of narcotic addiction you might be in a better position than a doctor or social worker to give some advice regarding where clinics should be located or, certainly, where those who need the clinics are?

Mr. WILSON. With regard to the general program, yes. I have not discussed these matters with the President.

Mr. RANGEL. When he gives his mandate to you to decrease crime, it seems to me he should have given it to the Mayor.

Mr. WILSON. I am sure he has discussed crime reduction in the District of Columbia with the Mayor as well as with me. I, perhaps,

misled you. He has discussed it with the Mayor individually, with me individually, and discussed it with both of us together.

Mr. RANGEL. But he doesn't go to the causes of it. He just talks about how he wants to see conditions improved?

Mr. WILSON. He has not discussed the causes of crime with me. That is what I have to say.

Mr. RANGEL. Thank you, Mr. Chairman.

Chairman PEPPER. Chief, following somewhat the line of questioning of Mr. Rangel, I know Mayor Washington is a man of compassion and concern for his fellowmen. He would like to see a lot of conditions in the District of Columbia improved. I happened to own some property in an area which has become a high crime area and that property has very greatly decreased in value, and I suspect that same thing has happened to a lot of other property owners all over the District. I suspect the reason Mayor Washington has not been able to get improvement in this high crime area, of which Mr. Rangel was speaking, is because he hasn't had the money to do it. And in these hearings I am anxious to find out just where the responsibility really lies.

If it lies on the failure of Congress to appropriate enough money to clean up the ghettos, to put the people in decent housing, to try to provide better schooling so the children will not be school dropouts, to provide jobs, then the fault is not Chief Wilson's and his police department, but the Congress or whoever it is who is responsible for providing revenue in that area.

I suspect that, basically, that is the problem all over the country. Other chiefs of police would like very well to be able to have the high ratio of police you have. A little revenue, I suppose, comes from the Federal Government. Most of these other chiefs don't have that strong source of revenue. And I suspect that, basically, the Congress and the State legislatures, the municipal authorities, and the people generally, have not yet owned up to being willing to pay the price of really bringing crime down to a minimum level, what you might call a tolerable level.

To me, if we really determine to do it: this country is powerful enough and rich enough and does have the know-how about it to reduce crime down to a minimum level so that there will be relative safety all over the country.

Would you care to make any comment on that?

Mr. WILSON. I think that is certainly true, Mr. Chairman. I think crime can be reduced. While I agree with Congressman Rangel that social problems need to be dealt with, I, frankly, just do not see that priority on social problems as the way to reduce crime. I think that crime can be reduced by putting emphasis——

Chairman PEPPER. Not the only way?

Mr. WILSON. I am not even sure it is a practical way. I think it is probably a too-long-term solution to be achievable in the situation in which we currently find ourselves, where citizens across America are very much afraid, and rightfully so, of crime and much more so than they were 10 years ago. I think that crime can be reduced through priorities to direct law enforcement programs, on increased police, on court systems, and there, of course, is a great problem, as I gather, in most of your urban areas, although I certainly don't have direct

knowledge of other urban areas, but I have the impression that many urban areas have much the same problems we had in the District of Columbia before court reorganization with diffuse court systems, with badly backlogged court systems, with not bringing individuals to trial, with so great a fallout of persons arrested that the law enforcement process is just practically unworkable. I think these sort of things need to be dealt with on a priority basis. I think they can be.

Now, concurrently, I think that it is certainly desirable from the standpoint of achieving in America—we would all like to see problems of poverty overcome. But we have had poverty for many years, for centuries, and we did not have as much crime for centuries as we have had in the last few years in this country.

Chairman PEPPER. Chief, I think we all agree poverty is no excuse or justification for the commission of crime. And, yet, if you walk through the prisons of this country, as nearly all of us have done, you will generally see something that I was told by one of the staff of this committee, in the early days of this committee, that was gleaned from some of the Presidential Commission reports, as to the type of person in those prisons. And this is what that man said. He said that the typical inmate of our penal institution is a white male, about 24 years of age, a school dropout, unemployed, who previously had been in prison.

Now, if that is even substantially true, that tells a lot about the environment from which that man comes.

Now, I know it to be considerably true on your part, and no doubt many would want to refute you for doing it, but if you were to go before the school board or school authorities of the District, and say, "Ladies and gentlemen, I hope you will not consider me an intruder here in your council today, but the people of this area want crime reduced. And one of the serious causes of crime in this area is school dropouts. I could give you the figures, the figures that would sustain that statement. I am not telling you how to run the school. I am just telling you that I, as chief of police, have to deal with the problem of these dropouts. They want things that others of their age and general characteristics have; they can't earn enough money ordinarily to buy them; they dropped out of school way back in the 7th, 8th, 9th, 10th grade, along there somewhere. They don't have any skills, they are headed to the juvenile court, and the juvenile judges have told us that about half of those who get in juvenile court for a serious crime wind up eventually in penal institutions."

I think you would be justified in making an appeal, as chief of police not as an intruder to that school board. And if you went before the chamber of commerce and said:

Gentlemen, I appreciate the confidence you all extend to me, the encouragement that you have given me, but as chief of police trying to do a job for you, to save you and your family from harm in the District of Columbia, I want to tell you some problems that might well need your attention, some social problems in our area.

As I said, probably a lot of them will say:

Chief Wilson better attend to his own business. We are running these things.

And yet you would be entirely justified as chief of police, trying to help the people of the District to be safer. You would be entirely justified to try and encourage these people to do a lot of things that would remove a lot of these factors from the environment.

Mr. Wilson. The problem is much more complex than that. While it is undoubtedly true—I accept it is true I don't know, but it is probably true—that a high proportion of persons in prison are school dropouts, there are still an awful lot of school dropouts in America who are not in prison and never commit a crime.

I think we have the unfortunate tendency of taking an identification stigma, if you will, of a person and saying that person is likely to be a criminal because he is a school dropout or because he is black. The Crime Commission pointed out in the District that most of the persons arrested for crime were black. But, on the other hand, when you start comparing, it is only about 2 percent of the population arrested anyhow.

So it is a problem, I think, when you start saying being poor or being a school dropout or being deprived is a contributor to crime. Maybe it is and maybe it isn't. It may come out the same personality that makes the criminal has made the person drop out of school or has made him poor in the first place. I am not sure, and sociologists have been trying for about 165 years to define what makes crime and have been trying through all sorts of statistical processes to say these conditions create crime, and they really have not been able to do it.

I think we know there are areas in the centers of cities, and the cities generally, where most of the poor, most of these school dropouts, and most of the social ills are, but there are a lot of people living in these areas who never commit crimes and never become involved in crimes; and, by far, that is the majority of those individuals.

That is why I am afraid of going to root causes as a way of reducing crime.

It is much the same problem we had when we had a real epidemic of narcotics in 1969. We found something on the order of 35 percent of persons arrested for crime index offenses had used narcotics, on the basis of some urine sampling we did in the central cellblock. That tells us something but it doesn't tell us that to eliminate heroin is going to eliminate that 35 percent, because it is a safe guess 25 percent of those would have committed crimes whether using heroin or not. We don't really know the percentage.

But the problem of attaching crime to root causes, in my judgment, is that all of the persons who are suffering from root causes are not committing crimes. I think it is a great mistake for us to say if we cure poverty we are going to cure crime. I am not sure we can. I am not sure about curing school dropouts. What we have done universally on these school education problems, one theory holds that we have taken the school dropout who used to quit school and go out and go to work somewhere, and kept him in school where he is unhappy and moved to crime in schools, and there is some indication of that in recent years.

Mr. Rangel. Mr. Chairman?

You are using some social work terms that I am familiar with. Root causes just sounds like if you eliminate that you have it made, and I don't want to make that contention. But you can say that employment, those youngsters who are employed, do less mugging than those who are unemployed. That wouldn't put you into difficulty.

Mr. Wilson. I think you can say that.

Mr. Rangel. I would say most drug addicts smoke pot, and you could say most drug addicts start off drinking milk.

Mr. WILSON. I am not going to say that.

Mr. RANGEL. But if police chiefs can work with other people in attempting to deal with the employment of the youth—I am not talking about giveaway programs or putting a couple of dollars in their pocket and having them idle, because it could very well be that even with money in their pocket they would commit crime if they had nothing to do with their time—it would not infringe upon your professionalism to say in areas where youngsters are employed, that you would suspect that this is not the person that is most prone to physically attack people in the street?

Mr. WILSON. I think that is true. But I would not invest any crime prevention money in employment of youth, and I guess that is where you and I probably disagree. Maybe we don't.

Mr. RANGEL. I don't want any person in charge of any agency to invest any of those funds from other peoples' work. I wouldn't ask you to do it. With those police chiefs who have testified here, I think it was made abundantly clear to us, those funds did come from other sources even though they wrote the programs. They were the sponsors of the programs and they asked businessmen and other concerned citizens to give a kid a job. I guess the District of Columbia Committee will have to get together with you to ask your advice regarding some of the programs that this Congress may be prepared to fund without jeopardizing your budget. I hope you can walk that one step with us to begin to talk about some of the factors that underlie crime and not the core, or the term you used, because I am not prepared to deal with that.

But if you did find as a result of your statistical data that all of those factors that contribute to crime, and if we would rely upon your expertise as a criminologist and ask what can we do to help, certainly we would not ask you to come with a program that would——

Mr. WILSON. I am not a criminologist. I am a high school dropout.

Mr. RANGEL. I am, too. So we should be able to use the same type of language; one dropout should be able to understand another. You know, if it was to surface, a lot of them survived.

Mr. WILSON. Me, too.

Mr. RANGEL. I am suggesting people really don't have to volunteer to go into the Army to avoid the temptation out on the streets. If you could support the type of programs, in my community the Neighborhood Youth Corps, and whether or not you differ with Pat Murphy, I could depend on him to support the application of Neighborhood Youth Corps, the application of neighborhood police stations, the application of a whole lot of things that had nothing to do with increased police manpower, or increased squad cars, and I am certain that all of them attribute an interest in these other programs as being partly responsible for the decrease of crime in these areas. As a matter of fact, I know you probably wouldn't suggest it, some of them even have policemen trained in psychology to deal with that family that gets into a fight every weekend.

Mr. WILSON. I am familiar with the program. I don't think those programs are viable for other reasons.

Mr. RANGEL. I gathered you wouldn't. But a lot of chiefs do.

Mr. WILSON. For other reasons, I do not think they are practical. I would predict those programs will not be existing 5 years from now.

Let me make that as a prediction, because I don't think they are practical.

Mr. RANGEL. I just want to assure you of my political support on the District of Columbia Committee to try to give you the tools that you need to work with and reduce crime, and from time to time I may call you to give me a little support on the social programs that you and I agree could be a contributing factor to reducing criminal activity.

Mr. WILSON. Thank you.

Chairman PEPPER. Chief, I just want to ask you one other question. I believe you said you didn't want any more police. If what we have now done, and what you have done, and what has been done in the other areas that have to do with curbing crime, has been responsible for a decrease of 26.9 percent of serious crime in the District in 1972, and I believe a decrease in other forms of crime, except for a 16-percent increase in rapes, if what we have done has brought about nearly a 27-percent decrease, why can't we do some more and bring about a 50-percent or 75-percent decrease in crime? You are aware, the people who dwell in the District of Columbia are still very much concerned about the volume of serious and violent crime we have in the District.

Mr. WILSON. Mr. Chairman, coming back essentially to what Mr. Rangel is saying, it is a matter of priorities. There are other things to be done in the District. I think one could argue for increasing the police force even further. One could argue even for maintaining our authorization ceiling of 5,100 men, which we are not doing. We are, as I think I indicated earlier, down to a 4,950 ceiling as a budgetary matter.

Chairman PEPPER. How much did you have at the maximum?

Mr. WILSON. 5,100.

Chairman PEPPER. You are down to 4,900?

Mr. WILSON. 4,900 now and our average ceiling for this fiscal year is 4,950. And, of course, this reflects a reduction. There are other things that have to be done in this city. I guess that is what it amounts to. And while we are still maintaining a high priority on crime reduction here, I think when we had a 25-percent reduction last year, when we had a reduction during the first quarter of this year on the order of 10 percent, as I recall from the last quarter, and are projecting at least a 10-percent reduction, this really makes sense to me.

Chairman PEPPER. If we are willing to accept a relatively small percentage of decrease in crime, here you are telling us you have already cut 200 men from your police force, from 5,100 to 4,900. In other words, they have been willing to give you enough money to make the progress you have made, but they have not been willing to give you enough money to make substantially more progress than you have made. Now you are beginning to reduce your personnel.

Mr. WILSON. I think, Mr. Chairman, we still have a priority on crime reduction. We have, as you stated, a 27-percent decrease last year, down from 202 offenses daily in 1969 to 85 a day in March. This is better than half and it, frankly, seems to make sense to me, in terms of the other problems of the city.

Chairman PEPPER. Do you think Senator Stennis, whose life has been in serious jeopardy and who has been out in Walter Reed Hospital for over a month now, finds any solace in the fact that crime has decreased generally in the District of Columbia by 26 percent?

Mr. WILSON. No, Senator, I do not; but if crime in the District of Columbia is reduced to 15,000 offenses a year, which we had in 1962, I still can't guarantee that you won't walk out on the street and get shot by a holdup man. People were shot on the street in 1957 when crime was at an all-time low. And it was no satisfaction to the man who literally had his eyes kicked out on Capitol Hill in 1957 that crime was then at an all-time low. But those kinds of incidents are not the things by which I think we can sensibly measure crime and establish priorities on the basis of. I am sorry to say that.

Chairman PEPPER. With all of the things to do, and the decisions to be made by the public authorities and the people, do we really want to substantially get rid of crime as a priority, or do we just want to consider that one of the major priorities with which we deal, comparable to building the subway, et cetera?

Mr. WILSON. I think in the District of Columbia it is still the major priority. I understand that the desire of the President is that crime in this city be reduced to the 1962 level, which means it has to be reduced to about half again; and I think we are on the road to doing that.

Chairman PEPPER. Thank you.

Mr. Winn?

Mr. WINN. Yes, Mr. Chairman. Thank you very much.

Chief Wilson, I want to apologize for not being here for most of your testimony. I have been checking with counsel to see if some of the questions I had in mind were covered. One of them was on LEAA funds. I have been informed that you will submit for the record how those funds were used and in what amounts.

Mr. WILSON. Yes, sir.

[See letter received for the record, dated May 3, 1973, at the end of Mr. Wilson's testimony.]

Mr. WINN. I want to commend you for the 26- or 27-percent decrease. It seems to be a trend around the Nation, though, that crime is dropping. I think your record is very commendable and made under some very trying circumstances.

Yesterday we were urged by one of the other police chiefs to take the opportunity to ride in patrol cars. And, as you know, when I served on the District of Columbia Committee I was one of the members of that committee that did accept an invitation from the police chief at that time to ride in the cars and see the many problems your patrolmen face.

Let me ask a question that dawned on me when I first came to Congress in 1967. We had a very high rate of crime at that time in the District of Columbia. Around the Capitol, itself, other than the dome of the Capitol, we had a very poor lighting system in this area. I inquired and found out that—I don't mean to be stepping on any toes, and I don't know the exact name of the commission, but it has got something to do with the beautification of the Capital and the Capitol, itself; in order that all of the buildings look beautiful at night they light those, but the entire surrounding area is dark.

I think some of that opposition to additional lighting has been overcome, but at the same time we had muggings and assaults and things like that. As a matter of fact, two people in my office were assaulted when walking to their cars in this area.

I wondered if this is the problem in other places in the city, that they won't let them even approve additional lighting because they want to keep it so beautiful?

Mr. WILSON. It is not a problem, Mr. Winn. We have instituted a significant street-lighting program throughout most of the city, or at least throughout the high-crime areas of the city. And perhaps you notice that east of the Capitol Grounds themselves there is a major program of lighting. In the early years we had some problems, some objections, I think, from the Fine Arts Commission with regard to Georgetown but that is some time ago, and it has not been a problem in recent times.

Mr. WINN. Is additional lighting a deterrent to crime?

Mr. WILSON. No question.

Mr. WINN. You have proven facts on it?

Mr. WILSON. It is a deterrent to crime in any high crime area. Of course, like many crime reduction programs, it loses its cost effectiveness as you get into lower crime areas, but in any high crime area it is certainly a deterrent to crime.

Mr. WINN. Chairman Pepper referred to Senator Stennis. We certainly feel, all of us, badly about those circumstances. I want to point out also that it is my understanding that a young man who worked on the Hill until recently for Senator Vance Hartke was shot the other night. Is that true?

Mr. WILSON. I am not familiar with that.

Mr. WINN. There was an article carried in the Roll Call magazine. I didn't get all of the details. If you are not familiar with the case, we will skip it.

Mr. WILSON. I am not familiar with the incident.

Mr. WINN. But, as you say, you can't guarantee we won't walk out of a restaurant tonight, lighted or poorly lighted, and have somebody try to rob us or shoot us.

Mr. WILSON. We are never going to be able to guarantee that under the best of circumstances.

I would hasten to add a lot of improvement can be achieved. We still have far too much robbery in the city, as in most cities. But my point is as a practical matter, we can't judge crime by spectacular events.

Mr. WINN. In your opinion—this has possibly been asked by the other members—how can we cut down on the number of people in the District of Columbia that are carrying illegal weapons—guns?

Mr. WILSON. I have recommended legislation for mandatory jail sentences for persons carrying guns.

Mr. WINN. Where do we put them? We are loaded now.

Mr. WILSON. The population of the jail is down from its peak, though.

Mr. WINN. You have got some room?

Mr. WILSON. I don't advocate necessarily long sentences in the sense of a year or two; but our experience is that individuals who are arrested for carrying guns in the District of Columbia virtually never get any time in jail, any time at all. All we are recommending is 6 months minimum—I would be happy with a 30-day minimum.

Mr. WINN. There used to be a joke on the District of Columbia Committee that they would check them when they were arrested for

carrying a gun; they check them in and write their name down on the blotter and spank them and make them stand in the corner for 30 seconds and send them out the back door, because they didn't have any place to put them.

If there is some room down there, maybe we ought to try to fill it up with some of these guys, because they are the same ones shooting Senator Stennis and whoever it might be tonight or the next night.

Did they ask you if you have a rape division?

Mr. WILSON. They did not. We do have a sex unit in our criminal investigation, which primarily deals with rape.

Mr. WINN. Are women involved?

Mr. WILSON. Yes. Women police officers are involved.

Mr. WINN. We had very interesting testimony from Lieutenant Tucker of the New York City Police Department.

By the way, Mr. Chairman, she was on the "Today Show" the next morning discussing the same thing she did with this committee; of how she felt that the policemen in many cases lacked the sensitivity to discuss the details with women that had been raped.

I was just wondering whether you had found this was a problem, because we read in the Washington papers about every other day a rape occurs in Washington.

Mr. WILSON. They occur more frequently than every other day. It is about two a day.

Mr. WINN. The percentage of rapes is up?

Mr. WILSON. The number of rapes is up, not from the peak, but it is up substantially over the years. We find that it is useful to have women to interview women, although our sex squad officers are pretty good individuals in terms of interviewing. But I think there is a lot of desirability to have women police officers doing that work.

Mr. WINN. Have those officers in that division been trained, or are they taking courses from psychiatrists, or anything like that?

Mr. WILSON. Not psychiatrists. We have a school we send the officers through for both sex and homicide.

Mr. WINN. What kind of training?

Mr. WILSON. Primarily investigative techniques, rather than psychiatric; not psychiatric techniques.

Mr. WINN. Lieutenant Tucker tried to describe to the committee some of the types of men that are raping women, and we sort of got into people with psychiatric problems.

Mr. WILSON. Well, that, I think, is probably a generalization. It is typical that the rapist is probably a person with psychiatric problems.

Mr. WINN. The Indianapolis police chief gave us, I thought, some very good information, Mr. Chairman, on some precautionary plans and programs. You might want to refer to the record and see what they are doing; how they are trying to take care of the rape problem in Indianapolis by these programs, by watching certain individuals in advance that they think are heading that way. They seem to have a pretty good record of spotting these guys who are heading for trouble because of certain patterns they follow.

Mr. WILSON. That is interesting.

Chairman PEPPER. If my colleague would yield.

Mr. WINN. Yes.

Chairman PEPPER. I believe he said, the rapist starts as a prowler in the neighborhood and then a peeping tom indicating proclivity toward that sort of thing, and then some ladies' underwear is stolen from the clothesline, just petty larceny, but it has some significance with respect to that individual.

Mr. WINN. And indecent exposure.

Chairman PEPPER. Indecent exposure would be another phase. When a man begins to be involved in those things, I don't know just what you could do about it. There is no way of preventing it that I know of, but those are indicative signs that he might later on be involved in a rape.

Mr. WILSON. That is probably true. I am not sure how one identifies those symptoms from a police standpoint on a practical basis, because with many of our rapists we learn of them only when they commit a crime and are apprehended.

Mr. WINN. As I remember, he had a lot of help from the community and they worked very closely. Their street policemen work very closely with the community and get a lot of tips in this direction.

I have no more questions.

Chairman PEPPER. Mr. Nolde, our chief counsel, has a few questions.

Mr. NOLDE. What is your position regarding legalization of gambling?

Mr. WILSON. Well, I don't have a specific position on it. There is a gambling commission which is supposed to issue a report within 2 years, I believe, which is to study the problem of gambling nationally and come up with some comprehensive national program. I think it is something that is going to have to be approached on a national basis to avoid most cities, or areas, becoming centers for gambling.

I haven't really made a thorough examination of the problem. It is a difficult problem to us and not a problem of high priority to the police. It is a problem which is one of the great influences in corrupting police officers. So, from a police point of view, it is something that certainly needs study; but I don't have a position of my own.

Mr. NOLDE. I understand there was a recent survey of District of Columbia police officers in which 88 percent favored legalization.

Mr. WILSON. I saw that reported in the paper. I am not surprised.

Mr. NOLDE. And I understood that, according to that report, you had indicated that you would be in favor of a legal lottery in the District, but you thought it would not greatly affect widespread illegal gambling.

Mr. WILSON. That was a clipping, an inaccurate report from an earlier inaccurate report, which was a question: "If the Mayor wanted to have a legal lottery would I object," and I said, "no." I have no role; I am not an advocate for change.

My impression is, and again let me say my knowledge of what legal lotteries have accomplished is sketchy, but my impression is government-run lotteries have not eliminated the nongovernment lotteries and, therefore, have not eliminated the police enforcement problem or eliminated the problem of corruption of police. I have no strong objection to a government-run lottery but I don't think that is an answer to the problem from a police point of view. My impression is that those jurisdictions which have the lotteries still have the underground numbers game which is able to better operate since they are

private enterprise and are able to serve the customer much better and, besides that, you don't have to pay tax on your money.

Mr. NOLDE. It is reported that 80 percent of the officers believe that present enforcement of gambling laws is uneven, unfair, and misdirected. Why would they feel that way?

Mr. WILSON. I frankly don't know. I don't recall what the questionnaire was and, of course, how the questionnaire was instructed and what it says. I, frankly, don't know what would be the basis for that, because within the District gambling is enforced against both the numbers and against these sports-betting figures. We encourage enforcement of gambling against all levels, so I am not aware of any substantial amount of commercialized gambling in the District of Columbia. I am not aware of any gambling in the District going on. I don't doubt there is some gambling, which, incidentally, the U.S. attorney won't prosecute anyhow, but I am not aware of any commercial gambling going on in the District not receiving enforcement attention.

On a sketchy basis, quite frankly, gambling enforcement is not a high priority in the Department or in the District. It is something we keep up on because it is a violation of law, it is widespread, and it does finance other problems, such as narcotics.

Mr. NOLDE. Should there be any priority in terms of the so-called victimless crimes, such as gambling and maybe some of the others? Shouldn't we concentrate our police resources on curbing the more violent types of crime, and free up some of the other areas which account for substantial amounts of police effort?

Mr. WILSON. We do concentrate our efforts on other crimes. We certainly aren't concentrating our efforts on gambling. The term of what is victimless crime is subject to question. There is a commission study of gambling, and I think it deserves study. I don't know what it will be. I haven't studied it sufficiently in terms of what happens in cases where there is gambling. There are a lot of myths, perhaps, about gambling which I am not in a position to analyze and, frankly, inasmuch as this is a study appointed jointly by the President and Congress, I have not seen it as something I thought I should undertake.

Mr. NOLDE. What I am getting at is, according to last year's total arrest figures for the country, approximately 2 million arrests were for so-called victimless crimes such as prostitution, gambling, marihuana possession, drunkenness. And that is one-third of the 6 million arrests made in the prior year. So, it would seem if we could reduce police effort in this area, we might be able to better concentrate on the crimes that are more bothersome to the public.

Mr. WILSON. Well, I would suppose of the 2 million arrests for so-called victimless crimes, a large proportion were for drunkenness which is not a violation of law in the District of Columbia. And it was for long a factor, a heavy factor, in the arrests in the District of Columbia and certainly was using resources unwisely. The problem is, when you talk about victimless crimes you include in that narcotic users. Many people use heroin, so heroin traffic is a victimless crime and that is subject to some question.

Mr. NOLDE. I am not including hard drug traffic.

Mr. WILSON. Well, I am not sure that prostitution is a victimless crime.

Mr. NOLDE. Maybe the prostitute is the victim.

Mr. WILSON. It also is a heavy cause of robberies in areas that Mr. Rangel an I were discussing. Prostitution is a heavy cause of robberies. It is a cause of robberies in the sense that it attracts to the area a lot of individuals who are targets for holdupmen.

Mr. NOLDE. It wouldn't necessarily be if it were legalized.

Mr. WILSON. It may or may not. It depends on how one deals with it. It is also a problem to the community. When I became chief of police—and not lately, because we try to enforce the prostitution regulation, as well as we can without the vagrancy statute—one of the most persistent complaints I got in the central city was from people trying to raise their families at 14th and W Streets, and they couldn't go to the grocery store, the women couldn't, without being propositioned by some individual who was up there looking for a prostitute. They are raising their children in those areas. I am not sure I would characterize prostitution in its present mode as a victimless crime. Perhaps you can do what was done in France, prewar, and zone it. That may be a way of doing it. In its present mode, I would not characterize it as a victimless crime because, frankly, I think society is the victim.

Mr. NOLDE. Getting back to these crime statistics. I believe you have agreed they can be manipulated. But, as you said in answer to the skeptics, how could 100 crimes a day in the District simply disappear? They just can't be hidden. What about the audit which found that over 1,000 thefts of more than $50 were downgraded to under $50?

Mr. WILSON. You asked me about a report I haven't looked at in 6 months, but my recollection is that the Ernst and Ernst report indicated that overall there were some faults in our preliminary reporting at the peak period. We underwent a major reorganization of the record system in 1969, and they estimated the crime reduction was actually greater than we thought. It was one of the substantial findings, that crime was higher in 1969 than we thought, and that it was greater than we thought.

The devaluation of property, of course, has been a persistent problem since it was interjected as the measurement of what we were doing to the crime index in 1957, and the result of that is, beginning this year, beginning with the 1973 data, all larcenies will be in the crime index regardless of valuation of property. In the District of Columbia, whether you include all larcenies or exclude those under $50, the crime reduction is still about 40 percent. The points of variation are so insignificant as not to be a matter of great concern.

Mr. NOLDE. You don't think that would indicate a problem in reporting?

Mr. WILSON. No, I do not. It is indicative of a problem of reporting. Valuation is a reporting problem. It is a problem because the victim tends to overvaluate. It is a problem because the officer has no decent guidelines, and you can't construct good guidelines. I don't think it is indicative of a gross problem. You run a survey of crime by any mode and there is a reduction, no matter how you measure it.

Mr. NOLDE. What about the Princeton study finding that the District of Columbia policemen tend not to record crimes where they believe they have little or no chance of solving them?

Mr. WILSON. That was not what the Princeton study showed.

The Princeton study, I believe—if you are referring to the recent one—was a criticism of the process by which we dispatch cars and not

requiring a report on every offense. This was one of the points made by the Ernst & Ernst survey, that the UCR guidelines literally require the police, for every telephone call, to make a report and then find appropriate evidence of a crime. There is no city in the United States of any size, including the cities which are represented by members of UCR committee, which follows that guideline, however. Maybe some other study.

Mr. NOLDE. You don't think there is any tendency on the part of the officers to not record crimes where they don't think they will be solved?

Mr. WILSON. No. In this city, no; I do not.

Mr. NOLDE. That was my understanding of the study.

Mr. WILSON. I am not familiar with that study.

Mr. NOLDE. Returning to the President's position on crime, did it really help the cause of law enforcement when he held the well-publicized White House Conference last year on police killings and failed to invite Chief Patrick Murphy? Do you think that helped?

Mr. WILSON. Whether he invites Patrick Murphy to the White House is not a concern of mine. I think the Conference on Police Killings helped law enforcement. I think the purpose of the meeting was clearly to show, as the President has shown several times during his first administration and, obviously intends to show several times in his second administration, he is concerned about crime in America, he is concerned about achieving reduction in crime, and he is concerned with assuring this support for police officers in America.

Mr. NOLDE. But when he fails to invite one of the most innovative and outstanding police chiefs in the country to such a conference, I don't see how that could do anything but hurt the cause of law enforcement.

Mr. WILSON. I didn't make up the guest list. I don't have to have any executive privilege on that because I wasn't asked.

Mr. NOLDE. Unlike the Watergate people. Thank you, Chief Wilson.

Chairman PEPPER. Chief Wilson, we certainly do thank you and Mr. Alprin for coming here today and giving us this very interesting and very helpful testimony.

Mr. WILSON. Thank you, Mr. Chairman.

[The following letter was received for the record:]

GOVERNMENT OF THE DISTRICT OF COLUMBIA,
METROPOLITAN POLICE DEPARTMENT,
Washington, D.C., May 3, 1973.

SELECT COMMITTEE ON CRIME,
Cannon House Office Building.
Washington, D.C.

DEAR SIR: In response to your request, attached is a listing of L.E.A.A. grants awarded to the Metropolitan Police Department.

The daily average number of men on patrol was 664 during the 4:00 p.m. to midnight shift for the month of March 1970. This was the month during which the department attained an actual strength of 4,100 police officers, and was during the high-crime period.

I trust this information will be helpful to your Committee.

Sincerely,

JERRY V. WILSON, *Chief of Police.*

LEAA GRANTS

Fiscal year and title	Grant No.	Amount	Status	Expiration	Type
1970:					
Overtime, uniforms, and radios.	70-DF-0455	$1,239,000			
Overtime		736,000	Completed	June 30, 1971	Discretionary.
Uniforms		214,531			
Radios		236,750			
Moneys returned		51,669			
Update training curriculum	70-A-151	135,000	Current	June 30, 1973	O.C.J.P. & A.[1] subgrant (70-8).
Crime reduction through aerial patrol.	NI-70-089	113,923	Completed	May 1, 1972	Institute.
Automated real time	71-A-051	24,000	do	June 30, 1971	O.C.J.P. & A. subgrant (69-02).
1971:					
Simulated model police dispatch and control.	NA-71-090-G	102,155	Current	Feb. 28, 1973	Institute.
Helicopter pilot training	71-A-251	54,320	Continued in 1972.		O.C.J.P. & A. subgrant (71-19).
WALES-MILES interface[2]	71-A-251	15,000	Current	Aug. 30, 1973	O.C.J.P. & A. subgrant (71-21).
Street to command center TV, phase I.	71-A-251	37,500	Continued in 1972.		O.C.J.P. & A. subgrant (71-11).
1972:					
Organized crime intelligence unit.	72-DF-11-0001	157,660	Current	May 14, 1973	Discretionary.
Helicopter operations[3]	72-A-111	175,000	do	Mar. 31, 1973	O.C.J.P. & A. subgrant (72-07).
Command and control master plan.	72-E-211	50,000	do	July 24, 1973	O.C.J.P. & A. subgrant (72-18).
Audit of crime statistics	72-SS-99-6008	32,000	Completed	Aug. 31, 1972	Institute.
1973:					
Command and control plan	73-A-311	49,500	Current	Jan. 24, 1974	O.C.J.P. & A. subgrant (73-33).
Street to command TV system, phase II.	73-A-311	46,500	do	Nov. 30, 1973	O.C.J.P. & A. subgrant (73-32).
Organized crime confidential fund.	73-A-311	8,000	do	Dec. 31, 1973	O.C.J.P. & A. subgrant (73-13).
Supplemental confidential fund.	73-A-311	25,000	do	do	O.C.J.P. & A. subgrant (73-09).
Organized crime intelligence unit.		130,000	Pending extension application.	do	O.C.J.P. & A. subgrant.
Simulated model police dispatch and control.		71,078	Pending continuation application.	Jan. 31, 1974	Institute.
Pilot policeman—Portable digital communications system.		72,000	Pending	June 31, 1974	Discretionary.

[1] O.C.J.P. & A.—Office of Criminal Justice Plans and Analysis.
[2] WALES—Washington Area Law Enforcement System. MILES—Maryland Interagency Law Enforcement System.
[3] $43,750 of this money came from fiscal year 1971 funds.

Chairman PEPPER. The committee will meet tomorrow morning at 10 a.m., in room 311 of the Cannon House Office Building.

Let me state that the chief of police of Miami, whom we esteem very highly, was to have been a witness today to tell what he has been doing in Miami to reduce the rate of crime. Chief Garmire was unavoidably prevented from being here this afternoon, but he sent up a prepared statement which goes thoroughly into the procedures he employs.

Without objection, I ask that the statement of Chief Garmire appear in the record at this point in the hearing.

[Chief Garmire's prepared statement follows:]

PREPARED STATEMENT OF BERNARD L. GARMIRE, CHIEF OF POLICE, POLICE DEPARTMENT, MIAMI, FLA.

THE HIGH PRESSURE SODIUM VAPOR STREET LIGHTING PROGRAM IN THE CITY OF MIAMI

In 1971, on a visit to Washington, D.C., Miami City Manager, M. L. Reese, was greatly impressed with the effectiveness of their High Pressure Sodium Vapor (HPSV) street lighting. Upon his return to Miami, he instructed that a

member of the City Department of Public Works and a representative of the Florida Power and Light Company visit Washington, D.C. to view the installation and get certain information from officials there.

This investigation was made, and upon their return, it was agreed to install a HPSV pilot lighting installation in Miami. The Public Works Department was to be responsible for the implementation of the program with close liaison with the Police Department. The Florida Power and Light Company would incur all costs of installation and maintenance, and the City of Miami would utilize the lights on a lease basis. The decisions on installations were based on discussions held between Public Works, Police, and Florida Power and Light Company; however, the brand of lighting to be used was determined by the Florida Power and Light Company. The particular brand they chose was General Electric. (brochures attached). Incidentally, there are several other brands on the market; Westinghouse and Sylvania, to name two.

In order to place this lighting where it would be the greatest deterrent to nighttime crime, police records of nighttime crime activities were used. The intensity of nighttime Part I crime. (Murder, Rape, Robbery, Assaults, Larceny, and Auto Theft), was calculated for all areas of the City. This nighttime crime intensity of nighttime Part I crime. (Murder, Rape, Robbery, Assaults, Larceny, system.

Coincidentally, other programs were being initiated during this same time period to combat the rising serious crimes. "Operation Impact" was a manpower allocation program which utilized all available personnel in the high crime areas with Street Crime as its main objective. (Copy of "Operation Impact" attached).

For the HPSV pilot program, a one-third square mile high crime area was selected in that portion of the City generally referred to as the "Garment District". This area consists mainly of warehouses and small manufacturing plants, plus some residences. Installation took place during August, 1971, and police deployment was changed to coincide with the installation. The existing lighting had been 140 watt Mercury Vapor with an average spacing of 150 feet. This lighting was replaced, one for one, using 400 watt HPSV in the commercial areas and 250 watt HPSV in the residential areas. (Since then, the City has established a standard of using the 400 watt lighting in both commercial and residential areas.) HPSV lighting gives much more light per watt than does Mercury Vapor. Therefore, the resulting light level was up to ten times the previous light level.

Upon completion of the installation, nighttime evaluations were made, both visual and instrumental. The comparison was startling. Vision was unobstructed for blocks, and due in part to the high degree of reflection from the light colored buildings, the lighting was virtually shadowless. The average light readings on the street ranged from 3 to 5 foot-candles.[1] National standards for a well lighted arterial street is 1 to 2 foot-candles, and ½ foot-candle for residential areas.

Four months after the installation of the pilot program and redeployment of police personnel, a crime analysis revealed that nighttime Part I crime in the Garment District was reduced by 48 percent. One year after installation, Part I crimes maintained a 30 percent reduction. The lighting was regarded as something more than a success, and it was decided that the 400 watt High Pressure Sodium Vapor light would be adopted into the City's standards to be used in high crime areas, spacing, of course, being dependent upon the individual circumstances; but except in very rare instances, spacing not to exceed 150 feet, so that an average level of not less than 3 to 4 foot-candles can be achieved.

Plans were made for extension of the High Pressure Sodium Vapor lighting into additional high crime areas. Discussions at the managerial level were held between City and County. Dade County agreed to install such lighting on the Metropolitan arterial streets within these areas, the lighting of such arterials being a County responsibility. The City, of course, would light all the other streets.

The City immediately undertook a program to extend the areas lighted with this new high intensity lighting. To date, approximately 3,000 of these lights have been installed and the installation of an additional 6,000 has been programmed. This will include about one-third of the City. (It is presently anticipated that an extension of this program will be carried into next year's budget. This will, of course, be predicated upon decisions to be made by the Administration and City Commission.)

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[1] Foot-candle: The illumination of a standard candle on a surface one foot away.

In addition to streets, the City has also extended this type of lighting into the City's parks in some of these critical areas. Bayfront Park, which is located in the downtown area, had HPSV lighting installed in March, 1972. Through the end of 1972, a satisfying reduction of 36 percent was maintained in crimes of violence (Murder, Rape, Robbery, Aggravated Assaults). In addition to the street lighting program, the City has also taken steps to light potentially dangerous off-street areas. This was in the form of an ordinance requiring all off-street parking areas to be lighted to a minimum intensity of one foot-candle (two foot-candles in the Downtown Business District). A copy of this ordinance and descriptive brochure are attached.

The City's present street lighting expenditures are at a rate of approximately one and one-half million dollars ($1,500,000) or thirty seven thousand dollars ($37,000) per mile annually. Based upon its estimated population of 350,000 persons, this equals about $4.25 per capita. This cost does not include the lighting of arterial streets and expressways within the City which are administered and financed at the County level. It is estimated that the cost of this lighting approaches an additional one-half million dollars ($500,000) annually.

Attachment. (1)

Attachment 1

OPERATION "IMPACT"—A REPORT DELIVERED BEFORE THE COMMISSION OF THE CITY OF MIAMI AT THE MIAMI CITY HALL, MIAMI, FLA., ON JULY 22, 1971

(Intensified Mobilization for Patrol Against the Crime Threat)

On July 14, 1971, you requested that I appear before you on July 22, 1971, and present to you concrete proposals concerning the assignment of additional police officers to the high-crime areas of the City of Miami. As a direct response to your request, I am submitting a proposal entitled "Operation IMPACT."

Operation Impact can be summarized as follows:

1. 40 police personnel have been transferred from their regular units to the Patrol and street duty.

2. 107 police personnel, as the result of extensive reassignments and transfers, have been allotted to supplemental units which will be deployed as a patrol strike force against street crimes.[1] The 107 police personnel are allocated as follows:

(A) 30 police personnel are assigned to the three-wheel motorcycle supplemental unit. They will be the first group to experiment with the 10-hour a day, 4 days a week schedule, often referred to as the "10 plan." The 10 plan affords maximum coverage during peak hours of criminal activity.

(B) 14 police personnel will be assigned to 9 personalized beats to provide intensive police patrol and presence in the most volatile high-crime locations.

(C) 56 police personnel will be assigned to the Tactical Operations Platoon which will be targeted against street crime in 6 high-crime areas.

(D) 7 police personnel will serve as field inspectors to report on the progress and problems of Operation Impact.

3. 24 recruits will be used one day a week to personally contact merchants and citizens in designated areas to solicit information on crime and report on problems in the area.

4. 6 areas of the community have been identified on the basis of crime statistics to receive priority police attention: Allapattah, Central-Downtown Business District, Coconut Grove, Latin Area, Liberty City, and Little River-Edison Center.

5. Responsiveness will be the key principle in the assignment of supplemental patrol units. Wherever the crime problem is the worst, that is where major police emphasis will be placed.

6. Community Relations personnel will intensify their efforts to encourage citizen reporting of crime, and then follow-up on the police response to those reports.

7. Internal Security personnel will increase their efforts to be available to groups in the community to hear grievances, and to promptly investigate citizen complaints.

8. The entire Police Department will be immediately placed on a virtual emergency status concentrating its energies upon combating street crime.

9. Operation Impact is scheduled to begin Sunday, July 25, 1971, and continue for approximately 90 to 100 days. After that period of time the manpower prob-

[1] It must be remembered that due to days off, vacation, illness, and in the fall the opening of school, not all personnel will be available all the time.

lems due to vacancies, vacations and military leave will have eased, and two recruit classes will probably have been graduated.

Before I discuss the details of Operation Impact, I think it would be beneficial to establish a perspective from which to view the Operation. Street crime is the target of Operation Impact; but, as you well know, the crime problem in Miami is not a recent development. In fact, crime in Miami has been increasing dramatically during the past ten years.

Serious crimes, as depicted on the comparison chart, such as murder, robbery, rape, aggravated assault, burglary, larceny over $50, and auto theft, have increased from 8,539 crimes in 1961 to 16,202 in 1966, and to 23,903 in 1970.[2]

Crime, however, is but one aspect of the perspective against which Operation Impact should be viewed. Other aspects are:

1. The police budget which increased from $5.36 million in 1961, to $6.34 million in 1966, to $10.2 million in 1970.

2. The population of the City of Miami which increased from approximately 295,000 in 1961, to 316,000 in 1966, to 335,000 in 1970.[3]

3. The number of sworn personnel—police officers—which increased from 619 in 1961, to 664 in 1966, to 719 in 1970.

A more startling picture is revealed if we compare these various aspects in the more manageable terms of percentages. Population increase in the 10-year period amounted to 13.5%. The number of police officers increased 16.2%. The police budget, however, reflecting the factors of 100 more officers plus inflation and pay raises, increased 89.4%. But, the increase in crime completely outstripped population, police, and budget increases. Crime from 1961 through 1970 increased 180%: or, 13 times as much as the population, 11 times that of the police strength, and 2 times that of the police budget.

Although Miami has undergone a tremendous increase in crime since 1961, this experience is not unique within the United States. As the United States crime and population chart indicates, crime has increased 148% from 1960 through 1969—the last year for which FBI crime statistics are available.[4] However, population increased only 13%; or crime increased 11 times that of the population increase. Therefore, Miami's experience is not unique; in fact, it parallels that of the Country at large because both the Nation and Miami reflected a growth in crime 11 to 13 times that of the population growth.

Unfortunately, Miami is still contending with an increase in crime. During the first three months of 1971, serious crimes increased 15% over the same period in 1970. However, I think it only fair to note that:

1. As reported in the local press, the increase in serious crime in the unincorporated area of Dade County for the same three month period was 23%—half again as much as the increase in Miami;[5] hence the experience in the City of Miami is not really an isolated phenomenon.

2. The increase in serious crime in Miami for the first six months of 1971 over the same period in 1970, showed some signs of leveling off—the increase was only 7.2%—12,554 serious crimes in 1971 versus 11,685 serious crimes in 1970.

Admittedly, these statistics make for a rather somber view of the crime picture in Miami as well as the Nation. But, I believe it is essential that we have a realistic grasp of the problem which confronts us, if we are to establish reasonable expectations for what Operation Impact can accomplish. If we expect Operation Impact to result in a major decrease in crime, we may be deluding ourselves. If, on the other hand, we expect Operation Impact to have a significant effect upon crime—perhaps even a *deceleration* of the crime increase rate—then we have a reasonable chance of having our expectations fulfilled.

If we harbor the illusion that the police can singlehandedly engage the crime problem and overcome it, we are destined to hear not the cries of victory, but instead the bitter recriminations of defeat. Crime is the product of a myriad of social, economic, and political factors, and until the *root* causes of crime are resolutely and effectively dealt with, our society will be driven by crime and its attendant violence. In short, the police have been, and are now, only capable of dealing with the symptoms of that social pathology known as crime; they cannot deal with the disease itself.

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[2] See Appendix A for ten-year comparison chart of crime, police budget, sworn personnel, and population.

[3] Source for 1970 population: U.S. Census Bureau. Source of population of other years: Dade County Planning Department Estimates.

[4] See Appendix B for the United States Crime and Population Chart.

[5] Miami Herald, July 1, 1971, p. 2c.

Lest I be misunderstood, may I make one point very clear: I am not trying to avoid my responsibility as a police administrator to address the problem of crime and violence. I am, however, trying to demonstrate that crime has been sharply increasing in the past 10 years in Miami, and in the Nation.

In fact, I have discussed the rising crime rates in at least 10 major addresses before various public forums. Furthermore, even though the police have been given additional resources, they still have not been able to successfully cope with crime and violence. Finally, I am trying to suggest, just as countless other police administrators, appointed and elected officials, scholars, and citizens have suggested, that the police alone cannot solve the crime problem of a community or a Nation. Therefore, Operation Impact should be viewed as a temporary expedient—a stop-gap measure—to attack, as was pointed out two weeks ago, the short range problems, while we are preparing middle and long range responses to the crime threat. With this as a background, we now can proceed to discuss, in detail, our plans.

Operation Impact, which will provide 40 additional men for street duty in Patrol, is scheduled to commence Sunday, July 25, 1971. The operation will continue as an emergency measure for approximately the next 90 to 100 days. By that time, hopefully, we will have graduated two recruit classes and placed 50 additional men on the street. We can then de-escalate from the emergency status of Operation Impact.

Forty additional men, who are normally assigned to units and functions other than street patrol, have been temporarily transferred to the Patrol Section to be utilized in supplemental units to be specifically deployed against street crime—robbery, assault, mugging, purse snatching, etc. These men (actually 38 men and 2 women), were freed for patrol duties at the expense of other units and to the detriment of their effectiveness.

The personnel transfers are as follows:

From the Criminal Investigation Section with an actual strength of 107 sworn personnel, 20 go to street duty.

From the Community Relations Section with an actual strength of 18 sworn personnel, 8 go to street duty.

From the Resource Development Section (Planning, Training, Computer Operations), with an actual strength of 17 sworn personnel, 7 go to street duty.

From the Services Section with an actual strength of 4 sworn personnel, 2 go to street duty.

From the Office of the Chief of Police with an actual strength of 2 sworn personnel, 1 goes to street duty.

And, 2 men are reassigned from the Patrol Office to street duty for a total of 40 personnel reassigned to street duty.[6]

The Special Investigations Section did not provide any personnel for Operation Impact because that Section has a major responsibility in the battle against narcotic and vice activities. Not only will they continue their efforts to combat this problem, but their efforts will be supplemented by some of the activities planned for Operation Impact.

The Internal Review Section which is responsible for the inspection of police operations and the investigation of citizen complaints, will expand its efforts in these areas. Therefore, a reduction in manpower is not feasible.

The Traffic Section will have an even greater burden to bear because the overwhelming demands placed upon Patrol to concentrate on street crime and answer citizen calls for service, will curtail their efforts in traffic law enforcement. Hence, a reduction in this Section is not feasible.

In addition to the personnel reassignments just discussed, internal adjustments in the Patrol Section have been made to release men for assignment to supplemental units. The end result of these reassignments is the creation of a Patrol Strike Force consisting of 4 supplemental units all of which will be targeted against street crime.

Before we specifically discuss the individual supplemental units and their responsibilities, it might be appropriate to describe the basic strategies upon which these units will be deployed.

The first strategy is that the units will be deployed on the basis of need. The need is determined by the kind and amount of crime that occurs by geographical location in the community and the time of occurrence. In other words, deployment is the product of the volume of crime divided by time and location.

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[6] For complete personnel statistics see Appendix C.

The second strategy is that the units will be target-oriented. That is, when the units are deployed, each unit will be assigned targets or specific tasks which they will be expected to work against. The target can be a known criminal, or groups of criminals, or a specific location where the incidence of crime is high, or a set of circumstances or conditions which are conducive to or productive of crime. An example of the target-oriented strategy could be a situation wherein a gang of five armed robbers is known to operate in the northwest part of the City. A team of officers would be assigned to engage in constant surveillance, stake-outs, patrol, and investigation of the gang until the robbers are apprehended in the act, tracked down after a robbery, or arrested for other crimes uncovered in the investigations. In short, the target strategy is the assignment of officers to a criminal target for the express purpose of legally eliminating it—period!

The third strategy is a logical product of the first two in that this strategy is one of mobility and flexibility. Crime is not constant in terms of time and location. The incidence of crime shifts from area to area, time to time. For two weeks there may be a rash of robberies and muggings in one area. Then due to increased police attention, or to other factors, the crime activity suddenly shifts to another area. Obviously, the police must respond to these shifts in criminal activity, or they will be standing in one place while crime occurs in another. Because of this factor, it is extremely poor practice to permanently assign police officers to a fixed post for a fixed period of time.

In connection with the point just discussed, the phenomenon of "crime displacement" should be mentioned. It has often been noted that when the police concentrate their resources in one area against a specific crime problem, the incidence of crime in that area markedly decreases. But, very quickly, crime goes up in another area. The image, of course, is one of a checker board, with a series of moves and countermoves by the police and the criminal element, with the police too often being one move behind. Because the police do not have the resources to occupy all the squares, the problem merely shifts around on the community checker board; and, of course, the *total* crime activity continues to increase.

The police could completely saturate one area of the community and suppress its crime activity. But, due to the phenomenon of "crime displacement" it simply increases in another area much to the dismay of the residents of that area. Not only does the second area suffer the ill effects of the displacement of crime from the first area, but they have less police protection in the first instance because men have been withdrawn from their area to saturate the first area. This simple fact illustrates the futility—in fact, the gross unfairness—of favoring one area of the community over another. The only equitable distribution of manpower is the *proportional* allocation of available manpower according to need as reflected by the crime statistics.

The fourth strategy is one of high police visibility and mobile presence. This is commonly referred to as the principle of police omnipresence. Formerly, because of tactical considerations, the Tactical Operations Platoon often worked in plainclothes. During Operation Impact they will work in uniform, as will nearly all the supplemental units. Even those few people who are left in headquarters will, to the extent practicable, wear uniforms. The only persons who will *not* be wearing uniforms while working on the streets in the supplemental units will be certain detective personnel who, according to Civil Service regulations, cannot be required to wear uniforms.

It is anticipated that the high visibility that results from the deliberate display of uniformed police will serve as a deterrent to crime and, even more importantly, provide a sense of security to the residents to counteract the climate of fear which presently exists. In short, this strategy is simply an effort "to see and be seen."

To this point, we have discussed: (1) the crime problem in Miami; (2) the personnel resources that make up Operation Impact; and, (3) the basic strategies by which Operation Impact will deploy those resources against street crimes. I will now describe each unit involved in Operation Impact to include its manpower, schedule assignments, tactics, and missions.

TACTICAL OPERATIONS PLATOON

The Tactical Operations Platoon (TOP) is a completely target-oriented group whose mission is to combat street crime through arrest and aggressive patrol. It is the hard-core, crime fighting team of the Department.

The Tactical Operations Platoon will be increased from its present strength of 36 to 56; and it will be composed of 2 sections:

The first section will be comprised of five teams of 6 uniformed officers plus a sergeant. The second section will be composed of 20 detective personnel in plainclothes who will supplement the uniformed teams, and be especially deployed to take advantage of the flexibility and anonymity that plainclothes provide.

The Tactical Operations Platoon will be deployed in the high crime areas of the City which we previously identified as Allapattah, Central-Downtown Business District, Coconut Grove, Latin Area, Liberty City, and Little River-Edison Center. Within these areas they will be targeted to specific subareas as the crime problem dictates, e.g. Garment District, Central District, Coconut Grove Business District, etc. They will be flexibly deployed not only by location but by time—one day they may work in the afternoon, the next day in the morning, and the following day late in the evening. Generally, there will be one team in one of the areas virtually every day. But, should the need arise, three, four, or even five teams, could be assigned to one area for two or three days to combat a particularly severe problem. In short, the Tactical Operations Platoon will be where the crime occurs, when it occurs.

THREE-WHEEL MOTORCYCLES

Thirty men will be assigned to three-wheel motorcycles to provide 20 hour a day coverage, 7 days a week, to specially selected target areas where there is heavy pedestrian movement, numerous businesses, youth gangs, and a high incidence of robberies and muggings. The three-wheel officer has the combined advantages of being readily accessible to residents as well as being highly mobile.

The three-wheel motorcycle supplemental unit will be the first group to work under a new work schedule—the 10 plan. The officers will work 10 hours a day, 4 days a week, and then be off 3 days. Other cities have experimented with this schedule with generally favorable results. Not only does the officer benefit by having a three-day weekend, but the Department benefits because the two 10 hour shifts a day will cover the period of greatest demand for police service—10:00 a.m. in the morning until 6:00 a.m., the next morning. The experience we gain with the 10 plan during Operation Impact will assist us in determining if we should expand this plan to include other units.

PERSONALIZED BEATS

Fourteen police officers will be assigned to 9 special beats, 5 of which are walking beats. Because of the limited coverage walking officers can provide, this form of patrol is extremely expensive. Therefore, the walking teams will be assigned to the most critical points in the six areas we have previously identified—primarily those points where there are youth gangs operating, known trouble spots such as certain bars and pool halls, and generally a high density of population and a high incidence of street crime. In short, the walking beat provides a very intensive police coverage but in a very limited geographical area.

The personalized beats are so named because each man assigned will try to establish a personal knowledge of the area and personal rapport with the residents and merchants along his beat, whether he is walking or riding in a car. Supplementing the 5 two-man walking teams will be 3 one-man cars and 1 three-wheel motorcycle. Although these men are mobile, they will be expected to park their vehicles and spend a good deal of time contacting people.

REGULAR PATROL, PLATOONS A, B, AND C

The basic patrol service for the City of Miami is provided by Platoons A, B, and C, or as otherwise known, the patrol shifts. The basic patrol shifts are: Shift 1, 7:00 a.m., to 3:00 p.m.; Shift 2, 3:00 p.m. to 11:00 p.m.; and Shift 3, 11:00 p.m. to 7:00 a.m.

The City is divided geographically into six sectors known as 10, 20, 30, 40, 50 and 60 Sectors as depicted on the Sector Chart.[7] Each Sector is further subdivided into zones, each zone being covered by a one-man or a two-man car. The number of sectors and their boundaries generally remain constant, whereas the number of zones in each sector—usually 4 or 5—changes according to shifts based on the varying needs for police service and protection.

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[7] See Appendix D for Sector and Zone Maps.

The sectors and the zones within them are not arbitrarily designed: rather, they are the result of extensive computations based on the amount of major and minor crime activity, traffic problems, non-criminal calls for police service, population, business-residential characteristics, geographical size, major streets, and physical barriers such as expressways and rivers, etc. Periodically, the zones are redrawn to reflect the physical and social changes that have occurred in certain geographical areas.

The officers assigned to the zones ride in one or two-man cars depending upon past experience with the areas in terms of the hazards confronting the officers, e.g. resistance to arrest, assaults upon officers, and high incidence of violent crime.

The number of police officers assigned to a sector, as I previously stated, is based on need. The two primary factors which predominate in the assessment of the need are: (1) the incidence of crime; and, (2) the total citizen calls for service. These calls may be either criminal or non-criminal in nature; e.g. a call to respond to a robbery scene versus a call to assist a sick person. I might note at this point that a 25% sample of all the calls for service in 1970, disclosed that 61% of the calls did NOT involve either serious or minor crimes, i.e. they were calls wherein a citizen wanted some kind of service not related to crime per se. This, incidentally, is a conservative figure. Other studies in our City as well as other cities, indicate that up to 80, or even 90% of a police officer's time is spent in handling non-criminal matters.

The following table reflects the rank order of various areas of the City in terms of actual crime and demand for services—citizen calls for police service: [8]

Sector and area	Rank order by criminal calls for service	Rank order by noncriminal calls for service
Central and downtown business district (40 sector)	1	1
Little River-Edison Center (20 sector)	2	4
Latin area (50 sector)	3	5
Coconut Grove area (60 sector)	4	3
Allapattah area (30 sector)	5	6
Liberty City area (10 sector)	6	2

When the rankings are combined, the following order is established:

1. Central and Downtown Business District (Sector 40).
2. Little River-Edison Center (Sector 20).
3. Coconut Grove (Sector 60).
4. Liberty City (Sector 10).
5. Latin Area (Sector 50).
6. Allapattah Area (Sector 30).

The resources of Operation Impact were carefully distributed to proportionately meet the needs for police service according to available manpower. For example, the patrol services, exclusive of the Tactical Operations Platoon which moves from area to area, were so distributed that the Central and Downtown Business District, which ranks first in need for police service, receives the most police service; and, Coconut Grove which ranks third, receives the third greatest amount of police service. The assignment of personnel to other areas is also closely proportionate to their needs for police service.

Finally, it should be noted that the regular patrol officer answers all calls for police service. He is the generalist who is concerned with crime, traffic, and non-criminal calls for service. Regular patrol is truly the backbone of any police department. All other units are supplemental, which is precisely why we labeled the Tactical Operations Platoon, three-wheel motorcycle officers, and the personalized beats as supplemental units. The supplemental units in this case are more specialized in nature—target-oriented; and, it is these units which will devote the majority of their time to combating street crime. The regular or shift units, because of their other responsibilities, can spend only part of their time on street crime.

The following material depicts the amount and kind of police service—regular and supplemental—assigned to each sector by shift.

[8] Table is based on a 25% sampling of criminal and noncriminal calls for service for the first six months of 1971. Statistics apply to the entire Sector.

10. SECTOR

This Sector includes the area bounded by the City Limits on the North and West, the Airport Expressway on the south, and the North-South Expressway (I–95) on the east. Basic patrol coverage on all 3 Shifts will consist of 1 sergeant and 8 officers, with the officers being assigned to 4 two-man units. Although there is a continual demand for police services in this area, it is one of extremely high personal hazard to the officers, necessitating the assignment of two men to each squad car.

Beginning at 10:00 a.m., 2 additional officers on three-wheel motorcycles are assigned in the Liberty City and Edison Center areas. These officers are deployed along arterial streets where there is a heavy concentration of businesses and pedestrian activity. The 2 three-wheel motorcycle beats will be continued in the business areas and along the arterial streets until 6:00 a.m. (with a personnel changeover at 8:00 p.m. since these men will be working a 10-hour day).

At 11:00 a.m., 2 other officers report to the vicinity of N.W. 62nd Street between 15th and 17th Avenues, which is considered to be the heart of Liberty City and has been the scene of much street violence. This team, referred to as the personalized beat, is assigned according to particular problems which are not amenable to other forms of patrol, such as gang activity which requires constant surveillance and attention. Their hours and actual area of assignment will remain completely flexible to conform with the target. The personalized beat will go off duty at 7:00 p.m.

The area outlined in green—from N.W. 54th to 71st Streets and the North-South Expressway to the West City Limits—is a target area for the Tactical Operations Platoon, and will have 1 such team consisting of 1 sergeant and 6 men assigned varying hours to combat street crime.

A 5th two-man car unit will be deployed during the 3:00–11:00 shift and assigned to ride the sector-at-large, acting as a back-up unit to the regular zone vehicles or concentrating on a particular problem area as may be directed by the supervisor. Beginning at 11:00 p.m., when manpower permits, we will continue the use of the two-man unit at large.

10 SECTOR—SUPPLEMENTAL

Shift	Regular	3 wheels	Mounted	Personalized	T.O.P. (as needed)	K–9
1	1 Sergeant and 8 men	2 (10–3)	None	1- to 2-man team (11–3).	1 Sergeant and 6 men	1 man.
2	do.	2 (3–11)	None	1- to 2-man team (3–7).	do.	Do.
3	do.	2 (11–6)	None	None	do.	Do.

[1] 1 more 2-man unit to ride sector at large, if available.

20 SECTOR

The Sector includes the area bounded by the City Limits on the north, the North-South Expressway (I–95) on the west, N.W. 20th Street on the south, and Biscayne Bay on the east. Basic patrol coverage of all 3 shifts will consist of 1 sergeant and 6 men, with 4 of the men being assigned to one-man units, and the other 2 assigned to one car. This area is large and presents several police problems calling for varied methods of deployment.

Beginning at 8:00 a.m., a mounted officer is assigned to the Biscayne Shopping Plaza area at Biscayne Boulevard and 79th Street to provide close attention to the high concentration of business and pedestrian activity. The mounted officer continues on duty until 6:00 p.m.

At 10:00 a.m., 3 more men are deployed riding three-wheel motorcycles—one in the Little River Business District; the second in the Edison High School and Edison Park area; and the third in the Garment District. The Three-Wheel officer assigned in the Edison School and Park area is relieved at 8:00 p.m., while the other 2 three-wheel motorcycle beats in Little River and the Garment District continue until 6:00 a.m. (with a personnel changeover at 8:00 p.m., since these men will be working a 10-hour day.)

At 11:00 a.m. one personalized beat team consisting of 2 officers, is added in Little River to help combat the increased complaints of attacks against persons and property. This beat continues until 7:00 p.m.

Due to increased robberies and street crimes, a Tactical Operations Platoon will also be working in the area from N.W. 36th Street to the North City Limits. Their hours will vary according to the situation.

Another two-man car unit will be deployed in this Sector during the 3:00–11:00 shift, when manpower permits. This unit will ride the Sector-at-large, acting as a backup unit to the regular zone vehicles or concentrating on a particular problem area as directed by the supervisor.

20 SECTOR—SUPPLEMENTAL

Shift	Regular	3 wheels	Mounted	Personalized	T.O.P. (as needed)	K-9
1	1 sergeant and 6 men	3 (10–3)	1 (8–3)	1- to 2-man team (11–3).	1 sergeant and 6 men	1 man.
2	do.[1]	2 (3–11) 1 (3–8)	1 (3–6)	1- to 2-man team (3–7).	do	Do.
3	do	2 (11–6)	None	None	do	Do.

[1] 1 more 2-man unit to ride sector-at-large, when available.

30 SECTOR

This Sector includes the area bounded on the north by the Airport Expressway and North City Limits, the West City Limits on the west, the Miami River on the south, and the North-South Expressway (I–95) on the east. This is the smallest subdivision of police deployment, and its boundaries present actual physical barriers restricting the area of coverage. Basic patrol coverage on all 3 shifts will consist of 1 sergeant and 5 men, with 3 of the men being assigned to one-man units, and the other 2 assigned to one car in Zone 34 due to the high hazard factor, and its nearness to the Central District. The Allapattah Business District lies in the northern portion of this area, adjacent to the Airport Expressway.

Beginning at 8:00 a.m., a mounted officer is assigned to the Allapattah business district to provide further coverage of businesses and pedestrian activities. He stays on duty until 6:00 p.m.

At 8:00 p.m., 1 three-wheel motorcycle officer also reports to this Sector and remains on duty until 6:00 a.m. to provide extra coverage for the protection of property and against street crime attacks.

At 11:00 a.m., a one-man personalized beat is also deployed to assist the zone man with continuing problems emanating from Jackson High School. This beat is continued until 7:00 p.m.

Although there is no Tactical Operations Platoon assigned to this Sector, one will be called in if conditions warrant such action.

30 SECTOR—SUPPLEMENTAL

Shift	Regular	3 wheels	Mounted	Personalized	T.O.P. (as needed)	K-9
1	1 sergeant and 5 men	None	1 (8–3)	1- to 1-man (11–3)	None[1]	1 man.
2	do	1 (8–11)	1 (3–6)	1- to 1-man (3–7)	do.[1]	Do.
3	do	1 (11–6)	None	None	do.[1]	Do.

[1] A tactical operations platoon will be sent to this sector if needed.

40 SECTOR

This Sector includes the area bounded on the north by N. W. 20th Street, on the west by the North-South Expressway (I–95), on the south by the Miami River, and on the east by Biscayne Bay. It encompasses the extremely populated areas of the Central District and the Downtown Business area, and demands the most police attention. Basic patrol coverage on all 3 Shifts will consist of 1 sergeant and 10 men, with 1 extra man being added on Shift 3. Four men are assigned to one-man units, and 6 men are assigned to two-man units due to the officer safety factor.

Beginning at 10:00 a.m., 3 additional patrol beats using three-wheel motorcycles are deployed—2 in the downtown area and 1 between N. W. 8th Street and 11th Terrace from N. W. 2nd to 3rd Avenues. The two beats in the downtown

area are continued until 6:00 a.m. (with a personnel changeover at 8:00 p.m.) while the other three-wheel beat is relieved at 8:00 p.m.

Also at 10:00 a.m., a personalized beat consisting of 2 officers is employed as previously described in 10 Sector. This beat continues until 6:00. At 10:00 p.m. a second personalized beat of 2 men will report to duty in the downtown area to eliminate undesirable conditions which are amenable to preventative patrol, in the area of E. Flagler Street, N. E. 1st and 2nd Streets, between 2nd Avenue and Biscayne Boulevard, centering their activities on eliminating the undesirable conditions around the bus station and YMCA. This team will remain on duty until 6:00 a.m. the following morning.

Because of the high rate of attacks against persons and property, 2 Tactical Operations Platoons are assigned to this Section—one to the Central District and the other to the downtown business area. These squads represent 2 sergeants and 12 men working varying hours, remaining completely flexible to criminal activity.

During Shift 1, there are a total of 15 police officers assigned to this area, excluding supervisors and officers from specialized units such as point control, solo motorcycles, accident investigation, and criminal investigators.

When manpower is available, an 8th two-man patrol unit is added to serve the sector at large. Also an additional officer is assigned in Zone 44 on Shift 3, because of the police hazards prevalent.

40 SECTOR—SUPPLEMENTAL

Shift	Regular	3 wheels	Mounted	Personalized	T.O.P. (as needed)	K-9
1	1 sergeant and 10 men	3 (10–3)	None	1- to 2-man team (10–3).	2 sergeants and 12 men.	1 man.
2	do.[1]	1 (3–8) 2 (3–11)	None	1- to 2-man team (3–6); 1- to 2-man team (10–11).	do	Do.
3	1 sergeant and 11 men.[2]	2 (11–6)	None	1- to 2-man team (11–6).	do	Do.

[1] 1 more 2-man unit to ride sector-at-large, when available.
[2] 1 more man added to sector 44 on shift 3.

50 SECTOR

This Sector includes the area bounded by the Miami River and the North City Limits to their joining with S.W. 8th Street, the South City Limits and S.W. 8th Street and the North South Expressway (I–95) on the east. Basic patrol coverage on all 3 Shifts will consist of 1 sergeant and 5 men, with all 5 men being assigned to individual cars.

A supplemental three-wheel motorcycle beat is deployed in a strip from the river west to 17th Avenue on Flagler and S.E. 1st Streets. This beat starts at 10:00 a.m. and continues until 8:00 p.m.

Beginning at 3:00 p.m., an additional one-man personalized beat is also deployed, and is continued until 11:00 p.m.

It should be noted that although no Tactical Operations Platoon is designated to this area, should the need dictate, one would be deployed.

50 SECTOR—SUPPLEMENTAL

Shift	Regular	3 wheels	Mounted	Personalized	T.O.P. (as needed)	K-9
1	1 sergeant and 5 men	1 (10–3)	None	None	None[1]	1 man.
2	do	1 (3–8)	None	1- to 2-man unit (3–11)	do.[1]	Do.
3	do	None	None	None	do.[1]	Do.

[1] A tactical operations platoon will be sent to this sector should conditions warrant.

60 SECTOR

This Sector includes the area bounded by S. W. 8th Street and the Miami River on the north, the West City Limits, the South City Limits, and Biscayne Bay. Basic patrol coverage on all 3 Shifts will consist of 1 sergeant and 6 men during Shift 1, and 1 sergeant and 7 men during Shifts 2 and 3. During the first shift,

4 men are assigned to individual units, with 1 two-man unit. During the other two shifts, there are 3 one-man units, and 2 units of two men each.

Beginning at 8:00 a.m., a mounted beat is also added to supplement coverage in the park area and along Main Highway in Coconut Grove, and continues until 6:00 p.m.

At 10:00 a.m., 2 additional beats are deployed in the Coconut Grove area using the three-wheel motorcycles. These 2 beats are continued until 6:00 a.m. the following morning, (with a personnel changeover at 8:00 p.m.)

Starting at 4:00 p.m., one personalized beat consisting of 2 men is also added to maintain further coverage in the residential area of Coconut Grove. This is continued until midnight.

Target areas have always been identified within the 60 Sector and a Tactical Operations Platoon has been deployed in this Sector on a "when and where needed" basis. The deployment will continue.

Minimum police coverage on a 24-hour basis consists of 1 sergeant and 9 men, with the number being increased at certain times of the day and night. When manpower is available, one more two-man patrol unit is added to serve the sector-at-large, on the second shift.

60 SECTOR—SUPPLEMENTAL

Shift	Regular	3 wheels	Mounted	Personalized	T.O.P. (as needed)	K-9
1	1 sergeant and 6 men	2 (10-3)	1 (8-3)	None	1 sergeant and 6 men	1 man.
2	1 sergeant and 7 men[1]	2 (3-11)	1 (3-6)	1- to 2-man team (4-11)	do	Do.
3	do	2 (11-6)	None	1- to 2-man team (11-12).	do	Do.

[1] 1 more 2-man unit to ride the sector-at-large, when available.

FIELD INSPECTION TEAM

It is obvious, I believe, that Operation Impact is a complex program which requires close coordination, effective supervision, and above all, good communications if it is to succeed. Communications will be necessary not only among all the units in the Department, but also between the community and the police. Therefore, a field inspection unit of 6 sergeants and 1 lieutenant will be given an inspection and communications assignment. One sergeant will be assigned to each Sector, and particularly to the target areas within each Sector.

The field inspectors will be in the field to observe the progress and problems of Operation Impact and to report their findings to the shift commander and Patrol commander and thence to me. Additionally, they will seek out merchants and residents in the area to solicit their assistance in identifying crime problems in the area, and to obtain grass roots evaluation of the strengths and weaknesses of Operation Impact.

The field inspectors should provide a valuable link both between headquarters and the line personnel, and between the citizens in the community and headquarters. The development of such a linkage should prove invaluable in keeping the administrative staff in tune with what is really happening. Too often, because of the tendency toward isolation, the administrative staff believes a program to be functioning well when in reality, as any resident or merchant could tell them, it is not. This is one pitfall we must avoid if Operation Impact is to be successful.

At this juncture, I have described in detail how the patrol force has been supplemented, assigned, and deployed to combat crime and violence in the streets. But, other units in the Department will also play a role.

THE TRAINING UNIT

The police academy will deploy 24 recruits one day a week into various areas of the community in a combined training and citizen contact program. The recruits, in their khaki uniforms but without weapons, and supervised by the academy staff, will *walk* the streets of the various neighborhoods in the community—Black, Anglo, and Latin. We anticipate that the program will be beneficial for both the recruits and the citizens because:

1. They will communicate with each other on a face-to-face basis. The community will get a first hand look at the caliber of men who are striving to become police officers; and, the recruits will come to know the citizens whose rights, lives, and property they are destined to protect.

2. The recruits will be able to provide some basic information to the citizens about the police department; but, more importantly, the residents and merchants will be able to tell the recruits what they expect of the police, the crime problems they are facing, and the services they need. Each recruit will be required to report on which he has learned, and on the requests for service he has received.

3. The recruits will actively seek to identify young men who may themselves wish to become police officers. Who better could tell a young man what it is like to be a police recruit, and why he should choose to become a police officer, than a recruit himself. Given the number of police vacancies, and the difficulty in attracting *qualified* men to join the Miami Police Department, our recruits could indeed provide a valuable service by assisting in the recruitment effort.

4. The recruits will provide a valuable addition to our efforts to create and maintain a high-visibility police presence.

CRIMINAL INVESTIGATION SECTION

Even though the Criminal Investigation Section provided 20 personnel for Operation Impact, they will still be asked through the Criminal Information Center to provide additional assistance. This unit will be expected to act as a clearing house and an analysis unit for the information generated by Operation Impact. The Criminal Information Center will also have the responsibility of identifying the targets against which the patrol supplemental units will be directed. In essence, this unit will be the nerve center of Operation Impact.

COMMUNITY RELATIONS SECTION

Community Relations personnel will emphasize those programs which encourage citizen reporting of crime and identification of criminal suspects. They will be particularly concerned with disseminating information on Operation Impact so that people in the community will know how they can assist us in the campaign against street crime.

INTERNAL REVIEW SECTION

Internal Review personnel will increase their availability to those in the community who have grievances and complaints; hence adopting an activist policy in seeking out problems and deficiencies. Internal Review personnel are riding in the field now to observe and inspect; and, within manpower limitations, they will expand their efforts in this area.

With regard to citizen complaints, may I state again that the policy of the Miami Police Department is to investigate citizen complaints; and, if they are substantiated, the appropriate action will be taken and the results relayed to them. However, both citizens of the community and Miami police officers must know that if the complaints are not leased in fact the officers will be exonerated and the Department will stand behind them.

SPECIAL INVESTIGATIONS SECTION

This Section has a major, but *not* exclusive, responsibility for the suppression of vice and the apprehension of the purveyors of vice; and, it has done an outstanding job in terms of its responsibility. I can say without fear of contradiction that never before in the history of the Miami Police Department has there been such a sustained, intense campaign against vice. The following table of statistics provides an indication of the commitment of the men and women of this unit to their job; furthermore, these officers can be counted among those

personnel in the department who ask—not what they *have* to do, but instead what *can* they do:

	1968	1969	1970
Prostitution	84	110	145
Liquor	190	140	181
Narcotics	82	159	284
Gambling	54	65	101
Miscellaneous	114	195	362
Total	524	669	1,073

These statistics reflect a tremendous increase in total vice arrests: 524 arrests in 1968 versus 1,073 arrests in 1970, an increase of 549 arrests or a jump of 105%! With respect to prostitution, the increase from 1968 to 1970 was 73%. During the first six months of 1971, the number of arrests for prostitution has continued to increase.

Operation Impact will definitely be concerned with the suppression of street vice. Special efforts will be directed against vice, particularly prostitution. Additionally, it is my official policy that the patrol officer is responsible for the suppression of liquor, gambling, drugs and prostitution activities—in his area of patrol. Vice is not something to be left to the vice unit any more than robbery is to be left to the robbery unit. To the extent that it is practicable, the patrol officer will enforce the laws against vice just as he enforces other laws in his area. Any actions short of this, I will not tolerate.

To summarize, may I offer a simple description of Operation Impact: Total mobilization of police resources to attack one problem—crime in the streets. All else will be secondary.

May I further note in summary of this presentation, that we the members of the Miami Police Department have earnestly attempted to respond, as one of you requested, not with problems but with solutions. Whether or not our proposal—Operation Impact—is truly a solution simply remains to be seen.

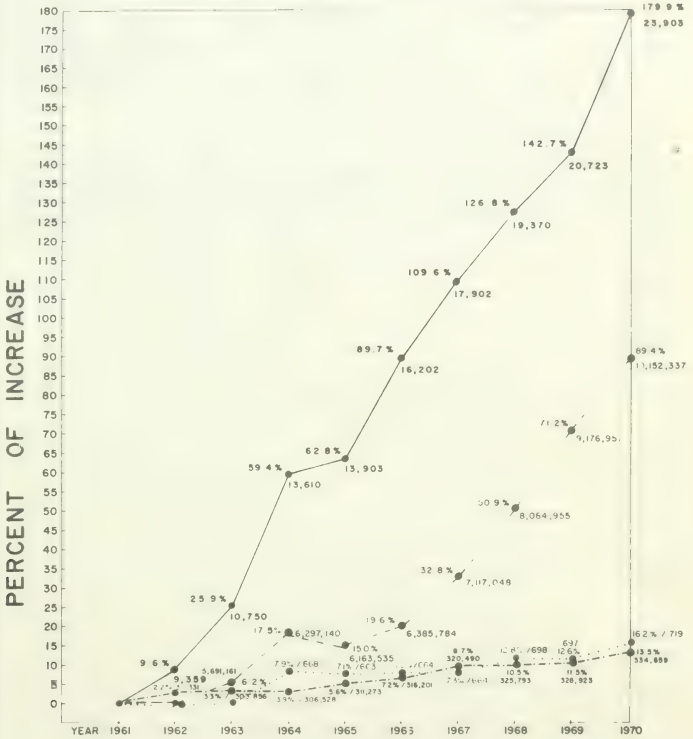
Furthermore, whether or not our program appears to be succeeding or failing, I will insist upon compliance with certain policies:

1. We shall proceed within the limits of the laws which we are empowered to enforce, and within the limits of our authority as it relates to the constitutional rights of persons.

2. We shall proceed not through the intentional use of force and violence but through the intentional use of lawful authority to perform our mission. When force or violence must be employed, it shall be employed, but only as a last resort, and *only* to the *minimum* extent necessary.

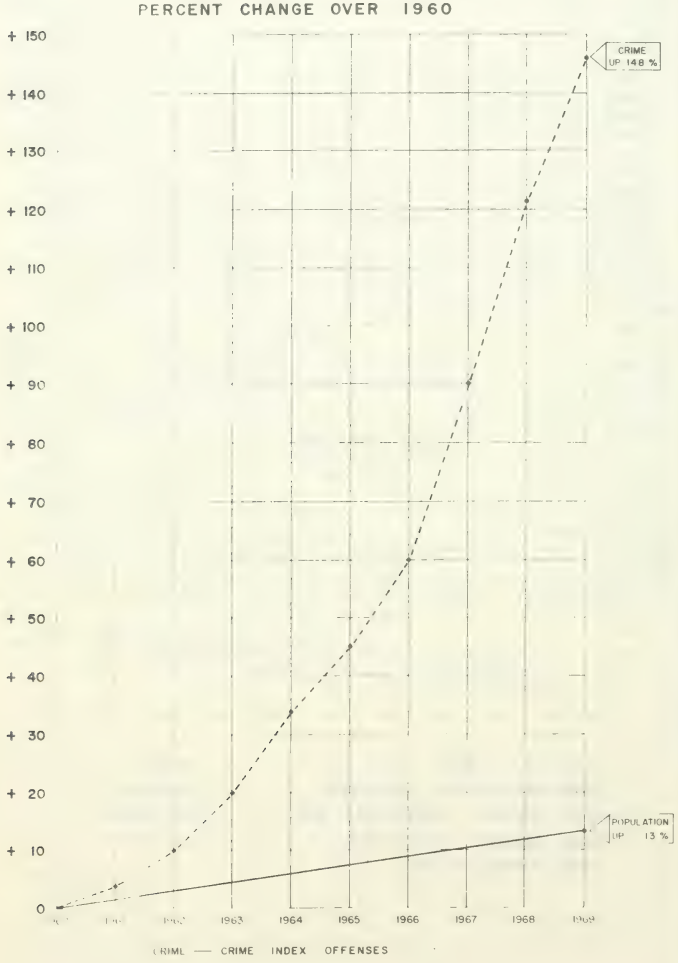
3. We shall proceed not against whites or blacks, but against persons who have violated the law. What matters is not their color, only their conduct.

TEN YEAR COMPARISON OF POLICE RESOURCES, POPULATION, & CRIME



CRIME AND POPULATION

1960 – 1969



APPENDIX "C"

MIAMI POLICE DEPARTMENT SWORN PERSONNEL DISTRIBUTION

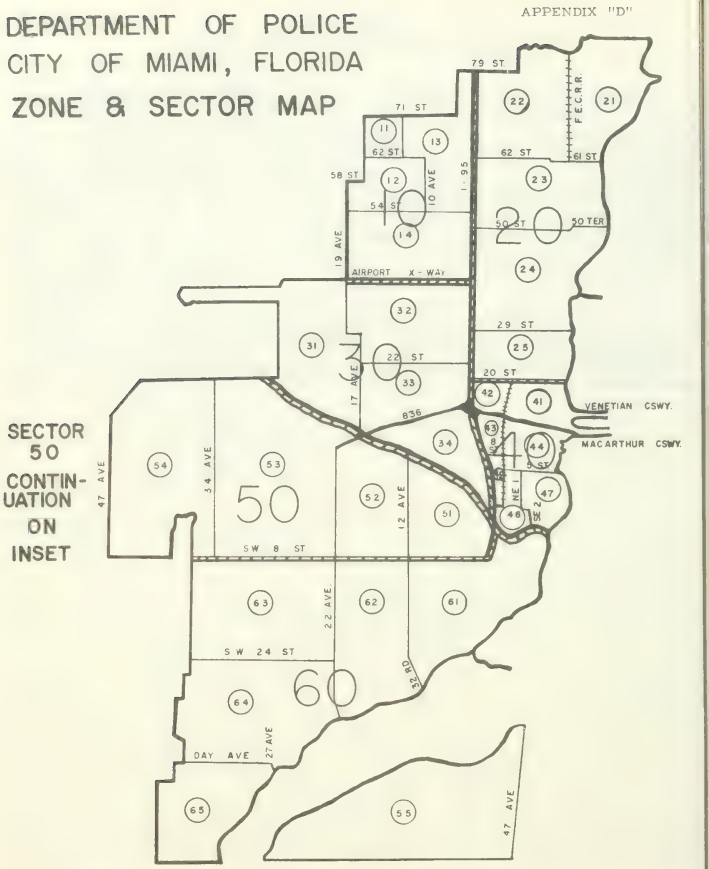
Section and ranks	Budgeted	Actual	Proposed	Plus or minus
Office of chief (1 sergeant)	2	2	1	−1
Community relations (1 lieutenant, 1 sergeant, 6 police officers)	24	18	10	−8
Special investigations	34	33	33	0
Internal review	11	9	9	0
Assistant chief of administration	2	1	1	0
Resource development (4 sergeants, 3 police officers)	16	17	10	−7
Services (1 lieutenant, 1 sergeant)	4	4	2	−2
Assistant chief of operations	3	2	2	0
Criminal investigation (1 captain, 1 lieutenant, 17 sergeants, 1 P.W.	120	107	87	−20
Traffic	89	78	78	0
Patrol	[2] 414	379	417	+38
Total	719	[3] 650	650	

[1] This chart reflects movement of sworn personnel to implement "Operation Impact."

[2] The administrative office of patrol will assign two officers from staff duties to street duties. Therefore, in reality 40 additional officers will be on the street.

[3] The 69 man difference between actual strength and budgeted strength is accounted for by 24 recruits in the academy plus 45 vacancies.

APPENDIX "D"



Chairman Pepper. The committee will adjourn until 10 o'clock tomorrow morning.

(Whereupon, at 4:36 p.m., the hearing adjourned to reconvene Thursday, April 12, 1973, at 10 a.m.)

STREET CRIME IN AMERICA

(The Police Response)

THURSDAY, APRIL 12, 1973

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON CRIME,
Washington, D.C.

The committee met, pursuant to notice, at 10:10 a.m., in room 311, Cannon House Office Building, Hon. Claude Pepper (chairman) presiding.

Present: Representatives Pepper, Rangel, Steiger, Winn, and Keating. Representative John Conyers, Jr., of Michigan was an invited guest and sat with the committee.

Also present: Chris Nolde, chief counsel; Richard Lynch, deputy chief counsel; and Leroy Bedell, hearings officer.

Chairman PEPPER. The committee will come to order, please.

Continuing our week-long series of hearings on law enforcement programs designed to reduce street crime, we will be hearing today from the Detroit Police Department regarding its felony prevention unit which has attracted a great deal of comment.

I will ask one of our distinguished colleagues in the House, whom we have invited to sit with us today, an able Member from the Detroit area of the House of Representatives, the Honorable John Conyers, if he will be good enough to present the next witness.

STATEMENT OF HON. JOHN CONYERS, JR., A U.S. REPRESENTATIVE FROM THE STATE OF MICHIGAN

Mr. CONYERS. Thank you, Mr. Chairman.

This is a double honor for me to be permitted to join the Select Committee for the purpose of these hearings this morning and, of course, I am very pleased to introduce the commissioner of police of the city of Detroit, Commissioner John F. Nichols.

The commissioner is known among law enforcement officers as a policeman's policeman. He has served his entire career in the Detroit Police Department. He has worked on a variety of assignments, and he has now, through dint of perseverance, moved to the top of the Detroit Police Department.

As we know, Mr. Chairman and members of the committee, the job of law enforcement in this Nation, particularly our urban areas, is one of the most trying and demanding challenges that any government official might meet with. I think it is entirely appropriate, based upon the subject that is the concern of this committee, that Commissioner Nichols of Detroit be a witness here this morning.

So I am very pleased and privileged to present him to you and to the committee.

Chairman PEPPER. We are very pleased to have you, Commissioner.

The deputy chief counsel, Mr. Lynch, will proceed.

Mr. LYNCH. Mr. Commissioner, I wonder if you could please introduce to the committee the other members of the panel?

STATEMENT OF JOHN F. NICHOLS, COMMISSIONER, POLICE DEPARTMENT, DETROIT, MICH., ACCOMPANIED BY JAMES BANNON, STRESS UNIT COMMANDER; RONALD H. MARTIN, PATROLMAN; AND JOHN P. RICCI, PATROLMAN

Mr. NICHOLS. Yes, sir; I would.

Gentlemen of Congress, on my right is Comdr. James Bannon, on his left is Patrolman Ronald H. Martin, and on his left is Patrolman John P. Ricci.

Commander Bannon is one of the cocommanders of the STRESS unit; both Patrolman Martin and Patrolman Ricci are active members of the STRESS unit at the present time.

Mr. LYNCH. Mr. Commissioner, if you have a prepared statement, would you please present it at this time.

Mr. NICHOLS. Yes, sir; I do, and I shall.

To begin with STRESS is an acronym which represents the theme: "Stop the Robberies, Enjoy Safe Streets." In one sense it was a totally new development within our department, and from another aspect it was an evolvement from an existing concept. Historically, its birth actually ensued in March 1967, when we created a small unit of a uniformed patrol which was intended to cope with a rash of delivery truck robberies we were experiencing, as well as other robberies.

Their principal mode of operation was the surveillance of possible victims and suspects. This unit was selectively assigned to problem areas and met with some degree of success. They were also used to support precinct personnel when calls for service reached levels above the precinct's capability. But, unlike the regular patrol units, these men could also conduct more extensive preliminary investigations following a crime. Ultimately, precinct support became one of the primary objectives, and the unit was renamed "precinct support unit."

By 1968, crime in Detroit, like in most cities, was on the increase at an acute pace, an accelerating pace. From 1968 to 1970, major crimes in the city increased some 32 percent, but robberies had increased by a monstrous 67 percent. And out of 23,000 robberies during 1970, nearly 18,000 of them occurred on the streets. More brutal was the fact that 85 people were murdered at the hands of robbers in that single year.

Almost immediately following my appointment, my staff studied the problem of street crime to attempt to find some reasonable answers. An analysis of the facts revealed many interesting aspects which we used to construct a profile of the typical robbery incident.

We found that the victim was usually male, not young, nonwhite, and living in or near the neighborhood in which the robbery took place. The criminal was usually young, nonwhite, and armed. One factor was salient, however, in contrast to what one would believe most robberies were not being carried out covertly. They occurred openly

and in full view of other citizens and potential witnesses on the street.

It was apparent that the criminal felt safe in carrying out his act in front of others. He obviously believed that large segments of the community were either so apathetic or intimidated that they would not interfere. His only concern then was to assure himself that there were no police in the area. If a robber sees a potential victim, he can make an instant decision whether or not to act. If a policeman or a police car is near, he simply waits for a more opportune moment.

If he thinks it is safe, it takes him but a few seconds to commit his act and flee the immediate area. More often than not his intended victim is aged, intoxicated, or a woman—those least likely to offer resistance. Those who are confused, shocked, and fearful, if not hurt, would be least likely to identify and prosecute.

What was needed, then, was obviously a method to have police personnel on the scene of the crime as it was happening. While the presence of uniformed policemen simply caused the thugs to move elsewhere, the presence of other citizens, however, did not seem to deter them.

In retrospect, the answer seems too obvious, a zero visibility patrol. The concept of placing nonuniformed personnel on the street as if they belonged there, letting them dress in street clothes, placing them in unmarked old cars, new cars, on buses, in taxicabs, in delivery trucks, campers, bicycles, and on foot; let the police personnel blend into the neighborhood and become part of it.

The basic premise is obviously not new. The whole concept of plainclothes officers is not new, but never on a large scale had we attempted to perfectly blend men into the environment.

With this concept in mind a pattern of operation was set up using the computer data regarding times, locations; the unit was expected to be responsible. And the plan became operational in January 1971, using the precinct support unit. During those first few days some of the men had a hard time adjusting to their new role. At the end of one shift a delegation of policemen who had been dressed as women approached Commander Bannon and told him, "Inspector, no one tried to rob us today, but we got six lewd proposals." They were viewed not as potential victims, but as hookers, hustlers, or to be more genteel, "ladies of the evening."

After becoming more accustomed to the new roles, however, the unit soon started showing results. In addition to arrests for robbery, the men were making arrests for burglary, car theft, rape, murder, and arson. They obviously were successful in assuming the appearance of neighborhood citizens.

STRESS crews operate in varying numbers and in varying patterns. Geographically, a crew may be assigned to an area covering two to four precincts. While the normal precinct cars are patrolling their scout car territories, the STRESS plainclothes officers in unmarked vehicles are checking the specific streets in neighborhoods showing a high current rate of crime.

Depending on street activity—observation of the number of kinds of individuals on the street in a neighborhood at a given time—the STRESS crew may decide to "drop off a target"; that is, place one of its members on foot in the street situation. Cover is provided by

other members of the crew either on foot, in vehicles, or a combination thereof.

Incidentally, there have been instances in which the covering officers, themselves, have been "rousted" while the intended victim has gone unmolested.

Many arrests have resulted from this type operation.

However, far more apprehensions have resulted from the presence of officers on or near the scene of the crime, operating as surveillance units, unrecognized by the criminal. In an instance or two, one of our officers has been surprised to receive a friendly warning from "street people" that the "man," meaning the police, was in the area.

In one incident, which I think bears repeating, a white STRESS officer was approached by a black man who asked, "You got any money?" The officer's nerves bunches as he prepared to respond to the assault he believed was coming. He replied, "No." His assailant reached into his pockets, the officer tensed even more because he thought at that point in time a robbery was about to occur.

Then the man pulled out a dollar and said, "Here, take this. You shouldn't walk around here—it's a bad area."

This indication of concern among our black citizens is not unique.

Mr. CONYERS. That proves it was not an assailant, doesn't it, Commissioner?

Mr. NICHOLS. Did I say assailant? I thought I said accoster.

Mr. CONYERS. Was it an accoster?

Mr. NICHOLS. I was saying it was accosting in the sense the officer was approached, not accosting and soliciting, Mr. Conyers. Just an individual stopping another individual. If I conveyed that premise of assailant, I am terribly sorry, I do not intend to. I don't read well, apparently.

This indication of concern among our black citizens is not unique. In one incident involving the shooting of two black youths who had just committed a robbery, the STRESS program came under great attack in the news media.

At the same time, we were in the process of receiving what eventually totaled more than 5,000 pieces of mail. Fewer than a dozen were against STRESS.

A sizable proportion of these letters were from black citizens, many of whom stated they had been victims of street crime themselves.

One statistic that should be mentioned is for robbery in 1971—the first full year of STRESS operation. Robberies showed a decrease of 9.9 percent for the year. Only 2 months had increased over corresponding months in 1970.

This decline in robberies was the first such downturn in a decade.

In 1972, in addition to the drop of last year, robberies were down an additional 18.7 percent over 1971.

Comparing this with the 1970 figures, we have eliminated 6,000 robbery incidents a year—this is a most significant figure.

In 1971, STRESS unit officers made 2,496 felony arrests and 300 misdemeanor arrests. In addition, 160 juveniles were detained and some 600 guns were seized.

In 1972, the first full year of operation, officers made 2,984 felony arrests, and 300 misdemeanor arrests. Over 1,000 guns were seized and

innumerable quantities of narcotics and other contraband were confiscated.

I should like to add here that despite the claims of academicians, the excessive cost of heroin to an otherwise unemployed individual demands that the funds to support his habit be violently obtained. Therefore, claims that heroin use and the occurrence of crime have not been proven are illogical. One must suspect the motives of those who persist in failure to see correlation.

Although the primary mission of the STRESS units was directed against street robberies, the officers have also effected arrests along the full scale of criminal offenses.

Since the unit was created, 3 officers have been killed, 18 wounded, and about 70 assaulted.

There is an old maxim in police work that the rapidity and certainty of apprehension and prosecution is a most effective deterrent to crime.

This factor of certainty of apprehension is the principal deterrent in street crime. This is how he estimates his risk—how he determines if it is worth the chance. As a quotation—that was sent to me, allegedly from the New York Times—states, "Crime will not decrease until being a criminal becomes more dangerous than being a victim."

By utilizing police officers to stand in place of potential victims, the department has increased that risk to the criminal—both in apprehension and in conviction in court.

He no longer can be certain that the man changing the tire, or the old lady with the purse, is an easy mark. He must take into consideration the fact that his easy mark may be a fully armed, fully trained policeman.

In conventional methods, the uniformed police officer is always at a disadvantage. He is conspicuous. The criminal has no difficulty spotting him or even making a target of him.

In the reverse, however, the officer stares into a mass of people and can rarely spot a criminal until he acts; at which time it is usually too late to protect a victim. With STRESS, the criminal must fear the potential victim. It is the criminal who must worry whether the man rummaging through the trash, the woman waiting for the light to change, the man getting off the bus, the driver of the next car, or even the victim, himself, might be a police officer.

Another decided advantage of arrests by the unit is that when a police officer has been the object of the criminal, prosecution is much simpler in the sense that the complainant is a trained observer, always willing to prosecute, and certainly not subject to intimidation.

We are now considering some new techniques using our tactical mobile unit, a high visibility patrol, and the STRESS unit in concerted efforts. While we are only in the discussion stages, we are proceeding on the premise that the tactical mobile unit deters a considerable amount of street crime. When I say deter, I mean that many street crimes are either postponed by the presence of uniformed officers or perhaps displaced; that is, the criminal simply moves to another location and finds a new victim.

If we can predict in which direction the criminal will move we can be waiting for him. In some cases, because of geographical composition, this may not be too difficult. If a criminal is deterred in a given area, he will most likely move away from that area and back into his

own environment. To this degree there is some chance of predictability. In his own environment, a preponderance of uniform patrols will most likely only delay the crime in point of time. Theoretically, then, the withdrawal of a high visibility unit and the simultaneous activation of a zero visibility unit may increase the apprehension rate.

In concluding, I would like to point out that the unit has come under sharp criticism from time to time. But I think any new method employed must invariably face critics from all dimensions. However, the accomplishments of the unit stand as their own defense. As in the case of most police criticism, the noise comes from a vocal minority. But as administrators, it is our responsibility to accurately measure both the criticism and support. And as long as the support significantly outweighs the criticism we must continue to utilize our most effective methods, whatever they may be. Our considered evaluation is that the program has contributed significantly to the overall crime drop of some 15 percent in the city of Detroit, particularly in the crimes of robbery.

Thank you.

Mr. RANGEL [presiding]. Mr. Nichols, the committee notices a substantial deviation from the statement dated December 31, 1972, that was given to us and the one you just read. Are they in fact two separate statements?

Mr. NICHOLS. Yes, sir.

Mr. RANGEL. Would you offer the statement received by the committee?

Mr. NICHOLS. We have brought additional copies. What we tried to do was update the statement. I also have several other documents. One is a statement of December 31, 1972, which you have been furnished.

Mr. RANGEL. Let's move the December 31, 1972, document go into the record.

[The above-mentioned statement appears at the end of Mr. Nichols' testimony.]

Mr. RANGEL. Counsel may inquire.

Mr. LYNCH. Thank you, Mr. Chairman.

Commissioner Nichols, how many policemen operate in the STRESS operation?

Mr. NICHOLS. We have never divulged the number. I would prefer not to do that. I will say it is less than 100.

Mr. LYNCH. Mr. Commissioner, as you may know, Commissioner Murphy in New York has a similar unit called the citywide anticrime section. His policy is to give that unit all the publicity possible, because it is his philosophy, according to testimony we had from him on Monday before this committee, that publicizing it acts as a deterrent, and at various times the New York papers have widely advertised or publicized the fact that it is comprised of 200 men and 6 women.

If I understand you correctly, your department classifies the exact number of STRESS officers. Would you tell us why you pursue that policy?

Mr. NICHOLS. Certainly. Because we do not have the massive amounts of manpower that the New York Police Department has. In contrast to 32,000 officers in New York, we have about 5,600, sir.

Mr. LYNCH. But if I understand your testimony, you are saying it is less than a hundred. I will be more than happy to defer to your wishes and not press on the point. I take it, however, that means somewhere in the neighborhood of 100 which, in fact, is only half the size of Commissioner Murphy's unit. He has 200 of his men in the unit, and, of course, a much larger city to police.

I notice in your December 31 statement, sir, you indicate that only nine of the officers assigned to STRESS at that time, or approximately nine, were black. In the light of your statement that a heavy proportion of the robberies, which in fact encouraged you to form STRESS, were committed by blacks upon blacks; why is it that only nine members of this unit are black?

Mr. NICHOLS. I don't know.

Are there still only nine black?

Statement of James Bannon

Mr. BANNON. No; that was a temporary figure. Frankly, they won't give them to me.

Mr. LYNCH. Is that classified, too?

Mr. BANNON. No; it is not. I keep behind the desk asking for more black officers and the other commanders won't give them up.

Mr. LYNCH. As a matter of policy, wouldn't it be highly advantageous to have a high proportion of blacks, since they have to operate in predominantly black neighborhoods? Or would it be fair to say they do operate in predominantly black neighborhoods?

Mr. NICHOLS. Not entirely. They operate where the crime pattern would indicate there is a need for this type of operation.

Mr. LYNCH. They are employed as a tactical force, as it were?

Mr. NICHOLS. As the crime pattern becomes apparent, then so moves the STRESS unit.

Mr. RANGEL. Excuse me, counsel. Is there something in the 1972 statement which indicates that some 80 percent of your criminals are black?

Mr. NICHOLS. Pardon?

Mr. RANGEL. There is some statistical data in the 1972 statement which indicates that over 80 percent—here it is on page 8 of the 1972 statement: "Police robbery figures for the year indicate that 89.8 percent of the known perpetrators were black, 5 to 6 percent white, and the rest unknown."

Mr. NICHOLS. That is perpetrators.

Mr. RANGEL. It has nothing to do with your high crime areas?

Mr. NICHOLS. I fail to see the correlation between perpetrators and the number of black officers assigned.

Mr. RANGEL. My question, Chief, is directed to the high crime area and perhaps to the ethnic composition of those areas.

Mr. NICHOLS. It would not necessarily follow if I may point out. The fact the perpetrator of the crime was black would not necessarily mean it would have to take place in the predominantly black neighborhood. It might take place in an integrated neighborhood or a white neighborhood.

Mr. RANGEL. I think counsel is trying to find out what is the ethnic composition of the areas in Detroit that you would consider to be high crime communities, high crime areas.

Mr. NICHOLS. We have about 8 of our 13 precincts that are fairly high crime areas and they range from predominantly black to predominantly white, and through the various ranges and stages of grade, so to speak, because the crime element does not necessarily confine itself to the black areas. It confines itself generally to the areas of social blight, to areas where the social problems have an environment in which crime seems to thrive, and sometimes it might be an Appalachian white neighborhood, sometimes it might be a fairly opulent neighborhood on the outskirts of town where these things do occur. We can't erase them, and I never attempted to postulate that all crime takes place in any given neighborhood or in any given precinct. I think the officers here on STRESS can attest to that as well.

Mr. RANGEL. Chief, do you have any statistical data to indicate the ethnic backgrounds of the victims of most of your crimes? Any percentages in that area?

Mr. NICHOLS. I don't have the statistical data, but we do know that preponderantly the victim is more likely to be black, more likely to be poor and black.

Mr. RANGEL. So your perpetrators are more likely to be black, the victims more likely to be black; and so counsel can continue his questioning in connection with that composition of STRESS.

Mr. CONYERS. Mr. Chairman, would you yield for a moment?

Mr. RANGEL. Yes.

Mr. CONYERS. Do you believe that suggests what might be happening in neighborhoods or parts of the city that might have a predominance of black residents? Or is that an inescapable conclusion?

Mr. RANGEL. By just asking my last question, we would assume counsel's questions made a lot of sense, but obviously, the commissioner wants to indicate that it is interracial.

Mr. NICHOLS. It is certainly an interracial thing, and Mr. Conyers is familiar enough with Detroit to know the Cass Corridor is not a predominantly black neighborhood, and it is a high crime area. It is populated by groups of people from several racial derivations, most of them in extremely low economic status; and the area is generally a very high crime area. It is not particularly black, nor is it particularly white. It is a mixture.

Mr. RANGEL. In a report of June 1972 called "The Police Chief" there is a statement attributed to you that the victim's profile was typically middle-aged or older, there were twice as many male victims as female victims, the victims usually lived in or near the neighborhood where the robbery took place, and in three-quarters of the cases he was a black.

Mr. NICHOLS. True.

Mr. RANGEL. Commissioner, obviously, I am not framing my questions correctly, so I wish counsel would continue to inquire.

Mr. LYNCH. Commissioner, based on that statement in your earlier testimony—and I think your testimony was clear—that in a high proportion of cases the victims of robbery are black and the crime is perpetrated by blacks, my only point was that with that understanding would it not seem reasonable that a concerted effort be made in this kind of operation to employ the services of more black officers? I think Captain Bannon has already indicated that efforts are being made and that he wishes he had more black officers on the STRESS unit.

Mr. NICHOLS. The fact of the matter, gentleman, is I am not sure there are only just nine black officers. And I am not certain enough to attempt to answer a question until I have the data made available.

Mr. STEIGER. Commissioner, is it difficult to recruit the black officers for this particular detail because of the criticism from the black community? Is that a problem?

Mr. NICHOLS. Not particularly. I think we have restricted ourselves to volunteer types of operations and I would presume this might have some impact, although I think the most difficult thing for me to do would be to answer that question. I would suggest Patrolman Martin, who is possibly more knowledgeable as to the outlook of young black officers on STRESS, would be a great deal more astute in that area than I.

Mr. STEIGER. Would the chairman permit Mr. Martin to respond?

Mr. RANGEL. Yes; and I hope he might keep in consideration this December 1972 statement, which is signed by John Nichols. It indicated at that time there were nine assigned STRESS officers that were black.

Mr. NICHOLS. That was in December of 1972, sir. I don't deny that in December of 1972; I would buy that. It is now April of 1973, and I do not know whether there are yet nine, less than nine, or more than eight, sir.

Mr. CONYERS. How can we find out?

Mr. RANGEL. With the undercover nature of the operation, I can see why.

Mr. STEIGER. Mr. Martin, is there a feeling among black officers that there is a stigma attached to being in this unit because of some criticism from the black community?

Statement of Ronald H. Martin

Mr. MARTIN. Well, my experience about that is that in the City of Detroit, over the last couple of years, quite a few policemen, mostly uniformed policemen, were wounded and killed. And that is wearing the uniform, with a brightly colored police car, a shiny badge, and it is doubly hard to work in plainclothes in the street and try to blend in with the community and not get shot. This might drive a lot of them away. I can't say what is in their minds, but that could be one of the reasons.

Mr. STEIGER. If I may, is your response to me—is it the difficulty of the job itself and not the attitude of the community that makes it difficult to recruit any officers?

Mr. MARTIN. That is my opinion.

Mr. STEIGER. I mean, in your opinion.

Mr. MARTIN. Yes.

Mr. RANGEL. Could you offer an opinion regarding how many blacks are presently working with the STRESS program?

Mr. MARTIN. With my crew, we have five. We have one car. I can't say for the other shift because we never see the other shift.

Mr. RANGEL. Is it safe to say the operation is so undercover the police commissioner and the member of STRESS are not aware of who each other are?

Mr. MARTIN. No, I don't say that. It is just that we try to keep it out of the limelight as much as possible.

Mr. RANGEL. I know; but from each other and the police chief?

Mr. MARTIN. Well, we don't discuss it because it is not—we know who we are.

Mr. RANGEL. Can you distinguish a black police officer from a white police officer in your normal course of operation?

Mr. MARTIN. Yes.

Mr. RANGEL. I don't want to know overall how many are involved, but is anyone here representing the Detroit Police Department prepared to say how many blacks are involved in the STRESS operation?

Mr. BANNON. To date, 10 black officers.

Mr. RANGEL. To date. Would you go along with that?

Mr. NICHOLS. He is in command of the organization. Certainly I go along with it.

Mr. RANGEL. I am sorry we wasted so much time. That is the question I thought I asked originally.

Mr. NICHOLS. I would like to publicly state I do not have the statistics for the composition of every unit at my fingertips.

Mr. RANGEL. We thought that we would be discussing the STRESS operation and in view of the comments made by the newspapers in Detroit, and in view of all of the criticism from the black community indicated in your document, I assumed you would think this was a logical question I might ask.

Mr. NICHOLS. I didn't look at it that way. Apparently my assumptions do not run along similar lines. I assumed this was a congressional hearing.

Mr. RANGEL. And therefore we should not concern ourselves with a question of race?

Mr. NICHOLS. I assumed you would certainly ask those questions, and if I could answer them I would be happy to, and if I could not I would be permitted, as I have in other congressional hearings, to get the validated data and return it to you in proper form.

Mr. RANGEL. Please, Commissioner, feel free to consult with anyone that you brought here, if you find yourself unable to answer questions.

Mr. NICHOLS. Yes, sir, I shall avail myself.

Mr. RANGEL. Counsel, would you continue.

Mr. LYNCH. Commissioner Nichols, could you explain for us how you go about selecting officers for participation in STRESS. What special qualifications, what special selection criteria there are, what kind of special training, if any, follows selection as a STRESS officer?

Mr. NICHOLS. To begin with, the STRESS officers are volunteers. Second, their service records are screened for a good work record, for an absence of disciplinary indication, for an absence of citizen's complaints, for ability to get along with their fellow workers. We try to avoid picking individuals who have shown a disinclination to relate to other individuals. We put them through a psychological evaluation and the unit commander, Commander Bannon, set up a STRESS training program in which the techniques of surveillance, which additional range training and which continuing reinforcement of the proper applications and the circumstances under which force can be used, are given. These are reinforced periodically, I believe. At what interval, I do not know.

How often do you reinforce the training program?

Mr. BANNON. On a daily basis.

Mr. LYNCH. Commissioner, I wonder if Commander Bannon could describe for us the training program as it is presently operating.

Mr. BANNON. The training program as it presently operates, because of the fact there is not a structured training program in terms of a classroom context because of the fact the men are brought in as replacements only and I am not allowed to get a dozen at a time or something like that. So we get replacements for those men promoted, or transferred, or for some reason leave the outfit, are shot or something happens to them.

There is an indoctrination period of about 2 weeks by the supervisors of the unit, which includes review of the State's law on entrapment and other issues of search and seizure. There is indepth "shoot, no shoot" training presentation. There is a great deal of on-the-job training.

Mr. LYNCH. Would you describe for the committee what you mean by the "shoot, no shoot" training?

Mr. BANNON. This is a slide presentation which is a pictorial representation of the crisis situations presented to the officer through the medium of a projector. He must make a decision as to whether or not he should fire to save his own life or somebody else's, and his situation is often not as he understood it to be. Perhaps if he decides to fire, on second view of the slide he sees his partner was getting in the way, or a woman holding a child in her arms, or something of that nature. It is a decisionmaking process training, which seems to be somewhat effective.

Mr. LYNCH. How many STRESS officers have been shot or otherwise wounded in line of duty; do you know, sir?

Mr. BANNON. Seventeen. That is wounded or shot, yes.

Mr. LYNCH. How many of those officers were killed in line of duty?

Mr. BANNON. Three.

Mr. LYNCH. Is that a high rate, Commander?

Mr. BANNON. One would be a high rate as far as I am concerned as an individual. It is, I think, the nature of our job, the nature of the depths of the problems at an acceptable level of risk, because we have that commitment to protect our people, to protect our community; that is what we are hired to do. It is an acceptable level: I don't like it, wouldn't like it if it was only one.

Mr. STEIGER. Commander, in the interest of clarification, on page 8 of the December 31 statement, we talked about the three officers who have been killed and you have the figure of 100 wounded or injured.

Mr. BANNON. Seventeen wounded.

Mr. STEIGER. You make a distinction between the wounded and injured?

Mr. BANNON. Yes. The injured are injured in making the arrest. Perhaps they are assaulted by arrestee or something like that. It is a relatively minor type—it could be major, but it usually isn't.

Mr. STEIGER. It isn't a gun or a knife?

Mr. NICHOLS. It is an assault and battery or an aggravated assault, assault with something other than a weapon.

Mr. STEIGER. I understand.

Mr. RANGEL. Mr. Bannon, did you testify earlier that your department was presently trying to recruit blacks for STRESS?

Mr. BANNON. As a matter of fact, I have a waiting list of black officers who want to come into STRESS, but I can't convince the other commanders to give them up. Black officers are a high priority item for many other functions within the police department, including vice, narcotics, and other units. We have to take our place in that priority system to get these individual officers even though they have volunteered to come into the unit.

Mr. RANGEL. Well, Commissioner, is there presently a recruiting drive to get blacks on the police force?

Mr. NICHOLS. There is a massive recruiting drive; a drive which has been reasonably successful. The number of black officers on the Detroit Police Department—and I would be subject to an error of three to five—is somewhere in the neighborhood of 737. And as the commander points out, we are hard pressed as to where to deploy these individuals to get the maximum benefit from their expertise and the maximum benefit of their presence in the community.

We have equally the same problem, gentlemen, with our black supervisors. We are torn between the need to have black supervisors in plainclothes, and we are torn between the need to have a high degree of black supervision in the precinct where a preponderant number of young black officers are.

We are attempting to remedy that situation; again, by our recruiting drive. But I think we have to recognize that the need is far greater than our ability to commit. And what Commander Bannon says is exactly true.

Mr. RANGEL. Blacks are a premium not only to STRESS but in the department?

Mr. NICHOLS. Across the entire face of the department.

Mr. RANGEL. If you did have blacks available, based on how you deal with STRESS, you could not really put them on anyway, since I understood your response to counsel was that you only replace a STRESS agent?

Mr. BANNON. That is not necessarily so. The replacement thing goes on all of the time, and if I could replace with a black officer rather than a white, I would.

I think, though, I would like to say this in response to some of these questions. I think you are overemphasizing, sir, the decoy phase which would infer needing a black officer for decoy, if you save the black victim. What we are saying is the decoy phase of STRESS is about 20 percent of the time factor, and the surveillance doesn't necessarily require a black officer to be effective. I think if you take that into consideration you will see there is some justification for the putting them out there even though they are white.

Mr. RANGEL. Does not surveillance mean observing the conduct of a suspect by a police officer from a reasonable distance?

Mr. BANNON. The survey neighborhood. We are operating on a pattern. We only commit the STRESS group based on a pattern of prior crime. So we know, basically, what we are looking for in terms of the general appearance of the culprits and so on. So we surveil a neighborhood. We go in there as insurance salesmen or busdrivers, or truckdrivers, or cabdrivers. All of these different modes. So we are surveying, looking for the potential robber. That doesn't necessarily imply to me you need a black officer to do that.

Mr. Lynch. Mr. Chairman, if I may I would like to take issue with the commander. It seems to me that in the earlier testimony we were not given numbers, nor are they publicly made available. I think one reason is the commissioner feels that he does not want to divulge the number of officers in STRESS so as to keep this force more invisible.

It seems to me to make only good sense that invisibility has something to do with race and certain high crime areas of Detroit, so the committee is not solely concerned with the decoy operation. That was the only point.

Mr. Bannon. Mr. Lynch, perhaps you are not familiar with Detroit. It is not a ghettoized, racial community. The racial makeup of most of the areas of Detroit is pretty much heterogeneous, and you seem to be implying that there are all black communities in Detroit in which a white face stands out.

Mr. Lynch. I am quite familiar with Detroit. I lived in the Detroit area a number of years and practiced law there, and there are indeed a number of racial enclaves, although not the kind we might find in some other cities. But the only point is that it would, it seems to me, assist the department in creating further invisibility by having more substantial proportions of blacks on this unit; and I take it you are not quarreling with that?

Mr. Nichols. No.

Mr. Lynch. Mr. Chairman, may I continue?

Mr. Rangel. Yes.

Mr. Lynch. You were discussing the training and the commissioner mentioned that there is some continuing inservice training. I wonder if you could describe that for us, please.

Mr. Bannon. The continuing inservice training may involve what the rest of the department is exposed to in terms of new issues in search and seizure and other new matters. It may involve a new surveillance technique we develop for a given type of crime or specific type of problem. We may reorient the entire unit for a given period of time. We may have a rapist operating in a certain section of the city and want to reorient the STRESS unit. To the extent they are reoriented, they are no longer STRESS, they are not working on street robbery. We reorient the entire unit or major portions of it to work with hijackings of tires on railroad cars, on major narcotics problems.

Mr. Nichols. Or riding the freight trains being ripped off while moving from one section of the city, of the section to the other. One whole segment of our operation went into that, where the men adopted the guise and bandannas of railroad workmen and rode the area of the Pennsylvania line, commonly known in the trade as "Ho Chi Minh Trail." So they are committed to different types of operations, and the racial makeup doesn't mean they cannot be effectively used in this area.

Mr. Lynch. STRESS officers usually operate in teams; is that correct? They are rarely, if ever, used singly?

Mr. Bannon. They will be occasionally loaned out singly to act as a pigeon or target in extortion plots, but normally I think they always do work in teams; yes.

Mr. LYNCH. What kind of communications equipment would the STRESS officer carry on his person?

Mr. BANNON. He normally carries the Prep radio, which in our view is a very good instrument for general communication. We have on order, unfortunately technology hasn't caught up with the need, open mike transfers from the decoy phase of the operation. We do have them on order, but we haven't gotten them as yet.

Mr. LYNCH. That would enable someone to transmit without holding something up to his face?

Mr. BANNON. Without the physical act of pressing the transmitter button and thereby alerting the robber.

Mr. LYNCH. A STRESS officer who is on decoy detail or a STRESS officer who is working with a team, walking down the street in a high crime area, can he communicate with the precinct station or your base station and with other foot undercover patrolmen in the area?

Mr. NICHOLS. Why don't we let the officers answer them? We brought them here for these kind of intimate questions.

Mr. LYNCH. Would one of you gentlemen answer that, please?

Statement of John P. Ricci

Mr. RICCI. It has been my experience and that of colleagues I work with that on a target-type operation, where one man is set up as, if you will allow, to be used as the target we usually do not equip him with communication per se in the form of a Prep radio because, of course, this radio is on—police calls are coming over that and it may disrupt the operation. However, his cover and surveillance by his fellow officers is maintained in a very close proximity. In the event something should take place, the officers can respond within a matter of seconds.

Mr. LYNCH. So you have line-sight observation of someone?

Mr. RICCI. At all times.

Mr. LYNCH. Do each of you, however, normally carry some kind of walkie-talkie transceiver? What is the Prep? You call it a "Prep radio."

Mr. RICCI. Yes, sir.

Mr. LYNCH. Would you describe what that is?

Mr. RICCI. I could briefly describe it as a very small version of the old military walkie-talkie. I would like to state that those officers who are covering the intended target are equipped with a Prep radio, and we also have the officer in sight. They can at any time notify patrol units, specific areas such as the precinct of operation, and also our base. They are within communication at all times.

Mr. LYNCH. What kind of protective gear, if any, do you wear when on STRESS operation, Officer Ricci?

Mr. RICCI. We have been very fortunate to have issued to each officer and to all crews what they refer to as the "second chance" armored vest. It is composed of a fiberglas-type material. It fits over the shoulders and it is held by means of a strap which is secured by some other fiber.

Mr. BANNON. We would like to say that has saved about four officers' lives.

Mr. LYNCH. Would you describe how that happened, what they were shot with?

Mr. BANNON. They were shot with .38-caliber weapons.

Mr. LYNCH. Were they injured?

Mr. BANNON. No.

Mr. NICHOLS. Bruised, but no blood drawn.

Mr. RANGEL. Officer Ricci, you were talking about surveillance and keeping the so-called target under cover. Do you find in the black community that having these officers be black, or in a white community having the surveillance officers be white, might improve the quality of your police work?

Mr. RICCI. Sir, I would like to state this, as my commander had previously stated, that the STRESS operation in itself operates strictly on each separate type of crime. In other words, the crime situation that we are trying to remedy or eradicate from our area, or our city, dictates the type of procedure and the type of personnel we will use. In other words, if I may use the Cass Corridor as an example, which is a smattering of different nationalities, Chicanos, Spanish, Italian, Jewish, Polish, Negro, so on and so forth, we will use the type of personnel who will fit in that area.

Now, we have an analytical section which computes all the crimes which happen on a day-to-day basis, and that in turn, prior to our going out on the streets, informs us of these specific hard hit crime areas.

Mr. RANGEL. That makes a lot of sense, officer. I hope the stenographer would read my question back.

[Question read by the reporter.] Officer Ricci, you were talking about surveillance and keeping the so-called target under cover. Do you find in the black community that having these officers be black, or a white community having the surveillance officers be white, might improve the quality of your police work?

Mr. RANGEL. That was my question.

Mr. RICCI. I was attempting to answer that. Each situation will dictate the type of personnel we need.

Mr. RANGEL. I assumed that. I am giving you a specific situation, an all-black community. I don't know whether you have such a community in Detroit, but I am just assuming from what I read that you do have pockets of blacks and pockets of whites. My question has nothing to do with the Corridor, which I assume is interracial in flavor. But I am just asking, "Would it protect your police officer a little more, or make your operation a little more successful, if the police officers that were surveying the target blended with the particular community in which he was operating?"

Mr. RICCI. Yes, sir; definitely.

Mr. RANGEL. Thank you.

Counsel, you may continue.

Mr. LYNCH. Thank you, Mr. Chairman.

Officer Ricci, I wonder if you could tell us how long you have been a member of STRESS?

Mr. RICCI. I have been a member of STRESS ever since its inception.

Mr. LYNCH. Could you approximate how many felony arrests you have made, sir, since being a member of this unit?

Mr. RICCI. I would say on an average basis, approximately 30 to 45 felony arrests per month.

Mr. LYNCH. Per month?

Mr. RICCI. Yes, sir.

Mr. LYNCH. Individually?

Mr. RICCI. Specifically what do you mean?

Mr. LYNCH. Those were your arrests or arrests made by your team?

Mr. RICCI. By my team, sir.

Mr. LYNCH. Your team would be composed of approximately how many officers?

Mr. RICCI. Approximately four men per team.

Mr. LYNCH. How would that relate to the number of arrests that might be made by a four-man uniformed patrol team if you had such teams? Is it high, is it low, or average?

Mr. RICCI. I think that would be extremely high in comparison to their arrests.

Mr. LYNCH. And I believe I asked whether these would be arrests for felonies, major felonies. I am talking specifically about aggravated assault on the streets, murder attempts, armed robberies, muggings.

Are those the kinds of things that we are talking about?

Mr. RICCI. Yes, sir.

Mr. LYNCH. When you patrol as a STRESS team do you concentrate on particular kinds of crimes and let others go unnoticed, or not make arrests for them? Do you concentrate on trying to catch armed robbers? How do you operate?

Mr. RICCI. Well, first of all, as a law-enforcement officer, it is my duty to make an arrest.

Mr. LYNCH. I understand. I think we all do.

Mr. RICCI. I wanted to just clear that up, when you said do I overlook other things.

Mr. LYNCH. Perhaps that is a bad choice of words. It is not an issue of overlooking. I am wondering whether you concentrate and go on details at various times with various goals in mind, such as suppressing robberies in a particular neighborhood.

Mr. NICHOLS. I think this was answered by Commander Bannon and myself. The concentration of the unit and crime—the picture dictates the crime they would be addressing themselves to primarily, but not to the exclusion of all others.

Mr. STEIGER. Counsel, excuse me.

I think it is a good question. As a layman, I think I understand the question. If there is a woman hustling, do you in the normal course of your activity pick her up? If you see a guy dealing in numbers would you pick him up or would you advise somebody else and go on about your primary mission? I think that was the thrust of the question.

Mr. RICCI. That is correct. I would make every attempt to have the unit specifically trained for that type of crime. You use prostitution as an example. We have vice squads on the street and we usually don't like to get involved with their operations.

Mr. RANGEL. Counsel, Chairman Pepper has invited the distinguished gentleman from Detroit, Congressman Conyers, to participate with this committee because of his knowledge of the area of Detroit. And so if you could hold your questions and allow him to inquire, then the chair would recognize Mr. Conyers.

Mr. LYNCH. I would be delighted to yield.

Mr. CONYERS. Thank you, Mr. Chairman.

I would like to ask your Detroit commissioner of police how he has responded to public inquiries about the operation of the STRESS unit.

Mr. NICHOLS. In what particular area, sir?

Mr. CONYERS. In all particular areas. What I was getting at is, do you feel that this is a rather controversial part of the Detroit police force?

Mr. NICHOLS. I think that would be a very valid statement. It certainly raised a great deal of inquiry, attracted a great deal of publicity in the press. I think part of it is due to the nature of the operation, which may not have been an ideal one but which in retrospect we can do little about.

Yes; it has been controversial; and yes; I have attempted to respond to this as honestly and candidly as I can.

Mr. CONYERS. Thank you. In other words, you meet with the public and you are aware of the number of investigations that STRESS is under?

Mr. NICHOLS. The number of investigations that STRESS is involved in, or the number of investigations concerning STRESS operations?

Mr. CONYERS. Well, either or both.

Mr. NICHOLS. Well, maybe I don't quite understand your question, sir. I don't know the number of investigations in which STRESS men are conducting. I have no knowledge of that.

Mr. RANGEL. He means that STRESS is the subject of.

Mr. NICHOLS. Yes; I am aware of them.

Mr. CONYERS. There are a number of them going on?

Mr. NICHOLS. Yes, sir.

Mr. CONYERS. Could you tell us which ones are going on that you know about?

Mr. NICHOLS. There is a massive investigation concerning that manhunt for the individuals who were involved in the shooting of six STRESS officers during a period last winter. Of that there were 26 complaints lodged against, primarily against STRESS officers, although I am not certain they all were STRESS but they purported to be STRESS. That situation has been brought before our common council; the initial investigation has been reviewed; they have been sent back with interrogatories from the council members; they are still under investigation. Some of them have been resolved, some of them have not been resolved. One individual from STRESS is currently under indictment on a charge of homicide.

Mr. CONYERS. Is that police officer Raymond Peterson?

Mr. NICHOLS. It is indeed.

Mr. CONYERS. Charged with murder and involved in six killings?

Mr. NICHOLS. He was charged with murder and one killing, sir, in which the evidence was sufficient to present it to the prosecutor and a warrant issued. And the other killings, the evidence was likewise reported to the prosecutor.

Mr. CONYERS. This grew out of the fact that a departmental investigation disclosed that the knife found on the body of a person killed by him actually belonged to the police officer?

Mr. NICHOLS. Yes, it did. The investigation was initiated by the department. The evidence was analyzed by the department and I should also like to add, gentlemen, the individual was off duty at the

time. He was acting on a folly of his own and not while he was in any kind of a STRESS situation.

Mr. RANGEL. Would the gentleman yield?

Mr. CONYERS. Surely.

Mr. RANGEL. Does the police department's civil service regulations differ from other cities? When a police officer is not actually assigned to a post, is he off duty?

Mr. NICHOLS. In the sense of being responsive to recall, he is off duty; yes, sir.

Mr. RANGEL. So, a police officer has no obligation to enforce the law during his leisure?

Mr. NICHOLS. He has an obligation. He has a moral obligation. But at that particular time he was not under direct supervision of his commander, or sergeant, or lieutenant in the STRESS operation.

Mr. RANGEL. We all have a moral obligation. I am talking about a legal operation. Is not your police force on duty 24 hours a day?

Mr. NICHOLS. Technically, yes, sir.

Mr. RANGEL. So the fact he was not specifically assigned to the command is irrelevant; he was acting as a Detroit peace officer?

Mr. NICHOLS. I am not attempting to deny he was a Detroit police officer.

Mr. RANGEL. I just misunderstood you when you said he was off duty. In fact, unless he is suspended he is always on duty.

Mr. NICHOLS. It is a question of semantics. An individual works 8 hours a day. He gets paid for 8 hours a day. And in one terminology if he is not getting paid for that work, I would say he is off duty in that sense.

Mr. RANGEL. Your pay schedule does not take into account that a police officer is a police officer 24 hours a day?

Mr. NICHOLS. No, sir; it does not. It takes into account officers work 40 hours a week for which they get paid. If they do overtime work and it is documented, contractual provisions provide for that. He does not get paid for going home and going to work.

Mr. RANGEL. If a police officer is off duty and saw a crime, a felony committed, he would only have a moral obligation to arrest?

Mr. NICHOLS. I don't think any commander would take him to task for a judgment if he failed to take action if his estimation of the situation did not require it at that time.

Mr. RANGEL. I am not making myself clear?

Mr. NICHOLS. Apparently not.

Mr. RANGEL. I am asking if a police officer of the city of Detroit is technically off duty and he sees a felony or a series of felonies being committed in his presence, does he only have a moral obligation to attempt to arrest the perpetrator?

Mr. NICHOLS. And I am answering it by saying I don't think it would be supportable to charge him with a violation of the department rules if he failed to do so, if he felt it was not within his discretionary powers at that time to do it. If it was a question of cowardice or being paid off or something else, then certainly there would be ramifications of disciplinary action. That is all I am trying to say.

Mr. RANGEL. You are saying that if crimes are being committed in front of Detroit police officers and they are not on their regular shift

they have the discretion as to whether or not they would enforce the law?

Mr. NICHOLS. Certainly. In fact, in many instances we advise them not to enforce the law. We admonish our officers not to get involved in neighborhood disputes, for example, by direct order.

Mr. RANGEL. I am surprised by the differences between your regulations and those which govern police conduct in New York City.

Mr. CONYERS. Well, Mr. Commissioner, are you certain about the remarks you just made to the acting chairman?

Mr. NICHOLS. I think I am. I might be uncertain in the way they were interpreted, but I am certain about what I said.

Mr. CONYERS. I just wanted to make certain because it seemed a little unusual to me. But let's continue with my question of how many investigations are being conducted concerning the STRESS unit and officers which lead into questions such as violations of the constitutional rights of citizens.

Mr. NICHOLS. To the best of my knowledge there is that investigation conducted by the common council; there is an independent investigation being conducted by an ad hoc committee of which we have no knowledge; there have been applications made to the Federal Bureau of Investigation. I do not know what status that investigation is in, if in fact it is being conducted. I would assume that there are isolated complaints of other STRESS offices under investigation by our citizens complaint bureau, and possibly by the commanders of STRESS itself.

Mr. CONYERS. Now, how many citizens have been killed as a result of the STRESS unit?

Mr. NICHOLS. Since when, sir?

Mr. CONYERS. How long has STRESS been in existence?

Mr. NICHOLS. Since January of 1971. I think about 15, I am not certain.

Mr. CONYERS. Would 18 possibly be a correct number?

Mr. NICHOLS. Eighteen might be a valid number of individuals who have been killed by officers assigned to STRESS, but not necessarily on the STRESS operation. That would include the matter under which we have just had the discussion, which was not a STRESS operation. That was the only point I was trying to make.

Mr. CONYERS. Are you aware—and perhaps I should direct this to Officer Martin—that even associations of Detroit policemen have voiced some criticism of the operation of STRESS?

Mr. MARTIN. The association?

Mr. CONYERS. I said some associations of Detroit policemen have voiced criticism of the way STRESS has operated.

Mr. MARTIN. If you are talking about the Guardians of Michigan, in which the membership is primarily suburban departments, black officers of suburban departments, which there is very few number of Detroit policemen working, which I don't belong to, they may voice their opinions against STRESS. But the majority of those policemen are not Detroit policemen.

Mr. CONYERS. When you say suburban departments of the police department, what do you mean?

Mr. MARTIN. Inkster, Royal Oak, places like that.

Mr. CONYERS. Well, the Guardians is one of the units that I was referring to, and it is composed primarily of black police officers.

Mr. MARTIN. That is correct, sir.

Mr. CONYERS. And it is your suggestion, that most of them are suburban police officers?

Mr. MARTIN. Yes, sir. When I say surburban, outside of the city of Detroit, plus Wayne County sheriff's deputies, which most of those belong to.

Mr. CONYERS. Do you have any idea how many of them are Detroit police officers?

Mr. MARTIN. I have no idea; sir; but I have come in contact with most Detroit police officers who stated they don't belong to them. But I can't give an accurate number.

Mr. CONYERS. Well, let me ask you about one of the incidents that created a great deal of unfavorable publicity relating to STRESS in which you were involved. This is in connection with a shootout between the Wayne County Sheriff's Department deputies and STRESS officers. I presume you recall that incident?

Mr. MARTIN. Yes, sir.

Mr. CONYERS. It resulted in the death of a sheriff's deputy and the injury of several others?

Mr. MARTIN. Yes, sir.

Mr. CONYERS. It was the result of a mistake on the part of STRESS unit's officers?

Mr. MARTIN. No, sir. I beg your pardon, sir?

Mr. CONYERS. It was intentional?

Mr. MARTIN. No, it was not intentional. It was an accident and it was a mistake.

Mr. CONYERS. Correct. You agree that it did create a great deal of unfavorable publicity?

Mr. MARTIN. Yes, sir; it did.

Mr. CONYERS. And there are a number of other incidents from which citizens complaints have arisen including illegal breaking and entering into homes with less than the proper legal credentials?

Mr. MARTIN. You are asking me another question?

Mr. CONYERS. Yes, I am.

Mr. MARTIN. There have been many complaints, sir. There has been a lot of adverse publicity, but if these complaints are substantiated that is another question.

Mr. NICHOLS. May I be permitted to complicate the question, sir?

Mr. CONYERS. By all means.

Mr. NICHOLS. I think at the point in time these complaints were made, the Michigan State law specifically defined the right of an officer to enter a place where he believed an individual for whom he held a felony warrant resided or lived or may have been in hiding, after having announced himself, gave him the right to break the door. This was on this premise that many of these complaints and allegations were raised.

A later circuit court decision said, in essence, that the department should have gotten a search warrant. This case is still up for appeal and I submit that we have to objectively view the officer plus his conduct in terms of what the law appeared to be at that particular time, sir.

Mr. CONYERS. Thank you. Now, of course, a police department's reputation cannot stand too many fatal errors, can it, Officer Martin? For

example, the one in which Wayne County and Detroit law enforcement agencies had a shootout between each other?

Mr. MARTIN. You are correct on that, sir; but we didn't start that shootout.

Mr. CONYERS. I see. Can you describe to us the circumstances under which this very tragic mistake took place?

You don't have to look to the commissioner. You know more about it than he does.

Mr. MARTIN. It is a matter of record.

Mr. NICHOLS. It has been tried in court. I think the members of the committee should know this. The officer has been to court. He has been tried by a jury. Every facet of the case has been explored. We have no aversion at all if the officer cares to detail it in great detail.

Mr. RANGEL. Thank you so much, Commissioner.

Mr. NICHOLS. You would like to hear it?

Mr. CONYERS. No; I don't want to retry the case. These are not adversary proceedings. What we are trying to do is find out how efficient or effective the STRESS unit is in comparison with other anticrime units that are conducted in urban police forces across the Nation. This kind of tragedy, which has no equal in other similar units inside police departments that we know of, certainly requires some discussion while you are here before this committee.

Mr. MARTIN. That night, sir; the crew I was working with was not on a STRESS detail. We were doing routine undercover plainclothes police work. At approximately 12:05 a.m., of March 9, my crew, which was three of us in the car at that particular time, observed a black male in an alley. We turned the corner and pulled up a little closer to the man and observed this man was wearing plain clothes and was carrying a nickel-plated revolver in his hand.

We had an obligation to the occupants of that building and to the city of Detroit and our department to try to get to that individual.

We stopped our car. We watched the man climb the flight of iron stairs to the second floor, a motel-type building. He entered the apartment at the top of the stairs. We didn't think to apprehend him on the stairs or on the porch because we were on the lower level, which would give him an advantage over us.

We reached the top flight of the stairs and glanced in. I glanced in as I passed the door and saw this man in the living room with this gun in his hand. I saw several other individuals in the living room, which was just a glance as I passed the door. My partner immediately was following me, behind me, coming up the stairs.

I stepped to the left of the door and my partner opened the door and announced himself as a police officer. He had his badge and his gun in his hand.

This door was a storm door—glass—and the wooden door was ajar, we could see.

At that point, shots rang out, my partner backed out, down the stairs. I ran to my left, which was the end of the porch, which at that time I thought it was an apartment at the end, but there was a door to an enclosed stairwell. I thought I was trapped on the porch. This man, or a man, which I never could identify, came to the door, fired out into the courtyard.

I fired one shot from, not a service revolver, but my privately owned Cougar, and the type of ammunition I was using jammed after the

first shot. The man then made a quick step onto the porch, fired two shots at me, one shot ricocheting off the brick about 5 inches from my head and the other shot going through my legs and embedding in the door behind me.

I fired more shots.

The driver of our car at that time was radioing on the radio that a police officer was shot. He then ran to the top of the stairs. He saw me, and at the top of the stairs is the door to the apartment. He glanced in and heard a commotion. He yelled, "They are going out the back." My partner opened the door.

I know a man just fired out that door at me and into the courtyard. I had to cover my partner.

Mr. CONYERS. So, it was a terrible series of mistakes.

Mr. RANGEL. May I inquire? Would you yield?

Mr. CONYERS. Yes, Mr. Chairman.

Mr. RANGEL. This person you are talking about with this pistol, was he walking the street with the pistol in his hand?

Mr. MARTIN. When we saw him he was in the alley in the rear of the apartment building. We assumed he just got out of the car. The car was parked in the rear there. We had no idea that he was a deputy; we had no idea what his intentions were, other than the fact he may have been going up there to rob individuals.

Mr. RANGEL. I can understand that; but my question is, "Did this deputy have a silver-coated or silver-plated pistol in his hand in the alley?"

Mr. MARTIN. Yes, sir.

Mr. RANGEL. Could you describe what he was doing with it in the alley?

Mr. MARTIN. He was walking with it in his hand, sir. And if I was a law enforcement officer on foot, by myself, in an alley, in that neighborhood, I would also carry my gun in my hand. But I didn't know he was a law enforcement officer.

Mr. RANGEL. It never entered your mind?

Mr. MARTIN. Not the way he was dressed, sir.

Mr. RANGEL. Were you dressed as a law enforcement officer?

Mr. MARTIN. I was dressed in plainclothes but I was with a police car.

Mr. RANGEL. But if you were in the alley, you wouldn't have looked like a police officer to him.

Mr. MARTIN. That is correct.

Mr. RANGEL. Was he black?

Mr. MARTIN. He was black.

Mr. CONYERS. Now, out of this tragedy, Commissioner Nichols, have we learned anything that can assure our citizens that this will not occur again and further corrode the reputation of the STRESS unit?

Mr. NICHOLS. We have learned, I think, Congressman Conyers, a great deal. We have made a great many modifications and a great many changes in the STRESS operation, based first upon our own continuing evaluation, and, second, upon input and citizen concern.

I think the fact that the acting chairman raised brought about another change in the STRESS operation, in the rephotographing of all of our officers and a specific reflectorized identification card, so if an

individual who does appear with a heavy beard and in clothes other than conventional clothes presents a badge, he then has a specific card picturing himself in that particular attire and in that particular facial-hair configuration, so an individual would then know he is in fact a police officer.

We recognize the problem of identification is a serious one.

Mr. RANGEL. That wouldn't help the deputy, though.

Mr. NICHOLS. Not at that particular point in time. But it does help in a lot of situations where an individual who is an officer is stopped by an officer and displays a badge, and the uniformed officer says, "I don't believe you are a policeman, show me something." The photograph may not match the individual's configuration at that time, so to correct this we have issued every one of our plain clothes units a different colored coded card.

Mr. RANGEL. But so far no STRESS officer has shot another officer because of lack of identification?

Mr. NICHOLS. No, sir; but we have had near misses, and I think if the truth were known other cities have had near misses, too.

Mr. RANGEL. The truth is that a black police officer off duty in the city of New York was shot dead by brother officers when the victim attempted to arrest the perpetrator.

Mr. NICHOLS. I think to amplify the intenseness, seriousness, and tension under which we live, one of our officers in full uniform was shot by two of his brothers in full uniform in the same kind of confrontation.

Mr. RANGEL. We are not here to criticize, for we do not know the circumstances under which you work.We only are attempting to compare what other cities are doing with yours and share that information with you.

Mr. NICHOLS. Do you want me to answer the rest of the question?

Mr. CONYERS. Yes.

Mr. NICHOLS. Fine.

We have also increased the size of the unit, added more supervision to the unit, increased the training of the unit, added psychological testing after the first problems that we had. We rotate our personnel. We attempt to get the best individuals that we can and we investigate with complete thoroughness any allegations made in an effort, again, to bring out anything which is causing that kind of friction in the community.

I think in all sincerity we must recognize that it has been, and will continue to be, a political issue.

Mr. CONYERS. What is political about it?

Mr. NICHOLS. Do you really want me to tell you?

Mr. CONYERS. You didn't come all the way to Washington not to tell us; did you?

Mr. NICHOLS. I think there certainly is in the mayorality race going on in the city of Detroit. Some of the candidates have already expressed pleasure or displeasure with STRESS. One of the candidates at one time was a judge and the STRESS case in front of him.

If it is the truth you want, I think we have to recognize this in its total concept, too, gentlemen. And it does make good copy. We have to recognize this.

Mr. CONYERS. Are you suggesting now that the politics of the elec-

tion of the city of Detroit in connection with the mayor's race is one of the fueling or motivating forces behind much of the criticism that arises out of STRESS?

Mr. NICHOLS. Not at all. I am merely suggesting that is one of the reasons why it is constantly in the papers and the media. Not that it is one of the motivating factors for citizens' complaint, but merely the fact it has become, as you well know and all of us well know in Detroit, a cause celebre. It is good newspaper copy. Any time an officer is involved in anything, if he is assigned to STRESS it gets first priority in the news, even if it is only a divorce case.

Mr. CONYERS. I yield at this point, Mr. Chairman.

Mr. STEIGER. Gentlemen, I am impressed that STRESS has had its problems, as I wasn't aware of that prior to our meeting. I also come to the inescapable conclusion, from the testimony of the men before us that make up the force, that in spite of the criticism the project is worth the continued effort, because it is clear the simple thing to do would be to abandon it and that way avoid criticism.

Is that a fair condition?

Mr. NICHOLS. That is as fair a conclusion as I can say. Yes, sir; it is.

Mr. STEIGER. Then I would ask this: Is there, as a result of the criticism, Mr. Ricci, a morale problem among the troops?

Mr. RICCI. None whatsoever.

Mr. STEIGER. Mr. Martin, would you concur with that?

Mr. MARTIN. Yes, sir; I would.

Mr. STEIGER. So, obviously, in the face of this kind of criticism if there is not a morale problem, there must be a very good morale climate to combat that. I don't want to make these conclusions, but is that a fair assumption?

Mr. MARTIN. We are like one family. Whatever happens to one of us, happens to all of us.

Mr. STEIGER. I gather from the commissioner's and the commander's report that there are 13 precincts in the city of Detroit, and that most of the activity is in five to eight of these precincts?

Mr. NICHOLS. Yes.

Mr. STEIGER. The people who "work the streets" in those precincts where you have had operations, are they aware now they have a problem?

Mr. MARTIN. Yes.

Mr. STEIGER. Do you feel that your presence has had some kind of inhibiting effect on the general activity on those beats?

Mr. MARTIN. Yes, sir.

Mr. RICCI. Yes, sir.

Mr. MARTIN. I feel that the person out there that is bent on committing a crime will think twice, because he doesn't know who the STRESS officer is.

Mr. STEIGER. In other words, the STRESS operation is well enough known on the street. They know that now they can't just look for a uniform, but they also have to look and see if they can spot "the man" in civilian clothes?

Mr. MARTIN. Yes, sir.

Mr. RICCI. I would like to reinforce that statement by relating a little episode that took place that I was involved in. We were conducting a target-type operation and I actually had a bar owner come out on

the street and he walked right up to my Chevrolet and to myself and told us, "Thank you very much. I can at least keep my door open now and I don't have to have a buzzer on it."

So it is this public sentiment that also keeps us going.

Mr. STEIGER. How do you maintain your cover? I gather there is no concern about exposure, otherwise you obviously wouldn't be here. How long before you are spotted in a given area? Have any of the members of the STRESS teams had their cover blown to the point they are not effective in a given neighborhood?

Mr. MARTIN. If we work an area too much, we are recognized. If you are using a department unmarked car, but if you are in what we call a funny car, which could be a 1952 Chevrolet convertible, you might be spotted as a police officer, but they would think you are off duty. And a lot of people think because you are off duty that they can do just what they are going to do even though they are working.

Mr. RANGEL. Isn't that what the commissioner just said?

Mr. MARTIN. I say they think we are off duty, but we are actually on duty.

Mr. RANGEL. You work 8 hours a day?

Mr. MARTIN. Yes, sir. But I am saying we might be riding around in what we call a "funny car." It could be a van. I used the other day a Chevrolet convertible.

Mr. RANGEL. But you were on duty?

Mr. MARTIN. I was on duty, but the people on the street recognized me as a police officer. But they say, "There goes so-and-so," because he is off duty.

Mr. RANGEL. And they would be right, because you would not be enforcing the law if you were off duty otherwise?

Mr. MARTIN. What the commissioner was talking about was something left up to the individual.

Mr. RANGEL. You would make the decision.

Mr. CONYERS. Are you sure, commissioner and all officers of the Detroit Police Department, that that conforms with your own police department regulations?

Mr. NICHOLS. I am reasonably sure, Congressman; the areas of discretion for an officer are never abrogated. There is not an order in the Detroit Police Department that tells him he must continually walk into the face of a gun or something else, or draw his gun, or take police action in a crime when in his own judgment it may not be the proper thing to do. That is the only way I answered the Congressman and that is exactly what I said then and that is exactly what I mean now.

We consider for the purposes of administration an officer's on-duty time is that time he is paid for. This is by virtue of a union contract. We must consider those periods when he is not being paid in terms of "off duty." He has the authority and the right to enforce the law but it is not mandated he do that if, in effect, his own discretion tells him better.

Mr. CONYERS. Would the gentleman yield?

Mr. STEIGER. Yes.

Mr. CONYERS. What is the doctrine governing this subject matter in the Detroit Police Department?

Mr. NICHOLS. I would presume it would be covered in the rules and regulations of the department.

Mr. Conyers. Do you consider that the statements that you made here this morning are consistent with the rules of the subject in that document?

Mr. Nichols. I would consider they would be consistent with my interpretation of those rules; yes, sir.

Mr. Rangel. Mr. Steiger.

Mr. Steiger. I would like to ask the commander a question. We heard testimony from your comparable force in New York City that they learned very quickly the high-crime hours as well as the high-crime areas. Their high-crime hours, I believe, were from dusk to 1 a.m., 2 a.m. Do you find that you deploy your people normally on a high-crime hour density as well as an area density?

Mr. Bannon. We are responding to our analysis of the street robbery on a 2-hour basis. It is broken down into 2-hour patterns and we operate strictly on the pattern of prior robberies there. So the officers may be assigned to a given area from 6 to 8 p.m. That is a high-pattern area and transferred into another area that runs from 10 to 12, or something of that nature. So it is not on a shift basis, but on a 2-hour cycle.

Mr. Steiger. In other words the answer is yes; you do equate, not only the area but also the hour?

Mr. Bannon. Absolutely. But we also have found out, much to our surprise, that many of these robberies are taking place in broad daylight. So that you say a high-crime time to include all crimes, you may have that afternoon shift syndrome. But if you select only robberies you may find they are spread out over a large segment of time.

Mr. Steiger. As a result of 2 years of this kind of activity, do you find a shift in the high-crime area which would indicate a response to the tactical force? What I am asking is, If a neighborhood normally had a problem from 6 to 8, as you indicate, as a result of your penetration of that problem time and problem neighborhood has there been a shift in the problem?

Mr. Bannon. Yes. I think that I have to be a little more specific. Since we are working on a pattern created by an individual, or group of individuals, perpetrating robberies day after day, when we do something that arrests that activity of those individuals that pattern then stops, so we are no longer interested in that specific neighborhood. So we move on.

So what you are saying about forcing a shift would be true if in fact you did nothing about the people who were creating the pattern. But if you do make the arrest, which we often do, either through decoy phase or surveillance phase the pattern goes away until somebody starts on another pattern.

Mr. Steiger. That was the basis of my reasoning that there would be a demonstration of success of your mission if you had a change in the pattern.

Mr. Bannon. You recognize, I am sure, Congressman, and so we do, that we are not so naive we don't believe when you harden up one target—and in essence we have hardened up the typical citizen-victim street roberry—you do soften up other targets; and we have to look to that.

Mr. Steiger. That has happened right in the District of Columbia. We are not doing away with the crime; we are shifting it around.

Have you found a significant pattern followed by habitual offenders in street crimes, as you do in pushers, or numbers dealers, or is street crime more of an impulse sort of thing?

Mr. BANNON. Essentially, we found an extremely high correlation between street robbery and heroin addiction. We found not only can we pattern people on the basis of crime, but we also draw a zone around the narcotic activity. So you do have a repetition there and you do have a high recidivism rate; yes.

Mr. NICHOLS. I would think, too, sir; the pattern of robbery is not one that calls for a long, in-depth evaluation of the man for his intended target or his intended place of business. Most of the time it is a crime of opportunity. An individual or group of individuals will get a gun and start cruising and say, "That looks like a good spot," and that is the only kind of prior planning that goes into it. So it is very difficult other than to statisticize the effect that might have on one area.

The arrest, they could be policing several different areas at several different times.

Mr. RANGEL. Mr. Winn?

Mr. WINN. Thank you, Mr. Chairman.

Commissioner, I think you can probably verify this statement here on page 7. It says: "STRESS members have arrested a number of fugitives sought by the Detroit Police Department and other agencies." That is part of your statement, is it not?

Mr. NICHOLS. Yes.

Mr. WINN. In other words, they work very closely with other members of the police department?

Mr. NICHOLS. They work very, very closely with members of our criminal investigation section. Very often, the local detective detachment will advise STRESS officers of individuals for whom they hold warrants and for whom they are looking, because the STRESS officers are on the street most of their time. They have very little administrative function and they do have a street capability in greater numbers for that type of operation than uniformed police would have because they are not being committed to the radio response.

One of the major problems with uniformed patrols is you don't get the proper concentration because scout cars are constantly being called to take on-site crime reports and many other things. These units are dedicated to a specific mission and can devote themselves to that mission.

Mr. WINN. You also have policemen walking the beat in the same target areas that STRESS is working?

Mr. NICHOLS. Very often.

Mr. WINN. You don't change that operation at all?

Mr. NICHOLS. No, sir.

Mr. WINN. Do you enforce it when STRESS personnel move into a target area? Do you put more foot patrolmen in?

Mr. NICHOLS. No, sir. We attempt to leave the patrol patterns exactly the same way they were. In some instances, if there is a widespread problem, we may use a tactical force at one end of the area and STRESS at the other end and interchange them. But by and large we attempt to maintain the status quo.

Mr. WINN. You say you have fewer than 100 men. I am a little intrigued as to why. You keep the number of men assigned to STRESS such a secret. I would think from a public relations standpoint, if the people in these areas were led to believe you had thousands of men it would be better.

Mr. NICHOLS. I will be completely candid with you. I think part of the impact of STRESS is, as one of you gentlemen developed a few minutes ago, a psychological impact. I think if the average person knew exactly how few officers there were out there we would be depriving ourselves of the major effect, which is a deterrent effect.

I may not be right, but this is the way I view this.

Mr. WINN. I don't know whether you are right or wrong, but I was in the public relations field for several years, and I believe I would lead the public to believe I had thousands of officers out there.

Mr. NICHOLS. That is what we are attempting to do by not divulging the number. We are attempting to avoid statisticizing that particular thing. It is a relatively small unit, numerically speaking.

Mr. WINN. I understand your approach. I just think we view it differently.,

According to your testimony STRESS officers made 633 arrests for felony crimes during the period from the program's inception through December 31, 1972. So you are getting some work done.

Mr. NICHOLS. We are getting a great deal of work done and we are also getting a high percentage of warrants per arrests than other normal units arrive at. This, primarily, is because very often the officers are in position to witness the crime and reinforce the complainants' statements.

Mr. WINN. Well, the main idea of these hearings has been to bring police departments before this committee to testify on the constructive programs that are being installed in the departments across the country, so we can see what is good about the police departments and what they are doing constructively.

I am very disappointed that we, for some reason, got most of our time off on what I feel is dirty linen—it may be political, I don't know that—about the Detroit Police Department. Could there be some element of the Detroit area that would prefer not to have STRESS among their people?

Mr. NICHOLS. I think that is probably the understatement of the year. Certainly, there are those elements. They are very vociferous.

Mr. WINN. And this proves it could not be political.

Nr. NICHOLS. Yes, sir.

Mr. WINN. It doesn't necessarily have to tie in with any elections.

Mr. NICHOLS. It doesn't have to, but you asked me for an honest opinion, and my honest opinion is it has been accentuated by that.

Mr. WINN. I appreciate your honest opinions. I don't think there is anyone up here that came here this morning to try to crucify you, or trick you in your testimony. I think there is definite concern on the part of every Member of Congress that sits up here this morning, and also the other Members that are not here. We do have a job. We have crime increasing in many areas across the Nation.

We are hoping to pick your brains, and those of your officers and of your undercover agents, to see if we can present to the public a better system of law enforcement for the Nation. I appreciate your being

here. You are very candid with the committee. I am sure not only Detroit, but other cities have their own problems. I am glad to hear that the two STRESS officers accompanying you feel the morale is good. I am sure that they are dedicated men as far as what they think their own job within STRESS and within the department might be.

Commissioner, do you pay the officers any additional pay for serving on the STRESS units?

Mr. NICHOLS. No, sir. The only extra duty pay that is afforded any officer in the Detroit Police Department is the communications officers. Officers in STRESS, narcotics, or any other special assignment, including our night details, are given no extra pay allowances or special privileges.

Mr. WINN. How many years have you been in law enforcement?

Mr. NICHOLS. Thirty-one years and 3 months.

Mr. WINN. With 31 years and 3 months' experience, do you think STRESS is doing the job you hoped it would do, and do you expect it to continue?

Mr. NICHOLS. Yes. I will tell this honorable committee exactly what I have told our public. STRESS appears to be contributing to a reduction in the crime, for which it was put together to address itself. So long as that crime is there, so long as the unit functions within the law, so long as the crime appears to be responsive to it, then I would see no reason to disband it.

I will say this in all candor, that there have been changes made in the past and I would envision there may be changes in the future based upon the demography as we see it at the particular time. I am not adamant in my position; I merely say I believe STRESS has been a viable force to combat that crime that is most heinous, most fearful, and leaves the victim with the greatest amount of trauma. Yes, sir; I do.

Mr. WINN. You go along with that, Mr. Martin? His answer is that it is doing the job.

Mr. MARTIN. I think it is doing a good job, sir.

Mr. WINN. And you would keep STRESS in operation?

Mr. MARTIN. And I think, also, if there is any new innovations that could help us, that we would adopt them.

Mr. WINN. Do you go along with that?

Mr. RICCI. Yes; I do, sir.

Mr. WINN. As officers, do you have any meetings with other men from time to time, not only your teams, but the other men? You made the statement that you don't get to see the other team of officers of STRESS. Another team of four men, as I understand it.

Mr. MARTIN. We occasionally have social affairs among ourselves.

Mr. WINN. Do you have official meetings, where you can have input into the commissioner's office and the higher echelon, of what changes you think should be made?

Mr. MARTIN. The commissioner's door is always open to all of his police officers—always.

Mr. WINN. Do the fellows go in and talk to him?

Mr. MARTIN. I have gone in and seen the commissioner a number of times.

My crew chief, Virgil Starkey, has been razing me quite a bit about my association with Commander Bannon. And every day when I go to work, he says, "Have you had a phone call from Jim?" And he

usually says, he makes it sound like a phone rang, "Ron? Jim. Jim? Ron. Are you coming over for lunch? How is John, Ron?" That sort of thing. Things on a first-name basis.

Mr. WINN. So the morale sounds like it is very good.

Mr. MARTIN. It is, sir.

Mr. WINN. Does criticism from organizations or the press have a tendency to disturb the morale of the officers?

Mr. MARTIN. No, sir; we just get a little closer.

Mr. WINN. It sounds like some of the soldiers in the war.

Mr. MARTIN. Better; like the Marines. Even better, sir.

Mr. WINN. Any of you might want to answer this, particularly the commissioner. Why do you think, other than the accidental episode with the sheriff's deputies, your relationship with the press is so bad? Don't you have a public relations officer with the police department?

Mr. NICHOLS. I really don't think the relationship with the press is so bad. What I do see is the fact that STRESS has become a, I guess it would be safe in saying, nationwide symbol now. And any time anything happens the press will seize on it. In many instances, it is good; in some instances it is not good.

I think what we have is a situation where the press is capitalizing on something that is of news value. Most of the articles, I think, if you can wade your way into them, are fairly objective. But it is the headline that does the trick, "STRESS Officer Involved." And I think most people are headline readers.

Mr. WINN. I don't think there is any doubt about that. But as a former member of the press I know they jump into the glamorous things. But usually, there is an out-and-out attempt made by the department to get together with the press and say, "Look, we need your help in this case. You are right and we were wrong," or whatever the situation might be. If this is done I think you find they will work with you. I think you badly need the press in the Detroit area.

Sure, people read headlines basically. I would like to make the suggestion you might try to work out some kind of situation where you could sit down with those that cover the news stories—it is pretty hard to sit down with the headline writers because that is an entirely different bunch of people—and discuss the situation, because you need the press to do the job. You need the community to do the job.

Mr. Chairman, we are running out of time. I yield the balance of my time.

Mr. RANGEL. We will conclude the examination of this panel with some final questions from Congressman Conyers and counsel, keeping in mind the committee has a distinguished panel of police officers from St. Louis which it intends to hear before luncheon recess.

Congressman Conyers.

Mr. CONYERS. Thank you, Mr. Chairman.

Everyone who complains about the operation of STRESS is not necessarily politically motivated. I presume we can begin without even discussing that. And they may not always be vocal elements; there may be a lot of quiet people who do not like STRESS.

Mr. NICHOLS. Absolutely. There may also be a lot of quiet people who do, sir.

Mr. CONYERS. I am willing to agree with that. You wouldn't call the Wolverine Bar Association a vocal element in the community, would you?

Mr. NICHOLS. A vocal element, yes. They are vocal.

Mr. CONYERS. They are a good bunch of lawyers?

Mr. NICHOLS. Let's define the terms, Mr. Conyers, if I may. When I say "vocal element," I mean those individuals who have sufficient horsepower and sufficient access to the press to say something and have it listened to. That is what I mean by vocal. I am not impugning their motives nor anything else, nor their capability as attorneys or judges, whoever they may be.

Mr. CONYERS. You are using "vocal elements" in a derogatory sense?

Mr. NICHOLS. I didn't intend it to be derogatory. I don't think there necessarily has to be that connotation. I would consider myself a vocal element of the police profession.

Mr. CONYERS. It is not one of the vocal elements in the derogatory sense, but they have been critical of some of the operations conducted by STRESS.

Mr. NICHOLS. They have been critical of specific areas in the use of fatal force. Their criticality directs itself primarily to the fact their argument basically is with the law as personified by the STRESS operation.

Mr. CONYERS. That is a pretty valid observation on the part of members of the bar, wouldn't you think?

Mr. NICHOLS. I cannot answer for members of the bar. I am not an attorney, sir.

Mr. CONYERS. Then the Michigan Commission on Civil Rights, a State organization, has been critical of STRESS?

Mr. NICHOLS. They have been critical of areas of STRESS and we have corrected those areas where their criticality has been expressed.

Mr. CONYERS. So, we can understand why the media may sometimes write articles that may not always be favorable to the conduct of officers in the STRESS units?

Mr. NICHOLS. Certainly, we understand it, and I accept it.

Mr. CONYERS. And you can understand why a State judge held the breaking and entering into houses by STRESS officers unconstitutional, since it did not conform to the law. You can understand that, too, can't you?

Mr. NICHOLS. I can understand that is his prerogative as a judge. I may not agree with it, as also a fellow individual who must live within the law.

Mr. CONYERS. So, given those circumstances, you can see where a great number of citizens might be very seriously concerned about the legality and validity of the operation of STRESS in the Detroit community, and whether it is operating within the law? Since it has been in the courts, it has been criticized by State governmental units, its members have been arrested and charged with murder, bar associations are critical, and this does not really mean that they are trying to wipe out STRESS. It means they have some criticism about whether they are getting more safety for their dollar, or danger and possibly death. Would you agree with that, Commissioner?

Mr. NICHOLS. Not necessarily; no, sir.

Mr. CONYERS. Where do you disagree with it?

Mr. NICHOLS. I disagree with the point of view; and I would say each individual under our democracy is entitled to his point of view, but I do not say I must subscribe to it.

Mr. Conyers. What point of view do you disagree with?

Mr. Nichols. I disagree with the point of view they are not getting their dollar value. I disagree with the point of view it was illegal entry. I disagree with the point of view the operation involves itself with illegal tactics. I disagree with the point of view that the decoy operation is in effect entrapment. Those are the points of view I disagree with.

Mr. Conyers. So you disagree with the courts and bar associations, civil rights units, and other civil rights organizations as a matter of exercising your rights?

Mr. Nichols. As a matter of looking at the thing as a police officer and, yes, in a manner of speaking, within my rights.

Mr. Conyers. Let me just finalize this, Mr. Chairman. I know time is running out.

We were talking about the reduction of crime by 15 percent in Detroit as a result of STRESS.

Mr. Nichols. Roughly, 15 percent. It is slightly under 15.

Mr. Conyers. How do we establish any causal connection between its alleged reduction in crime and the operation of the STRESS unit? Do you have some way of doing that?

Mr. Nichols. Yes; I think we can extrapolate a certain amount of credibility to the statistics. Statistics show something like this: There were 23,000 robberies, there are now 17,000 robberies. During the period of STRESS we have reduced that crime about 6,000. Numerically speaking it was one of the most predominant crimes. So I think that when we take those facts we can reasonably assume STRESS has had a fair impact. I will not deny the fact that our sophistication in the area of narcotics enforcement certainly has had an impact.

I would not deny the fact that increased public support may not have had an impact. I will not deny the fact, in deference to Mr. Winn, that the newspapers may not have had an impact. But I think as long as we are dealing in theory, we can reasonably say that STRESS has had a profound effect on it.

Mr. Conyers. Hasn't the murder rate gone up in Detroit?

Mr. Nichols. Yes, the murder rate has gone up in Detroit.

I don't see what that has to do with STRESS, Mr. Conyers.

Mr. Conyers. Well, doesn't it have something to do with the reduction of crime?

Mr. Nichols. It has something to do with the fact that we have a syndrome in which the average murder takes place in the confines of a home, or some private place, that the individuals are generally killed with the handgun, that the individuals are generally killed at the peak of an emotional charge, and that handgun violations, we do not believe as police officers, are treated with the same degree of seriousness that they should be. And I still fail to see what this has to do with the crimes that are preventable by police.

My officers cannot alter the makeup of the human mind. And when you have an individual at the peak of that emotion and the means of snuffing out a life easily and readily accessible, I submit we will have that.

Mr. Conyers. In the first 3 months of 1973, nine Detroit citizens died at the hands of their police department. This figure represents 6.5 deaths per 1,000 Detroit police officers. Is that a little high to you?

Mr. NICHOLS. I don't know because I never made any attempt to view statistics from other cities.

Mr. CONYERS. I want you to know it is the highest rate in the United States of America.

Mr. NICHOLS. Would the good Congressman tell me what the rate of policemen shot in comparison to other cities is?

Mr. CONYERS. No; I do not have statistics on that.

Mr. NICHOLS. I would like to submit this same correlation might be true there.

Mr. CONYERS. Do you have statistics to submit?

Mr. NICHOLS. No, sir; I don't.

Mr. CONYERS. When you do, and if you do, why don't you send them in to this committee and we will incorporate them and the conclusions you draw from it, Commissioner, into the record.

Mr. NICHOLS. I would be delighted to do just that.

[The information requested was not received.]

Mr. CONYERS. Mr. Chairman, I was not here during your previous hearings, in which you had the New York police chief in to discuss the comparable STRESS unit in New York. But I think that the testimony showed that no one has been killed by that unit, that no one has even been wounded, and that they do not have nearly the degree of controversy raging among the citizens of New York over that unit. It would seem to me, somehow, that this committee ought to be able to correlate this drastic difference of operations and see if it can perhaps find out what other cities are doing. I do not know if that is part of your purposes here.

Mr. RANGEL. This committee does intend to compare the testimony with other law enforcement agencies.

Mr. CONYERS. Do you believe that gives you some cause to review STRESS performance with Commissioner Murphy, who, incidentally, was one of your predecessors in the Detroit Police Department, as you well know? Do you believe that suggests that there may be a great deal of validity to some of the concerns by the so-called vocal elements in Detroit and around Michigan, in and out of the law enforcement business, about some of the tactics and procedures used by STRESS?

Mr. NICHOLS. It would influence me to ascertain if there are several other variables that are anywhere close. I think that to make a broad statement like that with as little information as I have available—possibly the good Congressman may have more—demography enters into it, State law enters into it, the number of men available, the number of guns in the community enter into it. A great many factors should be considered. But I assure you we have continually corresponded with other cities who are using a concept close to this and we will continue to do this.

As I said before, we are not adamant, we are not attempting to sell the concept to anybody. We merely appear here to tell you exactly what we have done and what we think the results are.

Mr. CONYERS. Mr. Chairman, I want to thank you very much for allowing me to participate in this hearing. I also want to thank our commissioner of police and his top officers who joined us here this morning.

We obviously could not be dispositive of the subject in this short time. This would require a number of hearings and far more time

spent on individual urban police departments than your committee can allow.

I also add my thanks to Commissioner Nichols and all of the men who have joined him here, because I think these kind of public hearings are vital to insure the support of the community. Although it has not been mentioned here, Mr. Chairman, I think we need to remember that 5,000 policemen can never effectively control the crime situation in the high crime urban community of Detroit in 1973, with 1.6 million people, unless you are receiving community support.

I think these kind of discussions that are open, free, and unfettered will lead the Detroit Police Department to investigations and greater understanding of the New York anticrime unit and others, and will result in continuing modifications and, hopefully, improvements in their operation.

So I say, sincere thanks to Commissioner Nichols for the way he has conducted himself with such candor this morning.

Mr. NICHOLS. Thank you, sir.

Mr. RANGEL. Thank you, Congressman Conyers, for taking time to sit with us.

Mr. Winn?

Mr. WINN. Mr. Chairman, I just want to ask one question.

With the criticism you received from the Wolverine group and the newspapers, have any of these organizations asked you to drop STRESS, throw it out of the program?

Mr. NICHOLS. I think most of them by their rhetoric would indicate they would be much happier if we did. We have been invested by petitions to drop STRESS, but in all fairness we also have stacks and stacks and stacks of petitions in support of STRESS, Mr. Winn.

Mr. WINN. Have they asked to meet with you and discuss the problems?

Mr. NICHOLS. We have met periodically with various elements of the community in candid discussions of STRESS in those periods of time when there was not a STRESS trial before a judge. We necessarily had a moratorium during the period in time when Officer Martin was before the courts. We had a period of silence when the entire STRESS concept was being tested in front of a court. And this was only to protect the integrity of the cases.

We have been as candid with the public as we have here and I would like to say, if I may, to respond to Congressman Conyers' remarks, that we have atempted to be candid. We appeared with Officer Martin because we didn't want it to appear we had anything we were attempting to hide. We believe we are doing right. We believe our officers on the STRESS program are much of the same cut of the two gentlemen you see here, fine young examples of good, honest policemen.

And I would submit that if I have said anything to which anybody took offense, please accept my apologies.

Mr. WINN. Mr. Bannon, did you have something to add?

Mr. BANNON. Just this, Congressman. Many of the things that have been raised here—I am with MCCR, Mayor's Commission on Civil Rights—many of the issues Mr. Conyers was referring to, go back to the inception of STRESS, which was much more violent than it has been after the changes made by the unit, the organizations that you allude to. I think there has been a dialog, it has been a successful dialog,

because we have made structural changes responsive to those criticisms. I don't think we should leave you with the impression we have the same organization today that we had when those criticisms were laid.

Mr. WINN. Thank you, Mr. Chairman.

Mr. RANGEL. Congressman Steiger.

Mr. STEIGER. No questions.

Mr. RANGEL. Counsel may proceed to conclude the inquiry.

Mr. LYNCH. Thank you, Mr. Chairman.

Mr. Commissioner, earlier this week, Chief Winston Churchill of the Indianapolis Police Department indicated before this committee, that in his judgment as a police administrator the public perhaps played as important a part in controlling crime as the police department. Could you comment on that?

Mr. NICHOLS. I would certainly say that any police administrator of any city, large or small, who does not recognize, as what was so eloquently put by Congressman Conyers, that the public is the most important element in the entire police relationship and ability of the department to control crime, certainly has not got it together.

Because without that public support, without the public approbation, without the public appearances in court, without them no police department, however large, could ever hopefully manage a metropolitan area.

Mr. LYNCH. So your position, the position to continue STRESS, is not one you have lightly taken without consideration of what implications it may have on continued public support within Detroit?

Mr. NICHOLS. Not at all, because I am the recipient and I would be glad to send the Congress hundreds of such letters if it wants to see them, that come from the very individuals who are in the areas heavily hit by crime. Their stories tell me an entirely different one. I recognize there can be probably no progress without a certain amount of conflict, and we have attempted to minimize that conflict. We have attempted to modify, as Bannon said, many of the areas where we felt the concept should be modified.

But by and large we feel the public does support it, and that is the several publics we serve, including, we believe, a majority of the black public.

Mr. LYNCH. Mr. Commissioner, certainly the testimony you gave earlier indicating that 85 murders of citizens were committed during 1 year, presumably in the act of robbery, was a factor in the establishment of this unit. Since it has been established, according to your testimony, 18 citizens or residents of Detroit have been killed by police officers, again, presumably, in the act of committing serious crimes or felonies, and a number of Detroit police officers have been killed. I think there is a general concern about the levels of violence associated with this operation.

Commissioner Murphy, incidentally, did testify at length about his citywide anticrime section. Detroit does have a lower crime rate than the city of New York. In New York the robbery rate, for your information, is one of the highest in the country. It is 790 per 100,000. The rate in 1971 in Detroit was 605 per 100,000. Detroit, of course, is much smaller. Commissioner Murphy has 4.5 policemen per 1,000 inhabitants. I wonder if you have a comparable figure at hand?

Mr. NICHOLAS. No, sir; we do not. We have 322 police officers per 100,000, which by my mathematics would be 3.2 police per 1,000 inhabitants.

Mr. LYNCH. It was the commissioner's testimony that his citywide anticrime section, within the period of 1 year, 1972, had effected more than 3,600 arrests. Service revolvers, I believe his testimony indicated, were not fired by his officers, although they may have been drawn; 83 percent of those arrests were for felonies, 750 for armed robbery, 450 of them for various gun charges. There is a stark comparison to be drawn.

I only have one other comment, Commissioner. We have been informed by the chief legal adviser of the International Association of Chiefs of Police that while there is not a definite policy, it is their understanding that policemen in most cities in this country are considered to be on duty 24 hours a day and that if the only reason for not taking action by an off-duty officer is that he has considered himself to be off duty, he would, in their judgment, be subject to disciplinary action and especially so if the matter concerned were a felony.

I wonder if you could be kind enough to have your police legal adviser, or someone in your office, send to this committee Detroit's definite policy in that regard, sir?

Mr. NICHOLS. I will say again what I said before, that the interpretation is a question of semantics. When an officer is off duty, it means he is not being paid. It means that he does not have any mandate to perform that act, that he has the same element of discretion that he would have at any other time, and that in that configuration, he cannot be considered as an instrumentality of the unit to which he is assigned.

That is what I attempted to convey and that is what I say again.

Mr. RANGEL. Commissioner, we fully appreciate your answer. I think what we are trying to do is get a copy of the regulations to see whether it is in line with other major cities.

[The regulations referred to above were not received in time for printing.]

Mr. NICHOLS. Fine.

Mr. LYNCH. I have no further questions, Mr. Chairman.

Mr. RANGEL. We will conclude this inquiry by thanking you, Commissioner Nichols, and Commander Bannon, and the officers that were brought here. I do hope you were not misunderstood. Commissioner. We hope you understand that the point of the questions was to bring out some of the problems you have, as well as the degree of success, so that you might share this with other Members of Congress.

I thank you very much on behalf of Chairman Pepper and the rest of the members of the committee and Congress for taking time out to share your views and your program with us.

Thank you very much.

[The document dated December 31, 1972, previously mentioned, follows:]

Detroit (Mich.) Police Department Analysis of STRESS, Submitted by John F. Nichols, Commissioner

(Statistics including December 31, 1972)

BACKGROUND

One of the major elements in the overall increase in crime in Detroit in recent years has been the felony known as robbery, in which the criminal confronts the victim with violence or the threat of violence.

While all major crimes in the city increased 32 percent from 1968 to 1970, robberies increased 67 percent. Of the seven major crime categories (murder, rape, robbery, assault, burglary, larceny, and auto theft), Robbery alone accounted for 24 percent of the overall increase between 1968 and 1970.

In actual numbers of crimes committed in Detroit, robbery ranks third behind burglary and larceny, and first among crimes in which force or the threat of force is involved.

To deal with this most prevalent of the crimes of violence, a special operation was devised and announced with the Detroit Police Department on January 13, 1971. Its mission was stated succinctly in its acronymic code name, "STRESS," meaning "Stop The Robberies—Enjoy Safe Streets."

The nature of the mission was to operate in plain clothes in such a way as to "merge" with the environment, and to appear to be the type of person that a thug seeking a victim would be likely to confront. Officers would be expected to work in teams. One member of the team on occasion might be expected to pose as a prospective robbery victim.

January 18, 1971, the first arrest was made by one of the earliest volunteers. April 5, STRESS operation results were reported publicly for the first time.

RECRUITING

Initially, officers assigned to the STRESS operation were selected primarily from the precinct support unit (PSU), one of three special task forces within the department's patrol division. As its names suggested, the PSU of about 80 men, reinforces the precincts on response and patrol assignments when the work load is exceptionally high, or pays particular attention to certain types of high-incidence crimes.

Men are assigned to the PSU itself on a volunteer basis. As experience with the STRESS operation increased and its use was expanded, men volunteering specifically for STRESS have gradually filled the entire complement of the PSU, so that to all intents and purposes, the precinct support unit and the STRESS task force are one and the same.

To launch the program, a description of the new operation and its objectives and risks are circulated throughout the department, and those interested were encouraged to seek a transfer to STRESS. As transfer requests were received, each volunteer's record was carefully studied.

Elements of the record of special interest were the volume of arrests, the number of arrests resulting in eventual prosecution, the types of duty previously performed, any citations, disciplinary action or citizens' complaints, physical health, and service rating, particularly in the categories of quality of work, attitude, initiative, judgment, cooperation with fellow officers, and community contacts.

The volunteer's immediate supervisors and the men he has worked with are interviewed. Finally, STRESS supervisors interview the candidate and make their decision as to his suitability for the assignment. In addition, each applicant is given a psychological examination and is personally evaluated. About one-fourth of the applicants are accepted.

Since the operation was announced, about 800 officers from various units have volunteered for STRESS. About one-half of that total have been screened. Of those screened about one-fourth are accepted. A considerable waiting list of applicants remains. Some STRESS officers have been promoted out of the operation, while others have voluntarily transferred out or been reassigned by the STRESS command after an evaluation of their on-the-job performance.

[At present, nine of the assigned STRESS officers are black. This figure fluctuates widely due to varying physical needs.]

The principal source of personnel has been the precinct support unit, however, there are applicants from many other units in the department.

Of the present complement, about 60 percent have from 5 years to 17 years experience and the remaining 40 percent have from 2 to 5 years.

Of the approximately 4,000 patrolmen in the entire department, the experience level runs: 55 percent with 5 or more years, 33 percent between 1 and 5 years, and 12 percent less than a year.

TRAINING

Officers are briefed by STRESS supervisors on a variety of functions: posing as potential robbery victims, response to "silent sentinel" alarm systems installed in selected businesses in high crime areas, plainclothes mobile and foot patrol, and uniformed duty in backup cars. Although the name STRESS has been popularly associated exclusively with the so-called target operation, officers in the program rotate through the other assignments.

In preparation for "target" operations, they are briefed on the specific types of crimes and the types of victims most frequently accosted in the areas they are to patrol. STRESS officers have posed as pedestrians, indigenous to the neighborhood—and all that implies as to dress and appearance—cabdrivers, deliverymen, bill collectors, newsboys, and just plain citizens. A few have donned wigs and dresses to walk in areas where purse snatching has been running high.

After general briefing on overall operations, including warnings on alertness and personal safety, and refresher briefing on the law and department policy affecting police use of weapons, volunteers are assigned to work on specific teams with more experienced officers.

The work of new volunteers, in particular, is watched closely and evaluated by supervision. Critiques are held at daily rollcall. Briefings for a specific day's mission include the latest crime reports, updated daily by computer and plotted on patrol area maps as to location and time of occurence.

OPERATIONS

The "target" phase of STRESS operations is conducted by plainclothes crews, some in unmarked cars and some in civilian-type vehicles—trucks, cabs, and cars of a model and body style not usually associated with police duty.

The crews may be two, three, or four men, depending on the mission and availability of personnel. The most experienced officer is designated as the crew chief. The most popular operating periods are between 9 a.m. and 5 p.m., and 8 p.m. to 4 a.m., although different work spans may be assigned, depending on the nature of the particular crime problem being attacked.

Geographically, a crew will be assigned to a district covering two to four precincts. While the normal precinct scout cars are patrolling their scout car territories, the STRESS unmarked cars are checking the specific streets or neighborhoods showing a high current rate of street crimes.

Depending upon street "activity"—observation of the number and kinds of individuals on the street in a neighborhood at a given time—the STRESS crew, at its own discretion, may decide to "drop off a target," that is, place one of its members on foot in the street situation, in an appropriate disguise. Cover is provided by other members of the crew, on foot or in cars.

To make the operation effective, covering officers have to remain far enough away from the crew's target member to avoid exposure.

This heightens the element of risk, not only for the officer posing as a victim, but also for any teammates covering on foot. There have been instances in which the covering officer, also in disguise, has been accosted while the intended victim has been unmolested.

Depending on the time of day and ethnic characteristics of the neighborhood, the race of the officer may give him away, so this is an important consideration in team composition. At times, even a black and white pair of officers might attract attention. In some predominantly black neighborhoods, even a black officer might be conspicuous in certain disguises at certain times.

Many STRESS arrests have resulted from criminal response to this kind of operation. However, far more apprehensions have resulted from the presence of officers on or near the scene of the crime, operating as surveillance units, unrecognized by the criminal. Occasionally, prospective attackers seemingly recognized something unusual about the disguised officers and avoided contact. In an instance or two, a disguised police officer has been surprised to receive a friendly warning from "street people" that the "man" was in the area, or "watch out, he looks like a STRESS copper."

RESULTS

Since STRESS officers were first assigned to the street, they have witnessed or been the target of on-the-spot street crimes in more than 70 separate cases. Each case involving anywhere from one to five perpetrators.

In addition, the officers have observed and made arrests in numerous other "off-street" crimes, including residential and business burglaries, possession of stolen property, auto thefts, arson, murder, carrying concealed weapons, narcotic sale and possession, and a variety of misdemeanors and traffic offenses.

They have arrested a number of fugitives sought by the Detroit Police Department and other agencies. They also have obtained search warrants and conducted narcotic raids based on information developed from street activity.

STRESS officers have made 5,633 arrests for felonies or misdemeanors during the period the program has been in operation through December 31, 1972. These resulted in 1,635 felony warrants and 413 misdemeanor warrants. Others are pending. Of those arrested, 503 previously had outstanding warrants against them, a total of 372 juveniles were detained, and 1,491 guns were confiscated, 1,253 of which were handguns.

Of the total arrests, over 2,551 have been referred to court or other crimial justice agencies, many more have been turned over to other law enforcement agencies and Federal, State, and local parole or probation authorities, and others have been cited to traffic and ordinance courts.

Since the inception of STRESS in January 1971, robberies for the subsequent 11 months decreased 10 of the months and showed an overall decrease of 9.9 percent. The percentage of decrease for the year 1972 was 17.3.

Robberies in January 1973 were 9.9 percent fewer than the same month a year ago, and for the entire year to date are down 17.3 percent. This compares with a 67 percent increase from 1968 to 1970, a marked improvement.

In the course of the STRESS operation, two white officers and one black officer have been killed and some 100 other members were wounded or injured.

Sixteen criminals—15 black and 1 white—were shot to death by STRESS officers and 58 were injured. This includes those who jumped out of cars, windows, etc.

Coincidently, police robbery figures for the year indicate that 89.8 percent of the known perpetrators were black, 5 to 6 percent white, and the rest unknown.

Let no one have any illusions about the violence of the mugger, the strong-arm artist, the armed bandit, who elect often as their victims, the weak, the drunken, the aged—those least likely to offer resistance.

Let no one have any illusions as to the wave of misery and injury left in their wake—almost 500 injured, many elderly victims sentenced for life to a wheelchair or hospital bed.

Already 112 victims are known to have been killed by criminals in the course of robberies in the year 1972.

USE OF FIREARMS BY POLICE

The policy of the Detroit Police Department on use of firearms by police officers is derived from State law, section 71, Michigan Criminal Law and Procedure—amount and use of force says: "an officer may use such force as seems to him to be necessary in forcibly arresting an offender, or in preventing his escape after arrest. Both officers and private persons seeking to prevent a felon's escape must exercise reasonable care to prevent his escape without doing personal violence, and it is only when killing is necessary to prevent his escape that the killing is justified."

The Detroit Police Manual (ch. 4, sec. 28, "Use of Firearms in Police Action") instructs Detroit police officers as follows:

"Revolvers are issued to insure that each officer has the best means of protecting himself from death or serious bodily harm while performing the duties of a law enforcement officer.

"There can be no question concerning its use for these purposes. What the officer may do for his own protection or defense he is authorized and required to do for a fellow officer, a citizen, or a prisoner.

"Firing the revolver to prevent the escape of persons known to have committed the crime of murder, rape, robbery, burglary, and arson is justified when, in the sound discretion of the officer, it appears to be the only means of preventing the felon's escape.

"However, under such circumstances, just as the law recognizes degrees of severity in crimes by providing a minimum and maximum sentence for a par-

tic-tac crime, the officer about to fire his revolver should carefully plan this action and recognize its severity and possible consequences, particularly in those cases where the crime committed did not result in personal injury.

"Firing the revolver cannot be justified when used as a warning device, nor can it be justified when used for apprehending persons suspected of committing a crime or persons fleeing from the scene of crimes other than murder, rape, robbery, burglary, arson, or the like."

Department Training and Information Bulletin 53, April 30, 1968, interprets both the State law and department policy as follows:

". . . The use of the revolver is confined only to those crimes of extremely serious nature—murder, rape, robbery, burglary, and arson, or the like. Here the criterion is clearly indicated: there should be no doubt in the officer's mind as to the guilt of the fleeing felon. Even then, the officer must give some consideration to the severity of the crime, and the danger of injuring an innocent person.

"Before firing a shot, an officer must consider the fact that regardless of what a man has done—multimurder or what have you—the State of Michigan has no capital punishment. The stresses of our environment at the present time demand that a continuing emphasis be placed on the seriousness of taking a life.

"Michigan State law clearly states that every effort should be made to effect the arrest by peaceful means whenever possible. Aggression on the part of the felon to resist arrest, or to escape from custody, will justify the use of force by an officer, only in sufficient quantity to effectively overcome the resistance. Under these circumstances, the officer would be justified in using his firearm when confronted with an armed resistance, or when he is threatened with serious body injury. The law does not justify the use of force when no resistance has been offered, and when no intention to escape has been indicated."

It is apropos at this time to deal with the subject of entrapment, which has been offered as an argument against STRESS.

"To constitute entrapment, an officer, by law, must instigate a criminal act which would not have occurred to the perpetrator except for the actions of the officer. To hold that police officers in civilian style of dress constitute entrapment is to take the ludicrous position that all victims of crime are guilty of entrapment, because if they hadn't been there the crime would not have occurred." This is a quotation from a letter written by an executive of the Detroit Police Department to the Public Letter Box.

In response, Justice Eugene F. Black, of the State supreme court, wrote the author, "Your statement of the law of entrapment is precise and accurate in every way."

It would appear, then, that the element of entrapment does not exist in the STRESS operation.

CITIZEN RESPONSE

The most visible citizen response to STRESS operations has been organized protest of some groups that followed the shooting death of two teenagers, who assaulted and robbed a STRESS officer on September 17, 1971. Unorganized response has been overwhelmingly favorable.

Prior to that date, such mail that reached the police department dealing with the STRESS operation, without exception, praised the operation and, in many cases, asked for its expansion.

In the 10 days following the shooting incident of September 17, when public attention was at a peak, the commissioner's office received 138 letters or cards from citizens, 11 wires, and dozens of phone calls. All but two of the letter writers supported STRESS (98.5 percent), including 19 citizens who specifically identified themselves as black.

Of the wires, nine were in support and two were opposed. Of all the phone calls, only one was in opposition.

Comments from black citizens included the following:

"We are a group of black people who support rights over wrong, not color. We support this program 100 percent."

"Keep the STRESS units intact, and rest assured that you do have a lot of silent support, like me. We ordinary black citizens fear reprisals and do not ofttimes express our true sentiments."

"I am black and have come very close to being another one of your police statistics—at the hands of black youths. I do not favor the abolition of STRESS. And any black who does, evidently has not been a victim of their brothers. It is true the young men killed recently were leaving the scene of the crime

and no longer a threat to the officers; but they were still a threat to me or any other individual they would decide to rob or attack."

"I am black and am no law and order man of the ilk of Vice President Agnew, but I am no thief and robber either. Many other blacks are glad to have policemen around regardless of their race, but for them to say so publicly leaves them open for much criticism and harassment."

"It's time we started thinking about the victims of these assaults rather than the criminal."

Two letter writers with personal experience of victimization wrote:

"My husband is still suffering from the results of his encounter almost a year later. He has no sense of smell or taste and has had to have an operation. Fortunately, however, he is still alive."

"* * * I was attacked, very near the parking lot in Palmer Park, by a group of about eight to 10 Negro boys, and was being beaten until rescued by an officer of the STRESS unit. There is no way for me to thank this officer for his very resourceful and efficient handling of the incident in a way which saved me from serious injury."

Finally, a black minister submitted to the police department the results of a poll he took of citizens in his area, including 704 adults and 440 teenagers. Of 1,144 people, 818, or 71.5 percent, supported STRESS and 326 opposed it.

Of the adults, 699 or 99.2 percent supported it, and 5 opposed it.

Of the teenagers, 119 were in support and 321, or 72.9 percent, were opposed.

AN EVALUATION

There is an old maxim in police work that the rapidity and certainty of apprehension, and a speedy and fair adjudication in a court of law, is the most effective deterrent to crime.

In spite of the best intentions in the world on the part of concerned citizens, judges, attorneys, police officers, lawmakers, and others of good conscience in the criminal justice system, the various statistics of law enforcement suggest that this concept of deterrence becomes less and less "certain" over the years.

This factor of the certainty of apprehension is the principal external deterrent to the criminal. This is how he measures his risk, the odds he faces when he gambles on a criminal career.

As mentioned before, this is why today's robbery opportunist picks on easy marks—the elderly, the infirmed, the vulnerable. They are not only less physically capable of resisting him, but they are more apt to fail to appear or to make confused and uncertain witnesses in a court case, so that even when apprehended and charged, he stands a good chance of avoiding conviction.

By utilizing police officer volunteers to stand in place of potential victims, the department has increased the degree of risk to the criminal, both as to apprehension and final conviction in court.

STRESS has, to some degree, increased the certainty of apprehension for the crime it is aimed against. This, combined with the public attention focused on the operation, should make many a potential robber more reluctant to take the crime risk than he would be if there were not such operation.

The use of fatal force in some arrests is a tragic necessity which neither the department nor individual police officers take lightly. The department's rules and guidelines could hardly be more explicit. Nevertheless, there is always the element of final discretion in a street situation.

Once the officer is actually confronted with the visible or hidden threat of a gun, a knife, or a physical attack, he has not time for conscious and deliberate evaluation of the suspect's age, race, sex, or emotional condition, or the abstract conceptualization of comparative punishments.

He has to operate on the evidence instantly apparent to him.

All his conditioning is directed to restraint in the use of firearms—to use only as a last resort. But when this moment of last resort has arrived, the police officer in such a situation knows that the difference between life and death for himself or the person he confronts may be simply a matter of split-second timing. He also must and should consider the danger and menace to life to which the next victim of the fleeing felon might be subjected.

Make no mistake, it is the criminal, not the police officer, who has named the game; that is, made the choice that has created the kind of macabre situation in which everybody's life is, or seems to be, on the line—criminal, victim, and police officer.

In pursuit situations, the officer has clear guidelines as to the nature of his authority and responsibility.

STRESS officers would run less risks, and possibly supporting police would be able to move faster to make arrests, if officers on STRESS assignments were equipped with tiny, invisible radio transmitters. Such transmiters, concealed in the clothing, would be kept open and monitored by support crews. Such equipment is available, but the Detroit Police Department does not have a supply for street use, nor the funding with which to acquire them.

There is no simplistic solution to the problem of protecting the police or the citizenry from injury as the result of street activities. We in the department, have experimented extensively in the area of body armor, which carries with it the difficulty to maneuver, and does not protect with sufficient certainty.

We have also explored the possibility of mid-range weaponry. Technology has failed to provide for police departments, a weapon which can be utilized to immobilize or to halt a fleeing individual without the possibility of great physical injury or death.

Perhaps the future holds better things, but to date, such weaponry is not adaptable to the type of operations most police officers find themselves involved in on a day-to-day basis. Such weapons were designed for adaption to situations of mass confrontation and disorder and are far too bulky, cumbersome, and uncertain for normal usage.

Thank you.

Mr. RANGEL. The committee will recess until 1:30.

[Whereupon, at 12:15 p.m., the committee recessed, to reconvene at 1:30 p.m., this same day.]

Afternoon Session

Mr. STEIGER (presiding). In the absence of the chairman, we will declare the afternoon session open and ask that counsel proceed with the examination.

Mr. LYNCH. Thank you, Mr. Chairman.

Members of the committee, I am happy to introduce to you at this time, Col. Eugene J. Camp, chief of police of the St. Louis Police Department. Chief Camp has been in his present capacity for 3 years and has 36 years of service with the St. Louis Police Department. He has been a member of the Missouri Law Enforcement Assistance Council, the State planning agency under LEAA, and he holds a bachelor of science degree from St. Louis University.

Colonel Camp, if you have a prepared statement, would you please deliver it at this time.

STATEMENT OF EUGENE J. CAMP, CHIEF OF POLICE, ST. LOUIS, MO., POLICE DEPARTMENT, ACCOMPANIED BY WILLIAM ARMSTRONG, SERGEANT, LABORATORY DIVISION; AND CHARLES MUELLER, SERGEANT, JUVENILE DIVISION

Mr. LYNCH. Do you have prepared remarks you would like to address to the committee?

Mr. CAMP. Yes, Mr. Lynch.

Mr. LYNCH. Please proceed.

Mr. CAMP. The program that I have here is the same you have. We were asked to discuss our police laboratory technician program, the evidence technician unit, and a program we have in the juvenile field, the teenage counseling for delinquents.

I was permitted to bring the people who supervise those programs. On the evidence technician, I have Sgt. William Armstrong; and the counseling program, I have Sgt. Charles Mueller.

I think it is best that I let these people describe their programs. They work with them. And then I will be glad to comment on them afterward, if you care to.

Mr. LYNCH. That would be fine.

Mr. CAMP. I think the evidence technician program will be first and Sergeant Armstrong will tell you about that.

Statement of William Armstrong

Mr. ARMSTRONG. Mr. Congressmen, Mr. Lynch: The evidence technician program was designed with two specific goals in mind. The first goal was to cover by crime scene processing a greater number of crime scenes than had been processed before, and at the same time process them in depth by trained, competent crime scene examiners.

The second goal that we had set for ourselves was to save patrol time by having the evidence technician process the scene which had been relinquished to him by the investigator and thereby putting the investigating officer back into service on the street where he can do the most good.

As an adjunct to that, we also save the patrol force time in that the investigating officer no longer is required to collect evidence at the scene; is no longer required to leave his assigned area and take whatever evidence he has collected to the laboratory, to the ID bureau or wherever it might be necessary.

The unit was set up, of course, in the face of a national response, or a national demand I should say, for better evidence presentation in trials. As you all know, Justice Goldberg in the *Escobedo* decision, stated, as a result of that decision, that prosecutors must rely primarily on material evidence, and this, of course, was what we were committed to do.

Now, within the framework of this organization, we had selected 20 officers who received some 80 hours of classroom time, which covered such diverse subjects as photography, the searching for and lifting of latent fingerprints, and how to recognize and collect physical evidence at scenes of crime.

These men were trained with a curriculum that was designed by the FBI. They were trained by local agents of our FBI office and staff members of the police laboratory and identification bureau of our department.

At the conclusion of their 80-hour training they were sent in to assigned areas, and there they received 1 week of what you might call

on-the-job training, which merely involved the presence of both a qualified identification man and a photographer, who were able to resolve whatever technical difficulties they may have gotten into while they were on their first day's work.

Subsequently, you might say they had a full 3 weeks of training. They were assigned in four vans which were purchased, by the way, with LEAA money. The vans were fully equipped to allow these officers to have all of the facilities necessary to properly process crime scenes. The organization has met its goals, one of which was to increase the number of crime scenes visited, and at least we met the goal of the first impact funding by increasing the number of crime scenes visited by some 20 percent.

At the present time, we are running about 30 percent over what was examined prior to this.

Statistically, we examined some 35 percent of all index crimes that occur within the city of St. Louis. This is an increase over the past 6 months of some 8 percent from the 27 percent that we had originally been searching.

Mr. LYNCH. If I might interrupt at that point.

Have you any data to enable you to make a judgment as to whether or not that is a higher percentage than might be the case in other cities?

Mr. ARMSTRONG. We have no definitive information on this, but a fast check that we made after we received your call showed that about 1 percent of crime scenes are examined for physical evidence on a national basis.

Mr. LYNCH. How did you make that check?

Mr. ARMSTRONG. Primarily, by calling various organizations.

Mr. LYNCH. Calling other police agencies?

Mr. ARMSTRONG. Right.

Mr. LYNCH. Thank you.

Mr. STEIGER. Excuse me. Are you saying only 1 percent of crime scenes are examined for physical evidence by other than the officer on the scene?

Mr. ARMSTRONG. That is correct.

Mr. STEIGER. You don't mean the officer on the scene didn't collect evidence?

Mr. ARMSTRONG. In no way. We are talking about technical personnel.

Mr. STEIGER. Yes. Thank you.

Mr. ARMSTRONG. Now, the other goal we have satisfied, of course, is in saving the department personnel time on the street. We have reduced response time of our unit to an average of 22 minutes per assignment, which for all practical purposes means the investigating officer can get back into service and be available for added duties much more rapidly than in the past.

Mr. LYNCH. You have how many of these vans, Sergeant?

Mr. ARMSTRONG. The original grant was awarded in 1970. At that time we purchased four vans. Three of these were assigned to areas and the fourth was held as a replacement or supernumerary vehicle.

In January of this year we received delivery of two additional vans, purchased again with impact fund money. These have allowed us to field five units, 16 hours of the day, on a 7-day basis.

Mr. LYNCH. How many men man one of these vans?

Mr. ARMSTRONG. Basically, it is a one-man operation, although we do have one van with two men in it that we primarily reserve for infamous-type crimes.

Mr. LYNCH. And you have trained 20 St. Louis police officers as evidence technicians. They are the people who man these vehicles; is that correct?

Mr. ARMSTRONG. That is correct.

Mr. LYNCH. And they were regular patrolmen within your department prior to this assignment?

Mr. ARMSTRONG. Yes, sir; they were.

Mr. LYNCH. I notice that the copy of the photo you gave me has a map of the city, indicating in various sectors or precincts, or at least police subdivisions, how many incidents are processed by the evidence technician unit. I notice in one precinct it is up to 65 percent. What precinct is that? Are you familiar with that?

Mr. ARMSTRONG. Yes, sir. That is the second district.

Mr. LYNCH. Is that a high-crime area?

Mr. ARMSTRONG. No, sir.

Mr. LYNCH. Why is it that there is a higher percentage made there? There is one down here, I don't see a designation, but it shows 19.8 percent.

Mr. ARMSTRONG. Is this down in the lower central part?

Mr. LYNCH. Lower middle portion, yes.

Mr. ARMSTRONG. This is our downtown area where we have our business area, things of this nature.

Now, I don't know why there is such a disparity between the two areas. You have to remember that we are contacted by radio. Few of these calls are self-initiated. We are only responding to calls for services by the district officers.

Mr. LYNCH. I see. And, according to your testimony, the number of the index crime scenes which now receive the technical assistance of an evidence technician has increased significantly; is that correct?

Mr. ARMSTRONG. That is correct.

Mr. LYNCH. What impact has that had on the criminal justice system in your city?

Mr. ARMSTRONG. For instance, fingerprint identifications have increased about 75 percent. This, of course, takes these criminals off the streets. There is another figure behind this one. When a man is identified as having committed a crime he will frequently then confess to a number of other crimes he may have been involved in.

Mr. LYNCH. You mean when he is identified and when there is physical evidence to link him to that crime?

Mr. ARMSTRONG. Whether physical evidence links him to the second, or third, or succeeding crimes or not.

Mr. LYNCH. No; when you said a man is identified as having committed a crime, you mean identified through the services of the evidence technician unit?

Mr. ARMSTRONG. Correct.

Mr. LYNCH. Has there been an increase in the number of good cases your department has been able to make and has there been an increase in the number of convictions as a result of the increase in crime-scene technician services?

Mr. ARMSTRONG. Right. Well, right now, Mr. Lynch, we are not able to say positively; however, as part of our next grant we are going to make a study of just this issue. We are going to attempt to determine the position that physical evidence plays in the conviction rate in our courts.

Mr. LYNCH. Who performed this service prior to the time you organized the evidence technician unit?

Mr. ARMSTRONG. Prior to this, the services were provided by three individual functions of the police department. If you wanted a scene searched for fingerprints you called the identification bureau; if you wanted that scene photographed, for instance, you had to call the photo lab; if you wanted technical assistance at a crime scene to search for physical evidence, then you called the laboratory division. This was, of course, both a cumbersome and time-consuming process.

Mr. LYNCH. How much does this program cost the department each year?

Mr. ARMSTRONG. Well——

Mr. LYNCH. What is its finding, in other words? How much money do you receive? Do you get this from LEAA?

Mr. ARMSTRONG. Salaries, of course, are borne by the department and they amount to some $225,000 a year plus fringes. Supplies, equipmentwise, it is a relatively small amount. The unit, the vans and equipment, have been bought through Government money and, to this date, we have spent some $48,000 in that area for all of the equipment, all of the vans, that we have used.

Mr. LYNCH. Colonel Camp, what is your goal as to the number of index crime scenes that will eventually be visited by the evidence technician unit? Are you satisfied with the 35 percent?

Mr. CAMP. It is higher than that now and it is increasing, and I am satisfied with the acceptance by the rank and file of the program and the benefits that we derive. Just about all index crime scenes will be processed.

Mr. LYNCH. When do you plan to have that capability?

Mr. CAMP. I thought right now; every time we get a call we respond. Every one.

The main category you can't do anything about is stealing over $50. Thieves leave no evidence; everything is gone. That takes a big share of the crime right off the bat. We try to process as many stolen automobiles as we can.

Mr. LYNCH. I assume you send evidence technicians to the scene of all homicides?

Mr. CAMP. Yes, sir.

Mr. LYNCH. I assume you send them to the scene where rapes have occurred?

Mr. CAMP. The evidence recovered in rape cases is usually brought to the lab.

Mr. LYNCH. I assume you send them to the scenes of armed robberies, especially when they are in a locale that lends itself to this kind of analysis?

Mr. CAMP. If it is a bank or supermarket, where the man might have placed his hand or fired a shot, it will go to that scene. Beyond the index crimes they go to fires, arson cases, serious auto accidents, whether it is critical or death cases.

Mr. LYNCH. What percentage of stolen autos in your city would be dusted for prints?

Mr. CAMP. The sergeant tells me about 30 percent. And the reason for that is perhaps maybe the car has been fouled up in the weather, or burned, or something of that nature, and there is nothing you can do about it. It is useless.

Mr. LYNCH. It would be your testimony, then, sir, that certainly for the most serious index crimes evidence technician units respond to most of those cases?

Mr. CAMP. Right. They would respond to every one. If, in their judgment it wouldn't be necessary, it would be useless, a waste of time to come, they have that discretion to tell the radio dispatcher they won't respond. But they go to all burglaries, all murders, and many of the auto thefts.

Mr. LYNCH. Colonel, Sergeant Armstrong indicated as a result of an informal telephone survey of other law enforcement agencies, his opinion was that on a nationwide basis less than, or I think he said about, 1 percent of all index crime offenses received a service similar to yours. In your judgment as a police administrator is this a program which ought to be adopted in other law enforcement agencies?

Mr. CAMP. Yes. Our experience has been, just from a public relations standpoint—and I am not selling anything. I am just telling what the experience has been—that there is often the criticism of the police that if this happened in a more affluent neighborhood they would get the full treatment. Everyone gets the same treatment here.

I invite you to look at our files, particularly homicide cases; whether it is a nondescript person or civic leader they are all treated equally. And this same evidence procedure is followed.

People today are accustomed to crime-scene searches. They are educated through TV, the comic strips, and magazine articles. Every victim of a crime feels that his crime is as serious as the next and he wants to be treated that way; and this does answer your serious criticism.

Mr. LYNCH. Is this an expensive program?

Mr. CAMP. I think it is a very inexpensive program. In fact, we recover the patrol time, which is a costly item. Manpower is our biggest cost. And if you can get the evidence technician unit there in 20 minutes, which they have been doing, that man is freed immediately. He goes on his regular patrol tour of duty.

If it were another case and he would be held there for overtime reasons, we have to compensate him in compensatory time. You don't pay him for comp time. It is an economy in that sense alone.

Mr. LYNCH. What kind of feedback have you had, if any, from the prosecutor's office about the evidence which you have developed through the use of this unit?

Mr. CAMP. Mr. Lynch, I have a note here, "Prosecutors are complimentary." I wanted to mention that particularly. In court, as you lawyers know, the physical evidence is often unassailable and it is accepted quicker than a witness testifying. We are happy when we can

show irrefutable proof by lab analysis what we have found and that is the best evidence as far as I am concerned.

Mr. LYNCH. From everything you said it appears to me this program is one which should be easy for most police departments to implement: is that correct?

Mr. CAMP. I recommend it to any department: yes, sir.

Mr. LYNCH. I have no further questions, Mr. Chairman.

Mr. STEIGER. I would just advise the colonel and gentleman that we just had a message from Mrs. Sullivan, who planned to be here and welcome you. She is at a meeting of the Rules Committee and extends to you her warmest welcome and her assurance she is aware of your good work.

Mr. CAMP. Thank you very much.

Mr. STEIGER. Colonel, I am impressed with this because it sounds very innovative. I just wondered, perhaps Sergeant Armstrong would be the best to respond, if the funding were not a factor would you feel it would require more units than you now have available?

Mr. ARMSTRONG. At the present time we have funding that allows us to pay the present personnel overtime pay to work on their holidays, recreation days, and vacation days, to establish an overlay watch that allows us to field two additional vans on each of two watches daily. This personnel cost would have to be picked up by the department to maintain the present level of effectiveness.

Mr. STEIGER. I understand that. But what I really want to know is if the number of units that you now have, the number of people, are adequate to do the job.

Mr. ARMSTRONG. Yes, I think so. By the way, if I might interject a thought here, the original grant was awarded in 1970 and terminated in 1971. The department picked up this expense until the receipt of the impact funds in August of last year. So they have accepted the expense of this unit.

Mr. STEIGER. Do you know of any other communities that have adopted this particular program?

Mr. ARMSTRONG. Washington, D.C., has a program much like this.

Mr. STEIGER. I didn't realize that. Very good.

Colonel, what is the size of your police force?

Mr. CAMP. About 2,200 or 2,300 sworn personnel.

Mr. STEIGER. What is the population of St. Louis?

Mr. CAMP. It has dropped to about 623,000. And then we have just near 700 civilian employees in addition to the sworn personnel.

Mr. STEIGER. So we are talking about almost 3,000 people?

Mr. CAMP. About 3,000 people.

Mr. STEIGER. As a rule of thumb, at least for your purposes, the 20 trained personnel and the four units are sufficient for that size force, for the kind of activity you are faced with?

Mr. ARMSTRONG. Yes, under the present situation. I would like to bring up another thought. It was mentioned about the processing of 100 percent of the crime scenes. We have two observations to make here.

No. 1, it is not necessary to process 100 percent of the crime scenes. Second, along with this idea of the effectiveness of physical evidence, or the research in this area, we are also going to research the question of, "What is the optimum number of crime scenes to be examined with-

in our city?" so that we properly may be able to establish a manning level for this unit.

Mr. STEIGER. That is a good point. I also have to believe it is not a quantitative result and I have to believe there is some effect on the accused in knowing there is that kind of unit available and that kind of evidence, at least. If the guy knows he did it and he knows your unit was on the field, even if you missed it, he is liable to be more apt to cop out.

Mr. ARMSTRONG. May I tell a story?

Mr. STEIGER. I wish you would.

Mr. ARMSTRONG. Last week there was a fatal shooting in a local go-go establishment. Our evidence technicians went to the scene and took swabs of three individuals' hands for powder residue tests. After we left the scene, we got a telephone call from a waitress employed in the establishment whose hand had been swabbed. Her statement was, "Well, you are going to find out I shot that guy, so I will admit it now."

So this is the degree of effectiveness, the type of effect you have mentioned.

Mr. STEIGER. I have to believe that is a very valid observation. I have no further questions.

Mr. Winn?

Mr. WINN. Thank you, Mr. Chairman.

I am sorry I missed the earlier part of your testimony, Colonel. But I have been reading the information here about the vans and it is similar to what I was talking to the gentleman from Detroit about, as far as the deterring asset it has, as far as public relations with the community.

Of course not only the efficiency, and I think you have that well named, but the speed with which you can process and make your tests. Do you have any idea how many man-hours it might save over the normal process of calling a man out from headquarters, or separate crews?

Mr. CAMP. Just to give a random figure would be pure guesswork, but I can show you by example: An officer goes out on the 7 a.m. tour of duty. At 7:30 he gets a call of a burglary; he gets there; looks the scene over; knows it is an assignment for the ETU men. Prior to this he would have to wait for various ones, maybe a fingerprintman, someone from the lab.

We didn't have so much from the lab unless it was of some magnitude. They waited for the fingerprintman and photo force.

Mr. WINN. These men are trained to take photographs?

Mr. CAMP. Yes.

Mr. WINN. As a part of their training?

Mr. CAMP. Speed-graphic-type cameras, and well trained in the use of cameras.

Mr. WINN. Do they come from the ranks, usually?

Mr. CAMP. Yes, sir.

Mr. WINN. Always?

Mr. CAMP. Always. These were volunteers. They were not just on a volunteer basis. There were roughly 80 that responded to the questionnaire, and they were given aptitude tests and they settled on these 20 people for training.

Mr. WINN. Do they get additional pay for serving on this efficiency van?

Mr. CAMP. No, sir. It is just diversity of assignment as part of the job. They all like to try something different. It broadens their experience. They don't intend to be typed in there for life, but they could go from there to homicide, a better unit. They become better known.

Mr. WINN. You have no women serving in the unit?

Mr. CAMP. No; but I can see the time for women because we picked two women for the next class.

Mr. WINN. Would there be any benefit in having women serve because of the tests and the interviews with women that have been raped, that you might do a better and more efficient job with women than you would with men?

Mr. CAMP. Mr. Winn, that was one consideration in picking these two female applicants for the force.

Mr. WINN. They are not on the force at the present time?

Mr. CAMP. They will be on there Monday. They will be sworn in. But we have approximately 15 policewomen that have been with us for many years. And through attrition, they reached that number. I think we had as high as 25.

Mr. WINN. I am not really trying to figure out how many women you have on the force. I am trying to relate to a program we heard about earlier in the week, where in many cases there is an insensitivity by a patrolman when talking to a rape victim and that the women will talk to another woman more candidly and probably more efficiently than they would with a man.

Mr. CAMP. Mr. Winn, there are a couple of women that formed an organization, and three of them came to my office last week with that very idea. They feel the victim to be more likely, or more at ease, to talk to a female officer and that is one of the considerations for this new unit.

Mr. WINN. New York seems to have a program which is relatively new that is receiving a lot of publicity. And the young lady in charge of that, Lieutenant Tucker, was before this committee earlier in the week.

She seems to think, in her personal testimony, that this might be a better job of really getting to the facts on rapes. She made the statement, which kind of surprised me but maybe it is again because I am a man and not a woman, that she felt—and I am not quoting her—women could better identify a rapist, his mannerisms and things like that, when being interviewed by a female officer than a male officer.

That was kind of interesting and that is why I asked you if you had women. Do you think if you had women on these vans it would cause any problems in any way? The men wear uniforms?

Mr. CAMP. Yes.

Mr. WINN. And the women would be in uniform, too?

Mr. CAMP. Yes.

Mr. WINN. And people are getting used to seeing policewomen in the various cities these days?

Mr. CAMP. I think they are; yes. I am not fully convinced that we would use them on the van at this time. There are assignments where

they could be used, but these assignments are in high-crime areas and often they would be alone.

Mr. WINN. They would be alone?

Mr. CAMP. Most of our evidence technicians do work alone.

Mr. WINN. The van drivers are alone? I thought they traveled in teams of two.

Mr. CAMP. Only on some of the murder cases where there may be a big area that is searched for a limited time. A lot of employees will be coming in and we want to give it a thorough, quick search.

Mr. WINN. Vans really are not pertinent in the basic or broad context of these hearings, which is preventive methods, as much as they are an efficient operation, and timesaving for your patrolmen.

Mr. CAMP. There is a side effect. The recovery of man-hours. These men are returned to patrol, and with the added visibility, or heightened visibility, of these police cars, that is where the benefit comes in.

Mr. WINN. From the community psychology, seeing the vans, knowing that they are there and on the job?

Mr. CAMP. It is another police vehicle in the neighborhood.

Mr. WINN. Yes. And it leaves more men available rather than pulling them in in headquarters, or off other divisions, or leaves them on the street in their basic assignments.

Mr. CAMP. That is right.

Mr. WINN. Have you touched on your delinquency program?

Mr. CAMP. No.

Mr. WINN. That is next?

Mr. CAMP. Just to mention the man who has conducted this program is here and he will testify.

Mr. WINN. We have a copy of a letter from the National Clearing house for Criminal Justice, Managing and Architecture, complimenting Sergeant Mueller, so we will wait until we get to that.

Thank you, Mr. Chairman.

[The letter referred to was retained in the committee files.]

Mr. STEIGER. Counsel, would you proceed.

Mr. LYNCH. Thank you, Mr. Chairman.

Colonel Camp, we have heard testimony from several chiefs of police that high levels of violent crime continue to be perpetrated by very youthful offenders. Here in the District of Columbia it has been true for a number of years that a very, very substantial proportion of index offenses are committed by young people.

Your department has recently instituted a special program for counseling hardcore delinquents. I wonder if you could have Sergeant Mueller describe, first, what you define as a hardcore delinquent; and, second, what you have tried to do to counsel those people.

Sergeant Mueller?

Statement of Charles Mueller

Mr. MUELLER. Thank you.

Mr. Chairman, a hardcore delinquent for the purpose of the original grant was any youth under the age of 17 who had eight arrests or more. A recidivist naturally is one who has more than one arrest; but for hardcore, we took it up with the court and they decided that for identification of "hardcore" they would decide on eight felony arrests or more as the criteria.

In our original grant we reached out and we gathered together 125 youths who shared 850 arrests among them.

Now the unique feature of this particular program of team counseling is that from experience we have found the motivation, the capability, and the probability of crime occurring among young people on the street, is not individually motivated, but peer motivated. These 125 individuals constituted about 40 groups.

In other words, any one member of a peer group had to have eight arrests or more.

Sometimes an individual had 25 arrests. The two individuals that were with them, perhaps had five, one had three. But they were a part of the peer group. So our purpose was to gather these groups off the street at times of high-area crime, between 6 and 10 p.m.

Mr. WINN. Excuse me just a minute. These are organized groups? Do they go by names?

Mr. MUELLER. No. This is the feature. This is why we don't call them gangs. They are groups. If I may read the type indicated right here:

One group, 369419. Individual 16 years of age, has arrests for rape, assault, burglary, larceny, and auto theft.

No. 2 man in that group is 16 years old and he has had an arrest for rape.

No. 3 in the same group has arrests for burglary, auto theft, and vandalism.

No. 4, this boy is only 15 years of age and he has a record of rape, robbery, assault, burglary, and larceny.

No. 5, this boy is 18, he has no record. This particular boy, the last one, is age 15, and he has no record. But this is the type of behavior that is out on the street.

Mr. LYNCH. Excuse me, sir. I am not sure I understand what the two youngsters with no records are doing in that group.

Mr. MUELLER. They are part of this group. They are a peer group. For the purpose of this contact, this encounter, they had no record as far as we know.

Mr. WINN. But they are kind of heading for trouble with the company they are keeping?

Mr. MUELLER. This is why we keep them.

Mr. WINN. Aren't they both 15, the last two?

Mr. MUELLER. No. The last one was 15 and the other 18. There was only one over age, that was 18. But all the rest were below juvenile age, or at juvenile age, and you heard the record they have.

This is the type of group we went after, to identify ourselves with them and them with us. Does that give you the idea of the 125 boys we reached out for?

Our purpose in "reaching out for," is to change the direction and the behavior pattern of these groups that heretofore had been constantly involved with the type of offenses I just read off. If allowed, and no effort was made to try to change their behavior or change their direction, we had every reason to believe it would continue. So this was the purpose of the program, to reach out, identify these particular groups—of which some years back, we identified that there were 500 boys with 8 arrests or more in the community of St. Louis.

These 500 were within a perimeter of about 125 groups, so we knew that the problem was there.

Now, what to do about it? We reached out to try to identify the boy with the department and the department with the boy.

We did that by trying to open up three centers in high-crime areas—recreation centers. We did not try to make it a police department pro-

gram per se, nobody but police. We reached into the community and saw to it that we had police officers, recreational leaders, and juvenile court personnel who operate as counsel under secondary employment. We take no manpower away from the police department. We selected juvenile officers who constantly work with children, anyway.

We took juvenile court probation officers who, as probation officers, were practically with them anyway. They are already under their counseling services at the office. We then provided a recreation leader who could fill in the gaps we needed to keep them constructively entertained while we talked with them.

I could just keep on going and going.

Mr. LYNCH. I would like you to describe, if you would, what a typical counseling session consists of; what kinds of counseling do you give the youngster who has been in this kind of trouble? Those were rather extensive records you read off a moment ago. What effect has counseling had on their subsequent recidivism rate?

Mr. MUELLER. We never have less than two counseling sessions a week, Tuesday and Thursday. Some places it is Monday and Wednesday. But these three counselors I spoke of, they personally care for the behavior patterns and the conduct of 10 individuals. Each officer or each counselor has 10. So there is 30 to a unit, 30 to a center. This officer must account for the boys' attendance or nonattendance and report back to our office. So we constantly know whether this boy's attendance is varying or not. And he makes home visits if he doesn't attend regularly.

His counseling, more or less, occurs as they meet as a group. They sit down and ask what would you like to do? We have them occupied; at least, we have them. They are off the street, we have them in a center that, if I can digress for a minute, many times they have been thrown out of. In fact, some of our counselors were thrown out along with them, when they first attempted to meet in these centers.

They threw the boys out and the counselors along with them, and we had to persuade them that this was a better situation and now they were under good control. I hasten to add we have had no bad result. We have had no one complain or say that our boys were not under good control.

Mr. WINN. Who pays the counselors?

Mr. MUELLER. The LEAA grant. And they pay them $5 an hour. At this particular time, they work 14 hours a week.

Now, the counseling session, to get back to the question, consists of first meeting with the boys, discussing what their likes are, what they don't like. We have pool tables, ping-pong tables. We have a bumper pool table and we engage them in different types of activities.

We have basketball courts available. We know this type of boy has a very short span of attention. He cannot play in recreation programs per se. I would like to make that clear. These boys don't engage in a full athletic program because they don't understand what a full athletic program is. They have never been a part of one.

So counseling is a very important part to get him to know what society really is like. We call our counseling and our program similar to the opening of windows and opening of doors to life. If they want to go bowling, we provide it. LEAA provides us the means by which we can take 30 boys bowling along with 10 counselors. Prior to going

bowling they will counsel with the boys and tell them what this was all about.

We had children who had never been in a bowling alley. They counsel with them on what they expect to see, what is the purpose of responsibility, what are the purposes of behavior. In other words, you don't roam around a building when someone else is bowling. What is the reason for that? What is a foul line? And we try to get over to them measures by which they can understand that there is discipline in all areas of life.

This is it, basically. And then we have occasions when we sit down and the boys will actually unburden themselves, but not immediately. It will take 3 months or more.

We had an unusual experience just recently where one of our new centers opened and a boy who stood in the background and our counselors were trying to get our boys to open up a little bit, and because it was a new center they were very reluctant. This individual is 16, he stepped forward and said to the boys, "That is how I got out of Boonville, by participating in counseling."

They have a peer counseling session up in Boonville, which is the reformatory, and he led the class and he brought our kids into the program of counseling, which was very interesting to us. It showed us what it does mean and how these kids can actually help themselves.

We find that in the meantime the community is benefiting from the fact that instead of being on the street without supervision they are now under good supervision, recreation, and control.

Mr. LYNCH. That is for only a few hours a week they are under someone's supervision. What happens to them the remainder of the week? I must say that a good deal of what you have been saying sounds like this is a recreational program. I understand there is more to it than that, and I wonder if you could go into that. How have you been able, if at all, to redirect their attitudes?

Mr. MUELLER. I told you we had 125 boys who shared 850 arrests. And during that first-year period, 11 months, 60 percent of these boys who had these long extensive records were not arrested in that entire year.

Not only were they not arrested, but they did not receive any truancy notices and they didn't receive any curfew notices.

Mr. WINN. They were back in school?

Mr. MUELLER. This program is not as extensive as all of that, sir. In other words, this is a supplemental program to the effect they are actually being counseled by juvenile court in the meantime.

Mr. WINN. Some of them go to school?

Mr. MUELLER. Oh, yes. Many of them. I would say we have had occasions when we learned they were not going to school. We were called by the parents and asked if they could get them back in the school.

Mr. WINN. I think counsel was trying to find out if other than the time you spend with them at the centers there is a lot of other time unaccounted for. This is what most of us have been led to believe was the time when most youths get into trouble.

Mr. MUELLER. This is why I brought out the subject, 60 percent—we can't watch them 24 hours, I know you know that, and while we had 14 hours a week with them, some way or another, on the basis of our experience, and also on the basis of two tests that were given by Dr.

William Harvey—he provided tests at the beginning of the program—psychological tests. This was given and paid for by LEAA. He conducted another test at the end, and his reports are on your desk.

Mr. LYNCH. Sergeant, 60 percent of 125 youngsters is 75 youngsters. Of that 75 who were not rearrested, how many of these had no criminal record to begin with? Do you know that?

Mr. MUELLER. No. But I would say this would require further investigation.

Mr. LYNCH. Let me ask you this: Of the remaining 40 percent, or 50 youngsters, in the program how many times were those 50 rearrested during the year?

Mr. MUELLER. This is significant. We could have researched it, but I would say—and I have the figures right here, they are laying on your desk—I believe five were arrested twice during the year and the balance were arrested one time. Which could be a measurable difference in their previous records if we wanted to take the time to research it. We went by the report of Dr. Clement Mihanovich, who said there was a significant reduction in his delinquency proneness, and Dr. Harvey stated the same thing. That was his report, together with the records of the police department, which showed that.

This is encouraging.

Mr. WINN. You said you could research it. Let me urge you to research it, and I think you could do it with no expenditure of LEAA funds or anybody else's funds. I think you can get some of the psychology classes at St. Louis University or some of the rest of the universities in your area to do that for you as an assignment with credits; and it would probably be very constructive for them, too.

Maybe you have done that. I don't have that record in front of me.

Mr. MUELLER. Under the present operation, an extended operation, it will all be computerized. Everything will be computerized. Then, at any time, not just at certain times, you can call for a computer printout. All the information will be in there.

Mr. WINN. That is fine. Let me ask you another question I overlooked a minute ago. We heard quite a bit of talk about blacks and whites and racial implications this morning. With the counselors—and you have a group of 10—if they are all white boys do you use a white counselor, or do you pay any attention to that at all?

Mr. MUELLER. No attention is paid to that at all.

Mr. WINN. So five of the fellows may be black and five may be white; or they may be white, black, Mexican, et cetera.

Mr. MUELLER. I will say this. In all honesty and fairness, we have 10 centers in operation and 9 of them are completely black and 1 of them, the Cherokee Center, is all white. No effort is made to put only white boys in there, but it is all white.

Mr. WINN. But you are not going out of your way in the predominantly black areas to put only black counselors?

Mr. MUELLER. We have never done that. We are taking our enrollment from juvenile court. In other words, it is as juvenile court gives it to us. You are all acquainted with the term "overlay," I am sure. Our program merely takes the juvenile justice system of the city of St. Louis, our juvenile court. It has branch offices and we just furnish an overlay program of two centers to each juvenile center.

So that the juvenile center—the juvenile court center—gives us our input of recommendations of whom they would want in the program, and Judge Gartner has banged the gavel on many a child. We went through the team counseling program rather than go to Missouri Hill.

But we have one rule, if he bangs the gavel on Joe Smith, we take Joe Smith in the program. Now we are down to four arrests as hard-core, under the terminology requested by the court, not by us. The court said that we had a pretty high rate there of eight and would we bring it down to four. So at their suggestion, we brought it down to four, but Joe Smith or whatever his name is, let's bring his peers with him.

Mr. LYNCH. Wouldn't it be desirable, Sergeant, to get it down to one arrest?

Mr. MUELLER. Well, I don't know that I would say that—this would not then be a hard-core program. I feel a boy that has only one arrest—and I will take your side on this, there is a lot of confusion about the boy who has one arrest. If you look very closely and research it, as Mr. Winn said, you will find that he got his one arrest because he was with peers who had five.

Mr. LYNCH. Or because he may have been let go three or four times before he had the one arrest?

Mr. MUELLER. We have boys within our program with one arrest, but they are members of a peer group. We have boys in our program with no arrest, but who have shown by their inclinations that they want to be with these peers who have given the department trouble.

Mr. WINN. What brings them together? What brings a group anywhere from 18 to 15 years old together?

Mr. MUELLER. What brings them together?

Mr. WINN. Yes.

Mr. MUELLER. Mutual problems.

Mr. WINN. Neighborhood problems, family problems?

Mr. CAMP. School, neighborhood, hangout.

Mr. WINN. Dropouts?

Mr. CAMP. Hangouts around poolrooms, and places youngsters gather, contemporaries. They are brought together that way.

Mr. WINN. What if a bad egg enjoys his counseling and he has got a horrible record and he knows another guy that has a horrible record but is not on the books right now and he wants to bring him in and make him No. 11 in this class?

Mr. MUELLER. Whatever we do we are fluid. I say we don't have any real hard, fast rules, but we do take our job seriously. We have a contract with LEAA to keep an accurate account of what we did with these boys. We stay with these particular ones, we really emphasize and concentrate on them.

Mr. WINN. Can he bring a buddy?

Mr. MUELLER. He can bring a buddy in.

Mr. WINN. Do they do it?

Mr. MUELLER. We don't reject it.

Mr. WINN. Do they do it?

Mr. MUELLER. Yes, we are constantly besieged by not only the boys but the court to bring more boys in. We would be happy to do it if we were equipped to do it, but what we do is we sort of underplay it; play at low key.

Mr. LYNCH. Do parents refer boys to you?

Mr. MUELLER. No. We get our input from the juvenile court and from the juvenile division of the police department. Anyone in law enforcement who can indicate to us that the thing here is a real problem area.

Mr. LYNCH. You have a lad for 2 or 3 hours a week?

Mr. MUELLER. No. We have him twice a week, for between 3 and 4 hours, 2 nights a week; about 8 hours.

Mr. LYNCH. You have them under your supervision for that time. Are any of the people in your program under the continuing supervision of the juvenile court?

Mr. MUELLER. Oh, yes.

Mr. LYNCH. They are?

Mr. MUELLER. Yes.

Mr. LYNCH. Are they reporting to juvenile probation officers?

Mr. MUELLER. Yes.

Mr. LYNCH. So there is other supervision in addition to your own?

Mr. MUELLER. That is right.

This is the supplemental thing. In other words—this is very important to me so I hope you don't mind if I throw this in here—the general philosophy of all probation and parole is the 1-to-1 concept. I deal with you and you deal with me, this is a mutual thing we do together. And the minute the boy leaves the court after being counseled with on a 1-to-1 basis, he comes under the influence of his peer group and the 1-to-1 counseling just received is eroded and the group washes away the value of the counseling session he received in court. By helping to contain the action of this boy's peer group we make his 1-to-1 concept just a little bit better and stronger.

Mr. LYNCH. How expensive is this program?

Mr. MUELLER. I would like to throw that out. We tried to put a center within five blocks of the boy's home. There is research on this, the boy won't move out of a five-block area. So we have now 10 centers. So that the basis of the 10 centers, we will take any hard-core boy within that locality. If he lives two blocks further away, we will still take him, but it becomes a bigger problem for us. Our counselors go to their homes many times and pick them up, particularly if their absenteeism is beginning to build up. Almost automatically, the counselors always take them home.

Mr. LYNCH. How much does the program cost?

Mr. MUELLER. We started out with a program of three centers with $61,000 for an 11-month period and we got a lot of mileage out of it. We got about 16 months out of that. Then there was a shortage of money. No money was available until somebody discovered a program that wasn't functioning and it had $30,000. So we operated again on a smaller basis of 10 hours counseling, just to maintain our program until we could get a bigger view at the end of the tunnel.

So now we have the impact funds that came along with $50,000 for which we are getting about 6 months mileage. But we opened up 10 centers.

Mr. LYNCH. That would be $100,000 per annum at that rate then?

Mr. MUELLER. At that rate.

Mr. LYNCH. What is the maximum number of young people you can serve with that amount of money?

Mr. MUELLER. We now have 310 children involved in the program. We have 27 girls and 283 boys.

Mr. LYNCH. That strikes me as very inexpensive on a per capita basis compared with any kind of recreational facility.

Mr. MUELLER. It ends up about $325, I believe, which pays for all of his counseling, his counselor, our centers cost us nothing, and we have the programs that we bring the boy to. Many times we go to ball games and things like that. We have a roller skating rink that just opened up for 25 cents.

Mr. LYNCH. Colonel, in your judgment, and again as a police administrator, would you consider this to be a valuable expenditure of Federal anticrime funds?

Mr. CAMP. Yes, sir. In fact, I had to put the final approval on it at the time and each time it was funded I did the same thing. So I have got a lot of confidence in the program.

Mr. LYNCH. I have no further questions, Mr. Chairman.

Mr. WINN. I would like to ask if you have girls or women counselors for the girls in the program?

Mr. MUELLER. Yes, sir. The program is actually conducted right in the juvenile court building and we have two juvenile court probation officers and a recreation leader from another city recreation center who come to the juvenile court. The court has a large gymnasium of its own, it has its own counseling rooms, ping-pong tables, and things like that.

Mr. WINN. Could you enlarge this program and include more of the community—like an acrobatic or gymnastic program, which seems to be catching on with the young people more these days?

Mr. MUELLER. There are many ways in which we would like to enlarge the program. My own experience has shown that in so many instances we are working with the child, and the child is maybe cooperating with us, but the parents are sitting home with their feet up on the chair.

Mr. WINN. That is true, but I don't know how you are going to change that.

Mr. MUELLER. We have some plans on trying to close that cycle, not completely, but piecemeal. We are trying to close this cycle because we have had some experimental contacts with several of the parents.

Mr. WINN. I think that is fine and I hope it works. I suppose that, again, you would run into a problem where some of the parents have probably given up on their children.

Mr. MUELLER. If I can give you their general consensus, of the few parents I talked to, they said, "Well, we sure appreciate what you are doing for our children. We appreciate the fact you even contacted us and found out we have problems. We don't want our children like that, but everybody wants to do for the child, nobody wants to help us."

So this has been our problem.

Mr. WINN (presiding). As a parent of five children I talk and listen to this for days, really, because we have heard similar types of programs on recidivism out in California, where they did a very similar type of thing. The police officers themselves did it more or less on their own, in their spare time, and they started with those who had been arrested 14 times. And you are down to four. So I think the philosophy is great.

I believe Colonel Camp has another phase of the program he would like to present. We also know you have a plane to catch. So would you proceed, sir.

Mr. CAMP. I just wanted to let the committee know what I feel is the latest in police patrol systems, and we are seeking funding on the program. The acronym is FLAIR, meaning "flee locating and information reporting." It is a system whereby you can set up a command control room, look at a map, see a series of lights. These lights can be identified as particular cars. In this way, you have control over every car in your city. You can tell where that man is at every hour of the day. When he is out of the car, the light doesn't go off, it stay on. There is a series of buttons; if he needs help he merely presses a button.

We have looked at this for about 4 months. We had several trial runs in our city. It is probably the most promising thing in technological advancement in police patrol that I can ever recall. To me it rivals the radio in importance.

Mr. WINN. In Kansas City, Kans., this is now within the last year and a half, I helped them secure this type of operation. This is a communication system with every car and every patrolman. You have your foot patrolmen with walkie-talkies.

Mr. CAMP. We have a lot of those; yes.

Mr. WINN. Not on this particular system?

Mr. CAMP. This is altogether different from the radio. It ties in with the computer. You can see, not the car, but the location of that car, right down to the street he is traveling. And you know where he is at all hours of the day and night. You can assure every area of the city being covered. You can get a replay of that after the tour of duty if you want to know where he has traveled.

Mr. WINN. So if the guy goes to a store for a package of cigarettes you will know where he is and where he stops.

Mr. CAMP. Everything. But the feature of this is that you can spread your patrol around, the safety of the officer. It might be a help in the long run, where you have too many cars, you can convert the men in two-men cars to the investigative branch, or maybe not need as many. I am not looking for that but it is a wiser use of manpower.

We have had it in St. Louis several times. It is being developed in Topeka, Kans., where they have the experimental part but they brought it to our city, tried it out in our cars, and our radio technicians worked with them on it. We are seeking a Federal grant fund for this.

Mr. WINN. How much did you ask for?

Mr. CAMP. It is a little less than $4 million.

Mr. WINN. Are these LEAA funds?

Mr. CAMP. That is right. I feel it is worth every bit of it because it will be the prototype. As far back as 1967, one of the Commissions, I believe the President's Commission on Crime, strongly urged the police departments to find a locator system.

Mr. NOLDE. Colonel Camp, I would like to ask you about the special pilot program you put into effect last year, as I understand it, the overtime foot patrol. Would you tell the committee about that program?

Mr. CAMP. Yes. In the area where we put that the crime has been reduced—foot patrol. It has maybe moved into other areas and we

have a small increase in crime. This was done in response to public demand for more foot officers.

Mr. NOLDE. And these are officers working on their own time?

Mr. CAMP. Yes. In other words, we prefer a man, if he wants to take one of his overtime days, he has a day coming to him, he can work on that particular time. You are buying police protection, experienced police protection by the hour. There are many things to commend it. But I don't think a city could operate with the size force you would need for that many footmen. If we ever do away with the likelihood of Federal funding we couldn't operate it. We can't double our police force as you have done in Washington, D.C.

It had its effect in giving reassurance to the people it is safe on the streets at night. We heard from certain neighborhoods where the people are less reluctant to stay inside, they want to get out, they want to shop. And it is complimentary to us to hear the people say that it is so nice to see a police officer around. It is almost a novelty.

But I don't think that is the answer, Mr. Nolde.

Mr. NOLDE. I take it you, in St. Louis, had gotten away from foot patrol quite a number of years ago except in the downtown area.

Mr. CAMP. Just about every city had to get away from foot patrol. It is a luxury you can't afford. A car, a program, if it is followed to the letter, and if you have everything favorable, it is a foot patrolman in a car. That is what it really amounts to. But the workload has increased so much in the last few years, the man goes from assignment to assignment, except perhaps from 3 o'clock on in the morning or 4, no one sees him out when he is out trying the doors. But the workload has increased. Increased so much you can't operate with footmen alone.

Mr. NOLDE. In effect, you say you believe in the benefits of foot patrolmen, substantially; however, you just can't afford it.

Mr. CAMP. We couldn't. I don't know of any other city, outside of Washington where the funding is a little bit different than any other city.

In other words, St. Louis is a city, it is a separate entity, it is not even part of a county. I don't think any city can afford the amount of police protection people feel they should have, and I think the action is going to come in technological advancement, such as what we are experimenting here.

Mr. NOLDE. The pilot program is federally funded?

Mr. CAMP. We hope it will be federally funded.

Mr. NOLDE. It hasn't been so far.

Mr. CAMP. We have a grant in—an application for a grant. We are an impact city, incidentally. That is where we got the manpower for this foot patrol. I recommended the foot patrol and we are getting the mileage out of it. But I have to look down the road to the day when it won't be there.

Mr. LYNCH. In that regard, if I may, Mr. Nolde, how much money has gone to St. Louis under the impact program?

Mr. CAMP. It is apportioned out, $5 million.

Mr. LYNCH. Of the $5 million, how much will be made available to your police department?

Mr. CAMP. Well, as it looks, we will get the lion's share. I am not going to give the total dollar value because it would be a guess. When it first came out, it was for the cities but, naturally, the others in the administration of the justice program—there are the police, prose-

cutors, the courts, and corrections, in that order—will have to have something. If we intensify our efforts, bring in more people, they will have to handle more people, so it is understandable they will all share; but we have been getting the lion's share.

Mr. LYNCH. What is the size of your police department's annual budget?

Mr. CAMP. $34 million.

Mr. LYNCH. Thank you.

Mr. NOLDE. Colonel, what effect has your foot patrol program had in the area in which it is operative? I take it the crime rate has gone down?

Mr. CAMP. It has gone down. But the overall effect is what we are going to be measured on.

Mr. NOLDE. But has it gone down disproportionately more so than the entire city?

Mr. CAMP. It is understandable, sir, it would, when you saturate a neighborhood. They did this in New York years ago with the saturation program under a different name. If you can afford that much of a concentration of manpower, it is bound to go down.

Mr. NOLDE. I see. Thank you very much.

Mr. WINN. I just have two questions and then we are going to let you go.

Do you still have the horse patrol?

Mr. CAMPBELL. We just started the horse patrol. We had it years ago and brought it back.

Mr. WINN. In the parks?

Mr. CAMP. They started out in the parks and the demand for them over the city has been so great that in addition, outside of the high crowd season, or high crowd season in Forest Park, we will move them around. We use them downtown in the shopping area. We have taken them through the Carondelet Park, all of the big parks, and they are very popular. Not only from the standpoint of crime control, but it is from the public relations standpoint. The people feel they are getting more for their money from the police department.

Mr. WINN. I assume in Forest Park they are very impressive.

Do you use a scooter patrol? Do you have a scooter patrol like we have here?

Mr. CAMP. We had the Vesper-type scooter and we used it for a while. The maintenance costs on it were high. We are experimenting with several types of vehicles; the golf cart, it is slow, but has maneuverability.

Mr. WINN. A golf cart?

Mr. CAMP. Yes. We are going to get it. It is not a pursuit vehicle, it is just to give the footmen a greater range. We have used a Jeep because of its maneuverability. It goes over irregular terrain in Forest Park. That is a good vehicle. We hope to try the right-hand drive Jeep as the post office uses, where you can pull it into a filling station for the inspection of the premises. That is still a fundamental of foot patrol.

Mr. WINN. I hope they get there faster than the post office. Was there a problem with safety on the smaller, faster scooters?

Mr. CAMP. We tried them out down there. There was no safety problem; purely a maintenance problem.

Mr. WINN. In some cities they have a problem with the safety of the officer because they were open scooters and offer no protection for the officers at all.

Mr. CAMP. As far as weather and so forth?

Mr. WINN. Weather and cars. They are small enough they can't be seen very well, like a bicycle.

Mr. CAMP. The Cushman scooter the post office uses, and we use them for parking meters. That is a police vehicle that is closed in and it is high enough that it is not a traffic hazard. We are going to try that because we feel it is economic to operate and it is safe. But we are in touch with the Cushman people for that type of scooter.

Mr. WINN. Thank you very much, Colonel. We appreciate your appearing and I hope you have time to make your airplane. It looks like you do.

We will take a brief recess.

[A brief recess was taken.]

[The following material was received for the record:]

THE EVIDENCE TECHNICIAN UNIT, LABORATORY DIVISION, BUREAU OF SERVICES, POLICE DEPARTMENT, ST. LOUIS, MO., SGT. WILLIAM R. ARMSTRONG, ACTING COMMANDER

Prior to October 1970, patrol officers of the St. Louis Police Department were charged with the collection of physical evidence at the scenes of crimes they were investigating. Specialized work such as recovering latent prints or photographing the crime scenes required a special call to the organizations that provided the particular service and frequently a long wait while protecting the crime scene until the specialized units responded.

While this system works fairly well, it is obvious that the crime scenes could yield more evidence and that patrol time, so precious to a busy Department, was being wasted while the patrol officer collected the physical evidence and delivered it to the proper recipient.

Realizing the need for more competent and complete processing of crime scenes, in 1970 the St. Louis Police Department applied for and received a discretionary grant in the amount of $59,500 from the Department of Justice through the Law Enforcement Assistance Administration.

With the approval of this grant, specific steps were taken to form what is known as the "Evidence Technician Unit" or ETU.

The primary goals of the "ETU" were twofold; first, it was expected that properly trained Evidence Technicians could provide a complete and in depth search of crime scenes for physical evidence and producing as an end result more crime clearances; and second, a reduction in the amount of patrol time lost while patrol officers waited at the scenes of crime for members of the specialized units responded to those scenes or while the officers collected and delivered what physical evidence they could to the Laboratory.

Department planners decided the ETU would fulfill the three main functions in the evidence scheme. These three functions were: (1) Search for and recover latent fingerprints; (2) Photograph all crime scenes; and (3) Search for and collect physical evidence. It was also decided that the Evidence Technicians would not perform any examinations on evidence collected but would serve only to collect the evidence which is then turned over to the Laboratory or Identification Divisions staffs for evaluation and examination.

A manning level of twenty officers was established and it was decided these officers would work in uniform in easily recognized vehicles under radio control so the ETU would enjoy a high degree of mobility and visibility both while at a crime scene and while patrolling their assigned areas, thereby serving as a preventive patrol.

Operationally, the ETU was to be an around the clock operation assigned to the Laboratory Division of the Bureau of Services. It was emphasized that the Evidence Technicians would be on the street where they would be readily available when needed.

It was determined that the Unit would have three areas covering three continuous police districts each as their basic assigned areas. However, the dis-

patching supervisor was given the option of calling a unit from one area into another when the situation dictated such a move.

The requested funds enabled this Department to purchase and equip four van type trucks with the necessary equipment and supplies needed to process all crime scenes for physical evidence. Three of these vans were assigned to the operational areas mentioned above and the fourth was held in reserve as a replacement or supernumerary vehicle.

In addition, the funds provided the clerical help needed to staff the Laboratory on a twenty four hour, seven day a week basis to provide for the reception of evidentiary material at any time.

When the formation of the Evidence Technician Unit was announced, seventy-five patrolmen applied for assignment to the Unit. The twenty men finally assigned were selected from the initial group of applicants after a rigid selection process involving an aptitude test administered by a local university, prior experience as an officer and the fields of fingerprinting or photography education, and a personal and departmental background check.

The 20 officers selected for this assignment attended an 80 hour training course conducted by the local office of the Federal Bureau of Investigation and staff personnel of the Laboratory Division and the Identification Bureau of the St. Louis Police Department.

Subjects taught were photography and especially the use of the 4 x 5 press camera, how to search for and collect latent prints, and how to identify and collect physical evidence. At the end of the 80 hour course, the officers were given assignments in predetermined areas and for the first week on the street were accompanied by an experienced Identification man and a photographer who assisted in resolving any difficulties of a technical nature.

On October 19, 1970 the program went operational under radio control. The Evidence Technicians were directed to respond to all major crimes including but not limited to homicides, robberies, burglaries, bombings, arsons and recovered stolen autos. In addition, an interim order establishing the ETU function was distributed to all officers and the Departments micro-wave television system was utilized in explaining the operation to Department personnel.

When investigating officers determine that an ETU is required at a scene, they contact the radio dispatcher by radio or telephone and an ETU is dispatched to the scene.

Upon completing his assignment, the Evidence Technician completes a form report that provides the staff office all the statistical data needed to maintain close control over scheduling variables and work loads. Copies of this report known as the "Evidence Technicians Report" are distributed to all interested agencies and divisions of this Department.

The Evidence Technician's Program has been a positive and valuable addition to the St. Louis Police Department. Statistics indicate substantial improvements in all categories of evidence handled by that Unit. Especially rewarding was the number of crime scenes processed for fingerprints which increased fourfold over the years prior to the inception of the ETU. As a result of this increase, fingerprint identifications have increased 76% and are running at a rate that indicates a much higher increase for 1973.

An important adjunct to the above mentioned statistics is that the average response time for ETU service has decreased as operational and scheduling improvements have been made. In August of 1972, an expansion program financed by High Impact Funds allowed a substantial increase in the number of units on the street by providing overtime payments to present ETU personnel who work on their holidays, recreation and overtime days and vacations. The Impact Funds were also used to purchase, equip and field two additional vans on each of two watches that overlay the existing manning tables.

As a direct result of this expansion, ETU response time has dropped to an average time of twenty two minutes per radio assignment. This in itself represents an impressive savings of patrol time by allowing the patrol officer to return to service upon relinquishing the crime scene to the Evidence Technician.

The expansion of the ETU has also increased the number of crime scenes serviced by this Unit. ETU assignments have increased from an average of 32 daily to a present average of 40. This figure indicates the expanded effort has enabled our Department to competently process 36% of the index crimes that occur daily within the City of St. Louis.

United States Supreme Court decisions of the past decade have caused law enforcement agencies to place greater emphasis on physical evidence collected under legal conditions by competent personnel.

The needs of our modern society for a wide divergence of Police services have placed an imposing task on Police Administrators who, restricted in their efforts by lack of personnel and financial resources, must develop innovative ideas to make what resources they do have stretch to their outer limits.

The Evidence Technician Unit is such an idea. It has amply demonstrated that properly trained personnel given the proper equipment and leadership can increase the recovery of physical evidence and thereby increase crime clearances at the same time they save patrol time by relieving the patrol officers of routine non-patrol related tasks.

EVIDENCE TECHNICIAN UNIT COMPARATIVE STATISTICS, 1970–72

Functions	[1] 1970	1971	1972
Radio assignments	([2])	11,046	11,454
Fingerprint searches	2,104	8,445	8,248
Prints recovered	625	2,087	2,187
Prints identified	193	265	345
Photography (assignments)	3,512	3,943	3,808
Physical evidence (assignments)	[3] 23	4,294	4,776

[1] All functions performed by individual departmental units.
[2] None.
[3] Assignments wherein laboratory personnel are called to crime scenes for technical reasons.

Mr. STEIGER [presiding]. The committee will come to order please. Counsel, call the next witnesses.

Mr. LYNCH. Mr. Chairman, I am pleased to be able to introduce to the committee Edwin D. Heath, Jr., who currently serves as director of the criminal justice interface division of the Dallas Police Department. He is the Dallas Police Department's chief legal adviser. Mr. Heath has a bachelor's degree in business administration from SMU, a J.D. degree from South Texas College of Law, and also holds a master's degree and did postgraduate study in criminal law at Southern Methodist University School of Law.

Mr. Heath, if you have a prepared statement would you please present it to the committee at this time.

STATEMENT OF EDWIN D. HEATH, JR., DIRECTOR, CRIMINAL JUSTICE INTERFACE DIVISION, POLICE DEPARTMENT, DALLAS, TEX.; ACCOMPANIED BY ARLYN J. BROWN, DIRECTOR, COMMUNITY SERVICES DIVISION

Mr. HEATH. Mr. Chairman, members of the committee: My name is Edwin D. Heath, Jr. As Mr. Lynch told you, I serve as director of police with the Dallas, Tex., Police Department, where I am presently serving as director of the criminal justice interface division. In this capacity, I act as chief in-house legal adviser to the Dallas Police Department and assist the office of the city attorney in providing counsel to the police department on legal affairs.

My colleague is Arlyn J. Brown. He is also a director of police with the Dallas Police Department and presently commands the community services division. However, he previously commanded the planning and research section. He is going to direct you on our newly completed repeat offender study, which relates a pragmatic study on repeat offenders. I will start the testimony with the description of our legal adviser program.

We are appearing today at the invitation of your chairman and in behalf of Chief of Police Frank Dyson and the Dallas Police Depart-

ment. Your chairman has requested that we provide the committee with testimony relative to two programs of the Dallas Police Department—our legal adviser program and a study in criminal recidivism known as the "Dallas Repeat Offender Study."

[See material received for the record at the end of Mr. Heath's testimony.]

Mr. HEATH. The first subject upon which I have been asked to give testimony is the Dallas Police Department's legal adviser program. I would first like to give the committee some background information concerning the development of the police legal adviser concept.

The first police legal unit was formed in New York City in 1907, and has continued to this date, now being known as the legal division, under the general supervision of a deputy commissioner in charge of legal affairs. The concept grew very slowly, and it was not until 1967 that the President's Commission on Law Enforcement and Administration of Criminal Justice clearly articulated the need for a police legal unit in "Task Force Report: The Police." At that time, there were only 14 cities with legal advisers, and 6 of these were employed part time.

Following the establishment of what is now the Law Enforcement Assistance Administration, Federal funding was made available for the establishment of police legal units. With the impetus of Federal funding the program quickly grew to its present size, with over 174 law enforcement legal units—107 city, 34 county, 4 regional, 19 State, 3 university, and 7 Federal agencies.

The legal adviser program was greatly enhanced by the insight and vision of Prof. Fred Inbau of the Northwestern University School of Law. As a result of his efforts, the Ford Foundation in 1964 established a grant at Northwestern to begin a police legal adviser program. Selected attorneys were given fellowships to study criminal law and serve as interns with police departments. This program was continued until 1970, at which time it was transferred to the auspices of the International Association of Chiefs of Police (IACP).

The IACP established a police legal center, which serves as a clearinghouse for police legal units, published legal periodicals, and conducts annual training courses for newly appointed legal advisers. In 1972, the IACP created a legal officers section within its organization to foster professional development and legal services to police agencies. The legal advisers now meet with the IACP at their annual convention and conduct seminar-type discussions on police legal problems. The Law Enforcement Assistance Administration has just awarded the IACP a $107,204 technical assistance grant to promote training, publication, and development of new programs for police legal units.

The Dallas Police Department's legal unit was established on January 6, 1970, under a 1-year grant from the Law Enforcement Assistance Administration. The unit was originally staffed by two attorneys and a stenographer. The mission was threefold:

(1) To provide consultative legal advice to the chief of police and the command staff of the department;

(2) To provide liaison legal services to the offices of the city attorney, district attorney, and other criminal justice agencies; and

(3) To provide assistance in inservice and recruit training in legal subjects.

In 1973 the Law Enforcement Assistance Administration awarded the Dallas Police Department $186,000 under the impact program to increase the size of the legal unit to six attorneys and supporting staff. The thrust of the expanded program is to provide legal assistance to all members of the department in order to more effectively reduce street stranger-to-stranger crimes. The principal methods which we are utilizing include:

(1) On-call legal assistance to field personnel in major crime cases.

(2) Increased consultative legal services to all levels of personnel and not just the command and supervisory staff but the patrolmen on the beat.

(3) A review of all criminal case reports—except traffic cases—filed with the district attorney.

We are doing this because it was our observation we were losing approximately 30 percent of our cases through other "no bill," through improper case preparation, and other problems which we want to reduce. We also found following "no bills," we were losing approximately 19 percent of our cases by dismissals, which meant we were losing approximately 49 percent of our cases before they came up for trial.

We are not the only agency that has that problem. Washington, D.C., I might add, is addressing itself to the same type of problem. The main thing we hope to do through this grant is to improve the effectiveness of the prosecution effort through better training, more thorough investigation, and improved case preparation, and assist them in preparing better cases and screening out those cases that should be disposed of by some diversionary method in the criminal justice system.

That is about all I have. I passed out to the committee our "standards of Operating Procedure" which serve somewhat as a model, I hope, for all law enforcement agencies that are interested in the police legal adviser concept.

Director Brown, who is with me, would like to talk about the "Repeat Offender Study," which we have furnished you a copy of.

Mr. LYNCH. Director Heath, your testimony is very, very interesting, especially the fact that heretofore up to 49 percent of the cases that your department was making were lost along the way.

Mr. HEATH. That is right. These are part 1 index crimes.

Mr. LYNCH. Would your judgment be that that is not uncommon in other police agencies?

Mr. HEATH. Yes; I believe this is true. The ones that I have talked to that have kept realistic records find that this to be true. Although there are differences in procedures from one jurisdiction to another I think if they make a close analysis they will find the same thing is true.

Mr. LYNCH. I think that is exceedingly interesting. We have all heard, as you know, in the last several years a hue and cry that the courts are letting the criminals go. It seems to me what you are saying here this afternoon is perhaps sometimes it is not the courts. I think your department is to be commended for taking concerted action to try and prove it. I recognize these are sometimes very difficult issues.

Do you, in the normal course of your duties, sir, give legal training or quasi-legal training to policemen in your department?

Mr. HEATH. Yes, sir, I do. I have not done a lot of teaching in the last few months; however, my legal staff tries to teach the areas where we feel lawyers need to teach police, in police training. Such areas as search and seizure, laws of arrest, the laws of evidence, the Code of Criminal Procedure, this type of thing. We feel a lawyer can provide great assistance in training. Such things as traffic code and some of the municipal codes can be easily handled by an experienced sergeant, but in the areas that we feel are the most fluid we do try to do as much of the teaching and, hopefully, within the next few months, all of the teaching in these areas.

Mr. LYNCH. How large is the Dallas Police Department?

Mr. HEATH. We have personnel authorization for 2,000 sworn men. We are approximately 75 understrength because of an increase. We just newly increased and anticipate making that up soon. We have an additional 500 nonsworn people, some of which are parapolice; that is, people who do semipolice functions such as traffic direction, traffic control, and so forth.

Mr. LYNCH. Your total legal staff, including you, will be six attorneys?

Mr. HEATH. Six attorneys. One thing that is somewhat unique to our system is the fact that one of our division stations operates on somewhat of a precinct station. We have one of our stations as a pilot for a decentralization move within the department. We have one of our attorneys stationed there, and in the first 2 months of his work he is only getting 10 percent loss in his cases. But he is in a position where he works more closely with the officers, both the uniformed officers and the criminal investigators. He is more or less elbow to elbow with them and it is very relaxed, very informal. He is accessible to them.

Mr. LYNCH. I wonder if you could tell the committee something about the "on call" legal assistance program. Is that operational yet?

Mr. HEATH. It became operational this week.

Mr. LYNCH. What would a lawyer do when he goes out to a serious crime scene?

Mr. HEATH. If it is a serious crime scene, first of all, we do not go unless we are requested by a field supervisor and sometimes the type of questions we can ask will be handled over the telephone. Other times it requires we physically go to the scene. I was called in last week to a crime-against-persons case in what we thought at that time was a kidnaping case. They requested that I come in and provide them with some legal assistance.

Mr. LYNCH. Could you tell us what they asked you? What it was they needed to know?

Mr. HEATH. They wanted to know whether the particular type of crime involved was a kidnaping or whether it was in violation of the State law. As it turned out, it was an adoption arrangement, under the table variety, that didn't involve a criminal act. But we had a lot of misinformation and excited grandparents and other things involved. It turned out there was no criminal activity involved.

Mr. LYNCH. As a result of your being consulted no charges were filed?

Mr. HEATH. That is correct. No one was arrested. We brought the parties to the station and by talking with the people and by getting clear insight, having them communicate with one another on what

the problem was, no one was arrested; everybody was taken home by the officers. They might have been technically arrested in the sense they were brought to the station, but no record was made of that.

Mr. LYNCH. How much is the program of which you are director costing your department per annum?

Mr. HEATH. Well, the total grant for the first year is $186,000. A part of this was occasioned by the fact we also have a liaison unit that works with our courts which are composed of experienced police investigators. We have one of these at each one of our felony-level courts.

Mr. LYNCH. Are they under your direction?

Mr. HEATH. Yes, they are.

Mr. LYNCH. I wonder if you can tell the committee why you chose to call this division, or why Chief Dyson chose to call it, the Criminal Justice Interface Division?

Mr. HEATH. Well, sir, the concept was that this division would serve as a means for interfacing the investigative activities of the police agency with other criminal justice activitives: The prosecutors, the courts, the probation and parole people; that we would by some way interface these works together. It is a cumbersome title, and it is misleading in some ways.

Mr. LYNCH. I think it is a very interesting title. It implies a systems approach.

Mr. HEATH. This is what we are trying to do.

Mr. LYNCH. Do you, in fact, act as liaison, or do some of your attorneys act as liaison, with the other criminal justice agencies within your jurisdiction?

Mr. HEATH. Yes, we do. We didn't have an organized program of this as such, but we have a man, one of our attorneys, who meets regularly with the district attorney's office. We meet once a month with them on an informal sort of social basis. They have also provided us with a training course for four of my attorneys, a cooperative training course with the district attorney's office.

Mr. LYNCH. You testified that in the one precinct in the decentralization plan where you have one of your attorneys stationed, he has reduced "no bill" cases and dismissals; he has reduced his loss rate, so to speak, down to 10 percent.

Mr. HEATH. From approximately 30 percent down to 10 percent. We hope this figure will hold; this varies. It is like the weather, but we hope that by the end of the first year, we can have the "no bill" rate down, I hope, to 15 percent instead of 30.

Mr. LYNCH. Can a police department in 1973, in your judgment, function without its own in-house legal counsel responsible to the chief?

Mr. HEATH. Well, sir, it can, of course. Many of them do, but I think the department will operate much better if they can get the right kind of individual who will give them the legal advice, especially in the training area, and a lot of other in-house legal problems.

Mr. LYNCH. Thank you very much.

I have no further questions, Mr. Chairman.

Mr. STEIGER. In looking over your operating procedure I see an implication that one of your charges is to represent officers in the department, to give them legal advice when they request it. I assume that is legal advice, also, other than on police matters?

Mr. HEATH. No, sir, we try to discourage that, sir. We try to hold our legal advice strictly to the scope of employment-type functions. Occasionally, we might informally counsel with somebody that has a personal problem and perhaps direct him to his private attorney—maybe just point him in the right direction—but we make no effort to give in-house, free legal service to employees as a job benefit.

Mr. STEIGER. How about a member of the police personnel charged with a crime in the line of duty? Would you be charged with their defense?

Mr. HEATH. No, sir, I would not. If they were actually charged with criminal violation, their employment would be terminated with the department, in all likelihood. They would have to have their own private counsel. I occasionally do join with the city attorney's office in defending officers in civil cases where this arises within the scope of their employment. I am the only one that does that at this time, because the attorneys I have on the grant I want to be working with the men in the field and working directly on the crime problem. Myself, and one other attorney who is not in the grant, spent a little bit of time on that. This varies from time to time, depending on the type.

Mr. STEIGER. Is the function of the office to defend police personnel who are civilly charged in the line of duty?

Mr. HEATH. I see it as an assistant function that should be provided by the city attorney, the corporation counsel, or something like that. I don't think it should be the legal adviser's job to do this, because I feel that he gets heavily involved in litigation and his priority should be directed more toward the enforcement effort. I think he can provide a lot of expertise and assistance to the corporation counsel or the city attorney or the city solicitor, whatever term you may use in your jurisdiction, in preparing cases for trial. Save them a lot of man-hours in investigation and getting a case ready for trial. And I don't see that as a prime function because I feel like it would too heavily take time that could be better spent in directing more toward the crime effort.

Mr. STEIGER. How long has this been in existence now?

Mr. HEATH. Since January 6, 1970.

Mr. STEIGER. What is the reduction in "no bills" and dismissals; what are the percentages for 1971 and 1972?

Mr. HEATH. Maybe I didn't articulate that clearly. We didn't get into this "no bill" and dismissal review of cases as such until March of this year.

Mr. STEIGER. I see.

Mr. HEATH. Prior to that time it was just a broad consultative-type thing, a liaison function, a training function. We really did the case-review type of things.

Mr. STEIGER. So 49 percent dismissal and "no bills" would be included in the period you were involved?

Mr. HEATH. Right.

Mr. STEIGER. Mr. Winn?

Mr. WINN. Mr. Heath, I am not a lawyer; as a matter of fact, Mr. Steiger and I are the only two on the whole committee that are not lawyers. What types of civil cases were some of your patrolmen involved in?

Mr. HEATH. What would they be involved in? It runs the gamut. We have some that are sued for allegedly false arrest, and others that have been sued for various civil rights violations.

Mr. WINN. Give us some examples.

Mr. HEATH. Give us some examples? All right, sir.

Mr. WINN. What do you have the most of? What are they most accused of, false arrest?

Mr. HEATH. Most of them claim they were mistreated by the officers following arrest, or that they were illegally detained on an improper charge. Fortunately, so far, we have lost none of these.

Mr. WINN. Are the charges brought by individuals, civil rights groups, or who?

Mr. HEATH. A variety; some are brought by civil rights groups, some are brought by individual counsel, some are brought by private counsel.

Mr. WINN. Do you work closely with some of the leading civil rights people as far as meeting and discussing these mutual problems with them?

Mr. HEATH. Well, sir, actually, they don't have any one body that speaks for them, but I have talked to various groups at various times, including some at SMU, and also with the bar association. But, so far, I am willing to meet with anybody any time. Hopefully, we try to learn something out of these suits to improve our training. Some of them, I think, are maybe scurriously brought, I guess, but we do assess the training need out of it; that the officer did reveal something that he shouldn't have done and we try to turn this into our recruit and inservice training program so the thing won't happen again. Occasionally, we will have to write a policy statement, a general order, a special order, a memorandum-type order, to correct the situation where there is a gap we don't have covered.

Mr. WINN. You haven't lost any?

Mr. HEATH. So far we haven't. I don't like to say that——

Mr. WINN. I think that is very commendable. I think it shows your training has made your officers and patrolmen aware of the problems in dealing with the public.

Mr. HEATH. We try to make this. We have a community services program; we have a program where we try to make the officers aware of these things, but it is sometimes difficult when you are on the street.

Mr. WINN. A lot of times they can't always pull out their manual.

Mr. HEATH. This is true.

Mr. WINN. Do you have refresher courses from time to time?

Mr. HEATH. Yes, sir; we do. What we try to do, although we are not always successful in doing it, is give each officer 2 days a year training—one in the fall and one in the spring—in which he goes to the Academy for 8 hours of training in the way of a general refresher. We also have other specialized training programs that go on as we develop new programs. In our tactical or special operations division we have them working on preventive crime programs, which I am a little fuzzy on frankly, but we have put on some special training for newly made supervisors, newly made detectives. We normally try to give them some type of preservice training.

Mr. WINN. When did you get your money from LEAA?

Mr. HEATH. The first year, 1970, partial funding, and 1971 and 1972 on the city budget, and they are partially LEAA, the big part, and then our grant application, the city council as a part of the grant application agreed to continue this program beyond the period of Federal funding, if it proved successful. We made a commitment to that.

Mr. WINN. I was going to ask, if you didn't get the LEAA funds do you think the city would still pick up the tab?

Mr. HEATH. Yes, sir; I do. It was positively written in the grant they would and council approved the grant that way.

Mr. WINN. Thank you very much. No further questions.

Mr. STEIGER. I wouldn't want Mr. Lynch's comment that the 49-percent dismissal of "no bills" were a reflection of some inadequacy in the personnel of the department to go unchallenged. From my lay view, the grounds for dismissal on "no bill" are frequently just as spurious as some of the civil actions to which you referred that are brought against police personnel. While I think the defense against them that you are providing is excellent, I don't think you are ever going to eliminate that kind of activity.

Mr. HEATH. No, sir; you will not.

Mr. STEIGER. It is a fact of life, unfortunately, and it is one that I, as my colleague points out, as a nonmember of the bar, I blame the bar association for condoning the kind of defense activities that are now becoming acceptable practice today across the Nation. The kind of thing that frequently results in "no bill" and dismissals, in which there is no defense on the part of the department.

But I just want the record to reflect my own personal view on that.

I believe Director Brown has an offering for us. If you would proceed with that, Mr. Brown, we would appreciate it.

Statement of Arlyn J. Brown

Mr. BROWN. Thank you, Mr. Chairman.

To begin with, I would like to say we will be discussing this handout. I hope you have them on your desk. This is a policeman's view of what is happening in our criminal justice system.

I would also like to point out to the committee, Mr. Lynch, that it is not a federally funded program in any way. This was an in-house development by my division, planning, and research division, of the police department. Our charge from Chief Dyson was to determine how much crime was being committed in Dallas by repeat offenders. That is a very difficult assignment when you are not arresting all of the people who commit crime.

However, we embarked on it, and what you have before you is the consequence of our efforts. The term "repeat offender" for the purposes of this study differs from a definition of "recidivist" or indeed a definition of "repeat offender" in many instances. We use the term "repeat offender" to mean anyone who had previously been arrested and filed upon by a police agency for a felony or major misdemeanor, and who was subsequently rearrested and charged with another felony or major misdemeanor or offense by the Dallas police.

The methodology used in our research included: (1) A review of the literature; (2) compilation of statistics on jail and prison inmates;

(3) interviews with inmates in the Texas Department of Corrections in Huntsville; and (4) longitudinal tracking of our cases to assess their progress and disposition.

From this study we were able to document the following conclusions:

(1) Almost 60 percent of all Dallas crime is committed by repeat offenders;

(2) Repeat offenders account for a disproportionate number of crime when compared with first offenders. The ratio in our study was 90 to 10 crimes cleared by arrest of repeat offender versus first offender; and

(3) A major crime distribution study revealed quite a number of offsetting repeat offender cases.

For instance, out of our 1,067 whom we chose at random for our longitudinal research we found 49 of them were murderers or were charged with murders. But 57 percent of those were repeat offenders; 40 of those 1,067 were charged with rape and, in this particular instance, less than 50 percent were repeat offenders and that was the only category in the seven index crime. In robbery, 107 of them had been charged with robbery and 6.45 percent were repeat offenders. I will not belabor the point but the rest of the crime categories had more than 50 percent experience in repeat offenders having committed the crime.

Mr. WINN. Were they all 50 percent or more?

Mr. BROWN. Except rape. Rape was the only one, Mr. Winn. Our next conclusion was that the largest fallout of the system occurs between—and I use "fallout" in the system—let me stop a second to explain that. If every report of a crime resulted in a prosecution for that crime you might consider that to be an optimum system and anything that did not might be considered as fallout. Any crime that did not result in an arrest and prosecution might be considered a fallout.

We determined that the major fallout in that system resulted between the reporting of the crime and the arrest and that fallout was somewhere around 70 percent. In other words, 70 percent of the reported crimes never were cleared, and between arrests and case filed. In this instance, we determined our prosecution rate was 49.5 percent of the cases we cleared. We filed a case. I hope the committee is recognizing this is a rather objective study and it takes a pretty good swipe at some of our own practices.

Our next determination was that repeat offenders admitted to—this is selective—55 times as many crimes in Huntsville as first offenders. Repeat offenders often amass huge bonds while continuing their careers in crime. One offender in Dallas, during our research, had $108,000 worth of outstanding bonds.

There was an average of 9 months delay from arrest to trial in felony cases. This is true despite the fact that the courts of Dallas County dispose of more cases annually than any other county in the State.

Information concerning criminal justice as a system is almost impossible to obtain due to antiquated information handling systems.

It turns out that the criminal justice system in our community and possibly many others grew like Topsy from a sheriff or town marshal who kept nondescript-type records to what we now have. It was impossible for my researchers to determine, for instance, what was the

disposition of all of the burglary cases in Dallas County for any given period of time. They are not filed that way. They are only filed by the name of the defendant. Consequently, it took a manual hand search all of the way through the system to develop the information we developed on these 1,067 individual cases.

Our final conclusion was concurrent sentencing; that is, where a man would be arrested and charged with more than one case who would be arrested and allowed to serve his sentences all at the same time for those cases. Concurrent sentencing coupled with bond abuse and long trial delays create a "free crime ethic" in the criminal subculture. In other words, anything he did after the first one was free. And it creates this ethic, or this feeling, or belief, or reality, in the criminal subculture. Indeed, it creates an atmosphere where if a man is arrested and charged with a crime—who may lose his job by virtue of that action, who indeed may incur attorney expenses and bond expenses and other factors, who is allowed to be on the street for 9 months awaiting this criminal action against him—it might be said he is indeed driven to create additional crimes. And certainly, if there is no sanction against him should he commit additional crimes I think that upholds our belief. There is this attitude in the criminal subculture.

Chairman PEPPER. Mr. Brown, unfortunately, I missed the first part of your testimony. You seem to be presenting a most interesting study having to do with recidivism. I would appreciate it if you would summarize what you discovered in this study and what your recommendations are growing out of the study you have made as to how crime could be averted.

Mr. BROWN. Yes, sir. To begin with, our charge, Mr. Pepper, from Chief Dyson, our chief, was to find out how much crime is being committed in Dallas by repeat offenders. Additionally, I pointed out it is very difficult to determine who is committing your crime when you are only clearing 25 percent of those crimes, or roughly, 25 percent of those crimes. So, our research largely has to draw on circumstantial evidence against this repeat offender. However, we documented a number of things that we were able to prove, using random sampling techniques, using 1,067 randomly chosen individual cases filed by the Dallas Police Department, and then tracking them.

It was our overall conclusion that almost 60 percent of the crime in Dallas, is being committed by these repeat offenders, and that they commit a disproportionate number of crimes.

Chairman PEPPER. Did you go back in your study to determine whether or not these repeat offenders had any juvenile delinquency record, or how early in the life of those individuals their dereliction had occurred.

Mr. BROWN. We asked that question. We interviewed 99 inmates from Dallas in the diagnostic center of the department of corrections in Huntsville, and we asked that question. We were unable to track these people through into the juvenile system and did not, indeed, try to do that. But quite a few of those people indicated—and we have the exact number somewhere in this report—they had previously been handled as juveniles.

Chairman PEPPER. I asked that question because I have had a feeling from the testimony that we received from numerous juvenile court judges that a large part, perhaps the majority, if not three-fourths

of the people, who are later found to be in penal institutions as a result of being convicted of crime started their delinquency, their personal conduct, below 20 years of age.

Mr. BROWN. We did not try to carry into the juvenile system, inasmuch as those records quite often are even more difficult to obtain than the records we were searching. Significantly, however, we did note in a study called Delinquency in a Birth Cohort by three gentlemen, Mr. Wolfgang, Mr. Figlio, and Mr. Sellin—and it is in the report here—it was their finding that a very small percent of both cohort—you know, that is anyone who is born during the same year—and it was their finding that they took all of the children born in a mid-1940 year in Philadelphia, and they tracked these people throughout their young adult life. They found that approximately 18 percent of those risk cohorts were responsible for over 50 percent of the crimes committed by the entire universe of that study. Which indicates, to me at least, that the chronic juvenile offender is the one who carries over and becomes your repeating offender. I think this would probably bear out.

Chairman PEPPER. These relatively few people are responsible for most of the crime; is that the case?

Mr. BROWN. Yes, sir.

Chairman PEPPER. The problem is what to do with those relatively few people. Did you come up with recommendations?

Mr. BROWN. Yes, we did. We made five recommendations based on this study. The first is to control the repeat offender; the criminal justice system must become a true system. By this, we mean a system that develops information about itself, which allows an overview of it, which allows you to evaluate it and which is interrelated, one component complementing and indeed functioning hand in hand with the other component.

Second, we recommend there should be a prosecution policy within a police department which is understood by each component of the criminal justice system, by the public, and most importantly by the criminal himself.

We found, for instance, our prosecution policy in the department was not firm, in that we really didn't understand ourselves, what we were doing about our prosecutions and, indeed, we found that we had detectives and supervisors making decisions about whether or not to file cases. It was our conclusion this was probably not a prerogative of the police department but rather a prerogative of the district attorney who is constituted with that responsibility. And if we make that determination off in a corner, then the district attorney doesn't have sufficient information to make an intelligent determination as to how many cases to file or what to ask for in regard to his prosecution.

Next, we recommend that in order to reduce crime the criminal court should serve justice as rapidly as is practicable after indictment and, certainly, sooner than 9 months.

Chairman PEPPER. Has your supreme court or your highest appellate court imposed any limit; that is, fixed any time within which defendants charged with crime would be brought to trial?

Mr. BROWN. No, sir.

Chairman PEPPER. Our supreme court in Florida is pretty firm. They fixed a 60-day period. In the beginning many cases were dismissed because the prosecution had not brought the defendant to

trial within that period. There seems to be a growing tendency toward that kind of action on the part of the appellate court as one way to shorten the delay between the time the man is charged with a crime and the time he is brought to trial.

Mr. BROWN. The legislature of the State should pass laws that would increase the difficulty faced by a repeat offender in obtaining subsequent bonds when he commits further offenses while on bond and should devise additional sanctions for offenses committed while on bond.

The legislators of the State should develop legislation preventing the use of concurrent sentences for persons who are repeat offenders.

Chairman PEPPER. Do you have the repeat offender log where you get a more severe sentence after you have been convicted for two felonies and then a third one?

Mr. BROWN. Yes, sir.

Chairman PEPPER. Do you have a much heavier sentence imposed?

Mr. BROWN. It was our finding that we do have a habitual offender law in Texas, and it was our finding in our cases—and I say, "our cases" meaning the Dallas Police Department cases filed—that the habitual offender law was very seldom invoked.

Chairman PEPPER. Did you go into the question of the correctional institutions and what should be done? You are talking now about a relatively small number of people who commit most of the crime. It is one thing to lock them up in an institution; it is another thing to know what to do with them to prevent them from becoming recidivists. Did you go into that study?

Mr. BROWN. No, we didn't, Mr. Pepper. I think probably that is out of our line. We have some ideas and attitudes about that, but being police oriented and our studies being in the realm of police work I am afraid we would not be very good witnesses in that respect.

That completes my statement.

Mr. LYNCH. Director Brown, I wonder if you can tell the committee how many copies of the study were published and to whom they were disseminated?

Mr. BROWN. We printed 500 copies of it. We have disseminated them to the Texas Criminal Justice Council, Dallas area, our own governing body, and the county governing body.

Mr. LYNCH. Has this study been printed in your local newspaper?

Mr. BROWN. Some portions and excerpts have been printed. We have also made it available to LEAA, their reference library, and IACP, and a number of other assorted people we thought would be interested.

Mr. LYNCH. Has this study been sent to your local prosecutor and court officials?

Mr. BROWN. Absolutely; they saw it in its early development stage, however.

Mr. BROWN. Have any changes in the system been brought about based on your findings?

Mr. BROWN. Yes, sir. I am happy to say one of the things we did was do a lapsed-time study on courts. Our prosecutor, in a very positive manner, took that lapsed-time study and went to Austin and justified two new courts for Dallas. Secondly, the Dallas Area of Criminal Justice Council which consists of our county commissioners, the city

managers, and individuals such as that, have authorized Chief Dyson to form a task force consisting of he, Judge Mead of Dallas, the sheriff, Mr. Ledbetter, who is our probation officer. This task force is to deal with the recommendations and the findings of this study.

Mr. LYNCH. Other than the Washington, D.C., study, which from my understanding was somewhat more modest in scope than this, do you know of any police department which has commissioned its own recidivism study?

Mr. BROWN. No, sir. I don't, Mr. Lynch.

Mr. LYNCH. Mr. Chairman, I have no further questions, but I would ask that this "Dallas Repeat Offender Study" be incorporated in our record here today.

Chairman PEPPER. Without objection, it will be received for the record.

[For the study mentioned above, see material received for the record at the end of Mr. Heath's testimony.]

Chairman PEPPER. Mr. Steiger?

Mr. STEIGER. Mr. Chairman, I would like to congratulate Director Brown for what is clearly as an objective approach to this problem as I have seen.

Mr. BROWN. Thank you.

Mr. STEIGER. The only question I have, Mr. Brown, and I suspect it would be a combination of item No. 3, in which you admonish the court to serve justice as rapidly as possible, and item No. 5, in which you disavow the usage of the concurrent sentencing, both of which led to what you call the crime-free ethic in which once a man is filed, he is fixed for whatever else he chooses to do.

You would be interested to know this is not unique. In fact, in Washington, we have perhaps the biggest volume of that kind of activity because we are under the Federal Bail Bond Act, with six indexes of bail under which a person can be released. The bail is valid for all but it is creating havoc.

The result is, of course, when the guy is raising money for his defense—which I don't buy, frankly—that guy goes out and proceeds to steal as rapidly as possible, because he is going to go to jail and he wants a nest egg when he gets out. He won't suffer the consequences of subsequent crimes because of the backlog in the courts, which leads to the plea bargaining, which means he can select the crime he can most likely serve time for and cop out on that one, in exchange to waiving on the others.

You didn't address yourself to that in your remarks. Maybe there is no plea bargaining in Dallas.

Mr. BROWN. Yes; there is.

Mr. STEIGER. I suspected there might be. Actually, I think your conclusions are certainly very valid. There is, obviously, no way to legislate plea bargaining out of existence. On the other hand, clearly without a backlog and the pressures on the courts, the impetus of plea bargaining will be reduced. So I think you have hit the nail on the head. I would be very interested to see if your recommendations are implemented.

I think it would be conjecture on your part to guess how far it will be implemented.

Mr. BROWN. I can report to you some of these things that are happening. As I mentioned before, we do now have 2,000 impact courts.

I say impact courts meaning they are under the impact program in Dallas, Dallas being another impact city. This task force that Chief Dyson chairs has begun to try to understand if it is possible to prioritize cases. These questions are being asked now and a system of prioritization has been proposed. However, there are legal implications there and I am sure my colleague, Mr. Heath, will get a chance to tell us if those are proper things to do. But prioritization of cases against a person who has shown himself in the instance of the one person I noted, who had $108,000 worth of bonds, would occur to me as a policeman that it would not to be an unrealistic thing to give this man a little more priority of trial than maybe a first offender.

Mr. STEIGER. Thank you. No further questions.

Chairman PEPPER. Mr. Winn?

Mr. WINN. Mr. Chairman, I have no questions. I think your summary is very good, except I question your third recommendation because I don't think it really says anything: "In order to reduce crime, the criminal court should serve justice as rapidly as is practical after indictment."

To me it is weak. You have such a variation of opinion of what is "as rapidly as practical." I mean, I think you left it open-end and, as thorough as the rest of the study is—and I think, Director Brown, this is an outstanding document. I certainly intend to try to get a few extra copies and put it in the hands of some of my law enforcement people in my area.

Mr. BROWN. We will be happy to respond to any request to our department. If you just address them to me, we would be happy. I might say, in response to that question, Mr. Winn, I was at a loss to say what is practical, too. Justice Burger, however, had some points on that, as I recall. It was something like—I am sure my colleague would know better than I—2 months.

Mr. WINN. Yes. I think all of us have seen publicized 60 to 90 days; that we hear frequently, as you pointed out.

I have been reading pages 12 and 13, some of these Dallas case histories. They read like case histories of city after city after city that this committee has visited. Some have 15 to 20 different type offenses and still these people are right back on the streets; which is your main concern.

Until yesterday, I was not aware we had any room in our jails in the District of Columbia. For 4 years I was on the District of Columbia Committee, and we heard there was no room for offenders. They had to let them go because they had no place to put them, particularly young people. They put them in with hardened criminals or sent them out to Lorton, which is no bargain.

The facilities are another problem. You could probably do another study, I am sure, on the various facilities around.

I want to commend you on your study. I don't know whether 60 or 90 days is right, but this 9-month stuff that is going on is ridiculous. Thank you.

Mr. HEATH. Mr. Chairman, I would like to make a statement to Mr. Steiger to clear the record on one question he asked me.

Sir, you asked me about the suits that we had been involved in. There was one case that we did settle out of court. So, when I told you we had not lost any, I did not mean to take that one into consideration.

Also, I want to exclude traffic accidents from that, because I don't get involved in that type of defense.

Chairman PEPPER. Director Brown, I want to join my colleagues in commending you and your department in the highest way for this magnificent study you made and presented. I would certainly like to get extra copies myself.

Do you know of any other department, agency, or authority anywhere in the country that has made similar studies? We would like to have access to them.

Mr. BROWN. Yes, sir. The FBI does an excellent study, a careers in crime study. As a matter of fact, we have documented some of their findings in our study. I know Mr. Adimand Keene with the FBI in the Crime Reporting Section, I think, puts that study together, and he has been most helpful and supportive of us.

Chairman PEPPER. You are getting at the very heart of this problem. I talked to a chief of police the other day, in company with our two counsels, and I was a little discouraged when I left the conference with this chief of police because I thought he sort of assumed there were such a number of people that were going to commit crime, but there wasn't an awful lot you could do. You practically had to accept the fact there were certain people that had some sort of predilection toward crime and some sort of antisocial attitude or character that meant as long as those people were in our society you could expect to see them committing crimes and expect to see crime committed.

You go through the prisons, as all of us have done many times, and you will see types of people; most of them relatively uneducated people with little skills, a lot of them school dropouts and the like. I am not saying poverty in any sense of the word justifies anybody committing crime, but it does look like there are certain people who have some sort of instability of character, some sort of peculiar makeup that gets them into crime or permits them to get into the criminal group; doesn't it?

Mr. BROWN. Yes; it does.

Chairman PEPPER. If we could go back far enough in their lives and find the first manifestation of that antisocial attitude it would obviously be helpful in trying to keep them from becoming criminals when they grow to an older age. I have heard schoolteachers say, that you observe in the lowest grades, second or third grade, symptoms of activities on the part of young people that are warning signs that they feel may be of that peculiar constitution that permits them or stimulates them later toward crime.

It would seem to me to be a study that should be carefully made as to whether we might put emphasis on trying to straighten out those

whose lives are beginning to be warped, as it were, at a tender age and, in that way, maybe, prevent crime.

Have you any comment on that?

Mr. BROWN. Yes, I do. I agree with you, sir. Chief Dyson agrees with you, because we have discussed this a number of times.

One of the people we spoke to about this very problem was Dr. Holbrook, Dr. John Holbrook, chief psychiatrist for the Texas Department of Corrections. Dr. Holbrook is very familiar with workings of the sociopathic mind. It is his opinion—we sought the need to say some of the things Dr. Holbrook said to us, although we were not able to conclude or go further into that—sociopaths can be identified and that he is responsible for many of our unsolved crimes, being a smarter criminal than the ones he accuses us of catching. And he says you are only catching the low and slow ones, you are not catching the fast criminals.

He challenged us and challenged Chief Dyson, and we agree with you, Mr. Pepper, that there should be a way to hopefully help the individual before he gets into this role of repeating. I think it will probably take someone with more intellect than a policeman like myself, but these are fascinating things. If we could short stop that career early it would just be tremendous.

Chairman PEPPER. If a child has an ear defect, or speech defect, or sight defect, or stammering defect, and certain other physical defects, we have programs for them. But if the child develops that instability or incorrigibility, that indicates that he is becoming an antisocial person, we don't have many programs for them; do we?

Mr. BROWN. No, sir.

Chairman PEPPER. Thank you very much.

Please carry the commendation of this committee to your department. We commend you for what you have done.

Mr. BROWN. I certainly will. And, again, Chief Dyson, had he not had legislative problems in Austin that were very, very pressing and very intense would have been here. He asked us to assure you that he would.

Chairman PEPPER. Thank you.

[The following material, previously referred to, was received for the record:]

DALLAS POLICE DEPARTMENT
CRIMINAL JUSTICE INTERFACE DIVISION

Operating Procedure

DIVISION PURPOSES AND FUNCTIONS

The purpose and function of the Criminal Justice Interface Division is:

1. To provide consultative legal services to the Chief of Police, the Assistant Chiefs of Police, supervisory officers and other personnel of the Department;

2. To provide liaison services between the Police Department, the City Attorney's Office, the District Attorney's Office, the Federal Prosecuting Agencies, and other agencies of the criminal justice system;

3. To provide case review on all prosecution reports of IMPACT (stranger-to-stranger) and Part I, F.B.I. Index Crimes submitted to the Office of the District Attorney for prosecution;

4. To monitor the disposition of criminal cases by the Office of the District Attorney. Cases resulting in "no-bill" actions by the Dallas County Grand Jury or dismissals by the courts will be closely monitored for weaknesses or deficiencies in police investigation, reporting techniques, and case preparation;

5. To assist in the development of policy statements such as special orders, rules and regulations which affect legal procedures of the Department;

6. To assist the Director of Training in preparing material and instructing on legal matters;

7. To assist in legal proceedings affecting Departmental personnel as requested by the City Attorney and District Attorney or specifically directed by the Chief of Police;

8. To assist on special projects and programs established by the Chief of Police, and;

9. To provide liaison with the Dallas Bar and the State Bar of Texas on legal matters affecting police operations.

THE IMPACT PROGRAM

On December 7, 1972, the Dallas Police Department made an application for the three (3) year grant under the provisions of the "IMPACT" program of the Law Enforcement Assistance Administration of the United States Department of Justice for an expansion of the Criminal Justice Interface Division to accomplish the following goals and objectives:

1. Implement new systems and procedures to more effectively handle offenders of these specific types of crimes. (IMPACT stranger-to-stranger crimes).

2. Improve organizational effectiveness of the criminal justice system.

3. Promote coordination and free exchange of information among criminal justice entities.

On January 15, 1973, this grant application was approved by the Texas Criminal Justice Council which is the state criminal justice planning agency for the State of Texas. Funding was received in February of 1973, and the program became operational on March 1, 1973. To accomplish these goals and objectives, the following specific objectives were set for the Criminal Justice Interface Division:

1. To reduce the rate of "no-bill" actions by the Dallas County Grand Jury in Part I Index Crimes - specifically, stranger-to-stranger crimes - from the current rate of approximately 30% to a maximum of 20% within three years: 2% the first year, 4% the second year, and 4% the third year. If this objective can be accomplished in less time, a further reduction will be sought.

2. To reduce the number of cases dismissed after indictment or the filing of a complaint-information in major misdemeanor cases, in stranger-to-stranger crimes, from approximately 18% to a maximum of 12% within three years: 2% the first year, 2% the second year, and 2% the third year. If this objective can be accomplished in less time, a further reduction will be sought.

All programs of the Criminal Justice Interface Division will be directed to the accomplishment of these objectives.

DIVISION PROCEDURES

I. Command and Accountability

A. The Criminal Justice Interface Division shall be commanded by a Director, who is a licensed attorney, and is directly responsible to the Assistant Chief of the Special Services Bureau for the performance of Division purposes and functions.

B. The Division shall have such other personnel as may be authorized by the Chief of Police.

II. Command Responsibility

A. The Commander of the Criminal Justice Interface Division will be responsible for providing consultative legal services to the Chief of Police, the Assistant Chiefs of Police, supervisory officers and other personnel of the Department. He shall conduct such other liaison missions as the Chief of Police shall request.

B. Assistant City Attorneys assigned to the Police Department will be under the day-to-day direction of the Division Commander, but shall remain under the overall jurisdiction of the City Attorney. All personnel actions involving these personnel will be administered by the City Attorney.

III. Hours of Assignments

A. The normal hours of duty for the Criminal Justice Interface Division shall be from 8:15 a.m. until 5:15 p.m., Monday through Friday. The sworn personnel of the Criminal Justice Interface Division shall work such hours as are necessary to fulfill their mission regardless of the time or date.

B. Attorneys assigned to the Division will be subject to call twenty-four (24) hours a day, seven days a week. One attorney will be designated as "Duty Legal Advisor" on a rotating, bi-weekly basis, and will be called to the scene of all major crimes.

IV. Personnel Authorizations

A. The following personnel will be authorized by the Police Department:

1. Director of Police - Division Commander
2. Director of Police - Chief of Court Liaison Services
3. Sergeant of Police (1) - Supervise court liaison investigators
4. Investigators/Patrolman (11) - Court Liaison Services
   a. 1 for each of the nine district courts
   b. 1 for the juvenile courts
   c. 1 for the County Juvenile Department
5. Police Clerk 6 (1) - Supervise office administration
6. Stenographer 5 (2) - Secretarial services

B. The following personnel will be authorized for assignment to the Police Department by the Office of the City Attorney:

1. Assistant City Attorney Grade 19 (3)
2. Assistant City Attorney Grade 16 (1)

LEGAL SERVICES PROCEDURES

I. Consultative legal services

A. Consultative legal services will be given to the Chief of Police, Assistant Chiefs of Police, command, and supervisory personnel of the Dallas Police Department.

B. Consultative legal services to police officers and civilian personnel will be given through their immediate supervisors.

C. Consultative legal services will not be given to other departments of the City of Dallas. Such inquiries will be referred to the Office of the City Attorney.

II. Nature of legal services

A. Legal advice will be given as advice and not as a command or direction to personnel requesting advice. In serious cases, the attorney receiving requests will contact the Director of the Criminal Justice Interface Division.

B. Legal advice will not be given to settle disputes between superior and subordinate personnel except where such advice has direct bearing on legal matters affecting the Department.

III. Internal Affairs Investigations and Complaints

A. Attorneys and other personnel of the Criminal Justice Interface Division will not receive complaints about police personnel or involve their actions in internal complaint cases except on direction of the Director of the Criminal Justice Interface Division.

B. Complaints against police department personnel will be referred directly to the Internal Affairs Division in accordance with General Order 70-6.

IV. Public Inquires

A. Requests from members of the public for information will be honored insofar as it does not amount to public legal advice.

B. Persons seeking legal advice should be referred to the Dallas Bar Association Lawyer Referral Service or the Legal Aid Unit of Dallas County as appropriate.

V. Field Services

A. One attorney of the Criminal Justice Interface Division will be designated as the "Duty Legal Advisor" for a two-week period on a rotation basis.

B. The Duty Legal Advisor will respond to field requests for legal services on any major crime.

C. The Duty Legal Advisor will be expected to respond to any emergency call from the Communications Center where field legal services are needed on major crimes on a twenty-four (24) hour basis.

VI. Case review procedures

A. An attorney will review all IMPACT (stranger-to-stranger) crime prosecution reports before they are filed with the Office of the District Attorney. All Part I Index Crimes as classified by the Federal Bureau of Investigation Uniform Crime Reporting System will also be reviewed.

B. The review of prosecution reports will not delay the filing of criminal cases as required by General Order 70-2. A review may be made immediately after filing where a review would delay the processing of a criminal case.

C. Any offense indicating the need for further investigation will be returned to the appropriate investigating section through their Division Commander. A log will be maintained of all cases returned for further investigation or information.

VII. Review of "no-billed" and dismissed cases

A. Attorneys will review all criminal cases involving IMPACT offenses and Part I Index Crime offenses which are "no-billed" by the Dallas County Grand Jury. The deliberations of the Grand Jury are secret by law. Review and comments will be made only with the Assistant District Attorney assigned to the Grand Jury. Individual grand jurors will never be questioned about their actions.

B. Cases involving IMPACT crimes and Part I Index crimes which are dismissed after indictment but before trial will be reviewed by an attorney. Personnel assigned as court liaison investigators will make a record of all cases

dismissed and report them through their supervisory personnel to the Director of the Criminal Justice Interface Division. An attorney will review any such dismissed case with the chief prosecutor of the court that the case was dismissed in to determine if the dismissal was the result of a failure of police investigation or other police procedures. Records will be maintained on the causes of dismissals which relate to police procedures and action will be taken to eliminate deficient investigation through training, improved investigative procedures, or improved reporting.

VIII. Major Crime Investigation Assistance

A. An attorney will be assigned on request to assist an investigating officer on any major crime requiring legal advice or assistance. Major crimes shall include - but not be limited to - murder, armed robbery, kidnapping, burglary, theft, and narcotics violations.

B. An attorney will be notified and will immediately assist in the investigation of any case where deadly force is used by or against a member of the Department which results in death or serious bodily injury.

IX. Civil Distrubances or Mass Arrests

A. In the event of riot, civil disturbance, disorder, or unlawful assembly, an attorney shall report to the field command post or the Office of the Chief, as may be appopriate.

B. The Director of the Criminal Justice Interface Division shall act as liaison with the Office of the City Attorney, the State Attorney, and courts for the purpose of the establishment of any legal directives necessitated by the emergent situation. This includes, but is not limited to, mass arrest procedures, abbreviated arrest and processing forms, and protection of the rights of police officers and arrestees.

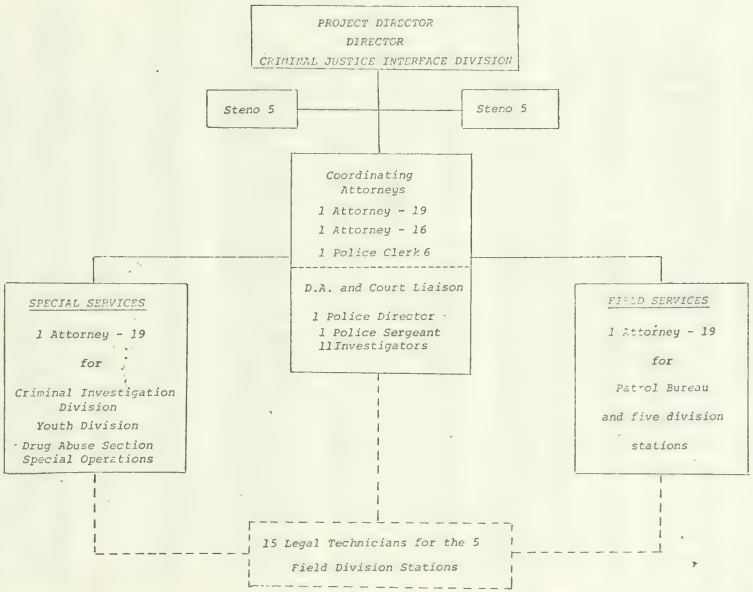
X. Legal Opinions and Written Directives

A. Attorneys will give oral opinions on any request for legal advice from members of the Departmant.

B. Formal written "City Attorney" opinions will not be issued without prior approval of the City Attorney.

C. Memorandums, Special Orders, and General Orders will not be issued until approved by the Division Commander and staffed with command personnel as appropriate.

PROJECT ORGANIZATION



*These attorneys positions will be filled by the staff of the City Attorney. They will be assigned to the Police Department for this project on a full-time basis under the day-to-day direction of the Project Director, but will remain under the overall jurisdiction of the City Attorney.

PERSONNEL DUTIES

I. Director of Police - Division Commander:

A. Command the Criminal Justice Interface Division and serve as chief in-house legal counsel to the Chief of Police, the command staff, and supervisory personnel of the Dallas Police Department;

B. Serve as principal liaison officer in legal matters involving criminal justice agencies;

C. Directly support the City Attorney and his assistants in legal matters involving the Police Department;

D. Develop programs, plans, and projects to interface police enforcement activities with other agencies in the criminal justice system;

E. Be responsible for planning and coordination of legal matters within the Department;

F. Develop programs, plans, and projects for more effective legal aid and services to Police Department personnel;

G. Coordinate with Director of Training for legal subjects in basic, advanced, and specialized training programs;

H. Develop policy statements, general orders, special orders, procedures, and policies of the Department to assure compliance with new legal requirements, monitor existing general orders, special orders, policies and procedures of the Department to assure compliance with legal requirements;

I. Monitor and coordinate Departmental legislative programs with the City Attorney's Office and at congressional, state, and local levels.

II. Director of Police - Chief of Court Liaison Services

A. Command personnel assigned as liaison with the district courts, the county courts, the juvenile courts, and the County Juvenile Department;

B. Closely monitor prosecution reports in cooperation with other attorneys to see that prosecution reports are correctly filed, that the investigation is complete, and that all legal problems have been resolved;

C. Monitor courtroom testimony of officers in court for the purpose of improving case preparation and witness presentation to the courts, and;

D. Monitor dispositions of cases prosecuted in county and district courts.

III. 3 Police Attorneys, Grade 19; 1 Police Attorney, Grade 16:

A. The duties of one Attorney, the Coordinating Attorney, will be as follows:

1. To act as project coordinator and serve as the principal liaison officer with the District Attorney and other criminal justice agencies concerned with the investigation and prosecution of stranger-to-stranger crimes;

2. Be responsible for program development to improve legal services to the Police Department and to improve coordination and cooperation between the Police Department and other agencies of the criminal justice system;

3. Develop policy statements such as general orders, special orders, and directives on legal matters involving police operation;

4. Review existing general orders, memorandums and directives of a legal nature to insure that such material is correct in legal areas and is current with the latest judicial decisions and legislative enactments;

5. Review case preparation procedures and evaluate existing policies for improvement of the prosecution of stranger-to-stranger crimes, and;

6. Develop training programs to increase the investigative effectiveness of enforcement personnel.

B. The duties of the second attorney, Special Services, will be as follows:

1. Assist the Division Commanders, supervisory and investigative personnel of the Criminal Investigation Division, Drug Abuse Division, Youth Division, and Intelligence Division, in the investigation of criminal cases and in the preparation of prosecution reports for the District Attorney's Office;

2. Assist in the preparation of search warrants, warrants of arrest, and other criminal processes in the investigation of criminal offenses;

3. Closely assist the Division Commanders in cases of repeat offenders and crimes of exceptional violence, in filing of charges, setting of appropriate bonds, denial of bonds when indicated, and coordinating with the District Attorney's Office to expedite the indictment and prosecution of these offenders;

4. Coordinate with special law enforcement task force operations and team policing projects directed toward stranger-to-stranger crimes as directed;

5. Monitor prosecution reports prepared by investigative personnel, and;

6. Revise the propriety of charges, legal problems (such as preservation of evidence, search and seizure, etc.), proper witnesses, and quality in preparation of reports and completeness of the investigation.

C. The duties of the third attorney, Field Services, Grade 19 will be as follows:

1. Provide legal assistance to the Assistant Chief of Police of the Patrol Bureau and the five Patrol Division Stations;

2. Provide personal consultation and legal advice to command personnel, supervisory personnel and investigative personnel assigned to the Patrol Bureau;

3. Prepare search warrants, warrants of arrest and other criminal processes as required;

4. Monitor arrest reports, offense reports and prosecution reports prepared by personnel of the Patrol Bureau, and;

5. Review division policies and procedures to insure that they meet all legal requirements of the statutes and current court decisions.

D. 1 Police Attorney, Grade 16-Step 1, will have the following duties:

1. Assist the coordinating attorney, the attorney assigned to the Patrol Bureau, and the attorney assigned to the Criminal Investigation Division, Youth Division and Drug Abuse Division;

2. Closely monitor prosecution reports in cooperation with other attorneys to see that prosecution reports are correctly filed, that the investigation is complete, and that all legal problems have been solved;

3. Monitor arrest reports, offense reports and prosecution reports prepared by personnel of the Patrol Bureau;

4. Monitor courtroom testimony of officers in court for the purpose of improving case preparation and witness presentation to the courts;

5. Monitor dispositions of cases prosecuted in county and district courts;

6. Serve on any special task force projects related to stranger-to-stranger crime, and;

7. Coordinate with probation and parole agencies for the revocation of probation and parole for persons committing stranger-to-stranger crimes.

All four attorneys will be employed as Assistant City Attorneys with full-time assignment to the Police Department. The attorneys will be under the day-to-day direction of the Project Director, but will remain under the overall jurisdiction of the City Attorney.

IV. Court Liaison Personnel

A. Sergeant (1)

1. Responsible for coordinating the duties of investigators assigned to the district court, the county courts, and the juvenile courts.

2. Directly responsible for supervision of these personnel and review of the disposition of cases handled by the District Attorney's Office.

B Investigators, District Courts and Juvenile Courts (10)

1. Assist the District Attorney's Office in securing the attendance of witnesses in the district court and in the final preparation for trial of cases involving persons arrested by the Dallas Police Department.

2. Monitor testimony of departmental personnel appearing as witnesses for improvement of courtroom presentation and case preparation;

3. Review prosecution procedures at trial to determine weaknesses and deficiencies in police operation, policies, and procedures, and;

4. Perform such court services as requested.

C. Investigator, County Juvenile Departmant (1)

1. Coordinate investigations of the Youth Division with the Dallas County Probation Department and the Texas Youth Council;

2. Coordinate with judges and prosecutors in the Juvenile Court in preparation and presentation of cases from the Dallas Police Department;

3. Monitor the trial of juvenile cases for improvement in investigations, case preparation and for witness preparation and presentation, and;

4. Review policies and practices with the Dallas Police Department and the Dallas County Probation Office for improvement in handling of juvenile offenders.

V. Clerical and Stenographic Positions

A. 1 Police Clerk 6

1. This position will provide administrative assistance to the attorneys on this project;

2. Will assist in case review and the compilation of statistical and record information on the project, and;

3. Will assist the coordinating attorney in the drafting of training materials and policy directives designed to correct errors and weaknesses in investigative and reporting procedures and the development of model training guides and check lists for enforcement personnel.

B. Stenographer 5 positions (2)

1. Two Stenographers, Grade 5, will be assigned to the Office of the Division Commander and will be accountable to him for the proper performance of assigned duties;

2. Should be filled by experienced stenographers capable of taking dictation with complex technical legal terms and then transcribing them into legal documents;

3. Maintain a legal library including a cross reference filed by citations;

4. Act as receptionist both in front office and via telephone;

5. Perform ordinary secretarial duties such as receiving and sorting mail, making appointments, composing routine mailing letters, and receiving and handling inquiries and complaints;

6. Prepare time work records as required, and;

7. Maintain complex filing system as required by General Order 68-3 (Administrative Filing System), and other files as required.

APPENDIX I

DUTIES OF LEGAL ADVISORS AT DIVISION STATIONS

Attorneys assigned as Legal Advisors to Division Substations will have the following additional duties:

1. Legal Advisors assigned to Division Stations of the Dallas Police Department will be employed as Assistant City Attorneys. These attorneys will be under the day-to-day supervision of the Director of the Criminal Justice Interface Division but will remain under the overall direction of the City Attorney.

2. Legal Advisors at Division Stations will report directly to the Division Commander and will serve in the capacity of advisor on legal questions and procedures.

3. Duties of the Legal Advisors will include, but are not limited to the following:

   a. Advise the Division Commander, supervisory officers, and police officers on legal matters;

   b. Review prosecution reports, offense reports, and arrest reports to insure that charges are correct and that information is complete;

   c. Assist the Division Commander in reviewing procedures, practices, and policies involving legal matters;

   d. Assist in roll-call training on legal subjects;

   e. Review cases which are "no-billed" or dismissed by the courts which originate from that Division, and;

   f. Perform such other duties relative to legal matters as may be requested by the Division Commander, Director of the Criminal Justice Interface Division, or the City Attorney's direction.

4. Legal Advisors will not command, supervise or direct police personnel but will serve only as a staff advisor of the Division Commander.

5. Any irregularities, defects in procedure, or problem areas involving legal matters will be reported directly to the Division Commander.

6. Any irregularity or indication of misconduct by employees will be immediately reported to the Division Commander. If any such conduct requires immediate corrective action, it will be reported immediately to the senior supervisor on-duty and to the

Division Commander as soon as appropriate.

7. Legal Advisors will not conduct internal affairs investigations or inquiries. Such cases will be immediately referred to the Internal Affairs Division and the Division Commander.

8. Legal Advisors will work the hours and days prescribed by the Division Commander and/or the Director of the Criminal Justice Interface Division. Legal Advisors will be subject to call on a twenty-four hour basis for major crimes and police incidents.

9. Legal Advisors will not involve their activities in Administrative matters of the Police Department unless such matter is directly related to or concerned with legal problems.

10. Legal Advisors will not involve themselves in personnel actions, evaluations, transfers, re-assignment of police or civilian personnel.

11. Legal Advisors will maintain records or their daily work activities as required by the Director of the Criminal Justice Interface Division.

12. Clerical and stenographic assistance to Legal Advisors will be provided by the Division Commander and the Director of the Criminal Justice Interface Division.

APPENDIX II

DUTIES OF LEGAL TECHNICIANS

A. Personnel selected and trained as Legal Technicians will be assigned to operating bureaus and divisions.

B. Legal technicians will confer directly with attorneys assigned to the Criminal Justice Interface Division on major legal problems and procedures.

C. Legal Technicians will directly assist operational personnel as follows:

1. Assist field, supervisory and jail supervisors in correctly charging criminal violators;

2. Monitor arrest reports to insure correct charges are filed and that the basic elements of the alleged criminal violation are reported;

3. Assist field and supervisory officers in the correct reporting of offense/incident reports;

4. Monitor field offense/incident for quality in correctness and completeness in preparation;

5. Assist field and supervisory personnel at the scene of major crime incidents or where "on-the-spot" legal advice is required;

6. Assist in the preparation of criminal process, i.e., search warrants and warrants of arrest;

7. Coordinate with attorneys in the Criminal Justice Interface Division on major crime investigation and on serious or complex legal problems;

8. Assist field personnel and supervisory officers in re-investigation or further investigation when needed;

9. Give roll-call training to field personnel;

10. Have a working knowledge of legal research, and;

11. Follow through on major crime and repeat offenders from arrest to Grand Jury.

CRIMINAL JUSTICE INTERFACT DIVISION

MONTHLY ACTIVITY REPORT

Month: _____,19__

A. Pre-filing case review

Total cases prepared:
1. IMPACT offenses _____
2. Part I, Index Offenses (less IMPACT cases) _____
3. Major misdemeanors (less IMPACT cases) _____

Total cases reviewed:
1. IMPACT offenses _____
2. Part I, Index offenses (less IMPACT cases) _____
3. Major misdemeanors (less IMPACT cases) _____

Total cases submitted to District Attorney for filing:
1. IMPACT offenses _____
2. Part I, Index Offenses (less IMPACT cases) _____
3. Major misdemeanors (less IMPACT cases) _____

Total returned for additional investigation:
1. IMPACT offenses _____
2. Part I, Index Offenses (less IMPACT cases) _____
3. Major misdemeanors (less IMPACT cases) _____

Total reduced to misdemeanor or Municipal Court charge:
1. IMPACT offenses _____
2. Part I, Index Offenses (less IMPACT cases) _____
3. Major misdemeanors (less IMPACT cases) _____

B. Post Grand Jury Action

Total cases submitted to District for filing:
1. IMPACT offenses _____
2. Part I, Index Offenses (less IMPACT cases) _____
3. Major misdemeanors (less IMPACT cases) _____

Total number of indictments by Grand Jury:
1. IMPACT offenses _____
2. Part I, Index Offenses (less IMPACT cases) _____

Total number of "no-bills" by Grand Jury:
1. IMPACT offenses _____
2. Part I, Index Offenses (less IMPACT cases) _____

Total number of "no-bills" reviewed:
1. IMPACT offenses _____
2. Part I, Index Offenses (less IMPACT cases) _____

Total number of cases re-submitted to Grand Jury:
1. IMPACT offenses _____
2. Part I, Index Offenses (less IMPACT cases) _____

C. Dismissals

Total number of dismissals:
1. IMPACT offenses _____
2. Part I, Index Offenses (less IMPACT cases) _____

Total number of dismissals reviewed:
1. IMPACT offenses _____
2. Part I, Index Offenses (less IMPACT cases) _____

D. Preparation of policy statements

	Number	Hours
General Orders	_____	_____
Special Orders	_____	_____
Memorandums	_____	_____

	Number	Hours
E. Legal Services Performed		
Telephone consultations		
Personal consultations		
Field Service Calls		
F. Training		
Pre-service Training (Recruit)		
In-service (Advanced)		
Preparation of Training Material		
G. Criminal Justice Liaison Services		
City Attorney		
District Attorney		
U. S. District Attorney		
Courts		
Other Criminal Justice Agencies		
H. Probation and Parole		
Total probation violations reported		
Total parole violations reported		

I. Remarks:

_____

_____

_____

_____
Coordinating Attorney

_____
Division Commander

_____
Logged

CRIMINAL JUSTICE INTERFACE DIVISION

DAILY ACTIVITY REPORT

Date: _____, 19__

A. Pre-filing case review

Total cases reviewed:
1. IMPACT offenses _____
2. Part I, Index offenses (less IMPACT cases) _____
3. Major misdemeanors (less IMPACT cases) _____

Total returned for additional investigation:
1. IMPACT offenses _____
2. Part I, Index offenses (less IMPACT cases) _____
3. Major misdemeanors (less IMPACT cases) _____

Total reduced to misdemeanor or Municipal Court charge:
1. IMPACT offenses _____
2. Part I, Index Offenses (less IMPACT cases) _____
3. Major misdemeanors (less IMPACT cases) _____

B. Post Grand Jury Action

Total number of "no-bills" reviewed:
1. IMPACT offenses _____
2. Part I, Index offenses (less IMPACT cases) _____

Total number of cases re-submitted to Grand Jury:
1. IMPACT offenses _____
2. Part I, Index offenses (less IMPACT cases) _____

C. Dismissals

Total number of dismissals reviewed:
1. IMPACT offenses _____
2. Part I, Index offenses (less IMPACT cases) _____

	Number	Hours
D. Preparation of policy statements		
General Orders	_____	_____
Special Orders	_____	_____
Memorandums	_____	_____
E. Legal Services Performed		
Telephone consultations	_____	_____
Personal consultations	_____	_____
Field Service Calls	_____	_____
F. Training		
Pre-service Training (Recruit)	_____	_____
In-service (Advanced)	_____	_____
Preparation of Training Material	_____	_____
G. Criminal Justice Liaison Services		
City Attorney	_____	_____
District Attorney	_____	_____
U. S. District Attorney	_____	_____
Courts	_____	_____
Other Criminal Justice Agencies	_____	_____

H. Probation and Parole

	Number	Hours
Total probation violations reported	_____ ::	_____
Total parole violations reported	_____ ::	_____

I. Remarks:

_____

_____

_____

_____
Attorney

Reviewed by: _____
Coordinating Attorney

_____
Division Commander

_____
Logged

DALLAS REPEAT OFFENDER STUDY

DALLAS POLICE DEPARTMENT

FRANK DYSON
Chief Of Police

ACKNOWLEDGEMENTS

We would like to take this means of expressing our appreciation to the members of the following organizations who were so helpful in providing the information contained in this report. The spirit of their cooperation testifies to their willingness to work hard in overcoming the problems of the criminal justice system.

Similarly, any failures to properly evaluate or interpret the findings of this study are freely borne by the writers and not these fine organizations.

Dallas County Sheriff's Office
Dallas County Probation Department
Dallas County District Attorney's Office
Texas Board of Pardons and Paroles
Texas Department of Public Safety
Texas Department of Corrections
Federal Bureau of Investigation
Data Services, City of Dallas

Prepared by: Planning and Research Section, Dallas Police Department, January 1973

SUMMARY OF RECOMMENDATIONS

- To control the repeat offender, the criminal justice system must become a true system.

- There should be a prosecution policy within the police department which is understood by each component of the criminal justice system, the public and most importantly, the criminal.

- In order to reduce crime, the criminal courts of this district should serve justice as rapidly as is practical after indictment.

- The legislature of this state should pass laws that would increase the difficulty of a repeat offender obtaining subsequent bonds when he commits further offenses while on bond and devise additional sanctions for offenses committed while on bond.

- The legislature of this state should develop legislation preventing the use of concurrent sentences for persons who are repeat offenders.

Chapter I
THE DALLAS REPEAT OFFENDER STUDY

The purpose of this study is to determine the amount of crime committed in Dallas by repeat offenders. Further, the study intends to identify Dallas area criminal justice procedures which can be improved in order to minimize repetition of criminal offenses.

This is a pragmatic study written by police officers to document what is happening in the criminal justice system. It seeks first to learn what is happening, who is committing the crimes, and to what extent. Further, our study attempts to learn what is occurring after arrests to those individuals who are charged with committing the crimes so that remedial steps can be taken to make the criminal justice system accomplish the goals society intends for it to accomplish.

Insofar as possible, we will have to build a circumstantial case against the criminal offenders in determining responsibility for crime in Dallas. This is caused by the fact that over 70 per cent of the offenses committed are successful. In spite of this condition, we feel the analysis of arrests, clearances, and criminal histories will develop a conclusive case against the repeat offender. An argument exists that perhaps the 70 per cent of the offenses not cleared by the police are all committed by first offenders, but there is no evidence to support such an argument. However, there is strong circumstantial evidence supporting the position that repeat offenders are committing a majority of this unsolved crime as well as the solved crime.

We realize there are many social conditions that lead to crime. Studies into social problems such as poverty, urbanization, and prejudice we leave in the hands of more qualified researchers. However, there is no doubt that the criminal justice system has a strong effect on the criminal conditions in our society and this study is written to encourage solutions to any imperfections in the system.

It is hoped that laymen will find this study of interest and support the recommendations, however, this study is directed primarily to the practitioner seeking system improvement. There is no doubt that real improvements in the system will pay off in crime reduction. In the area of control of the repeat offender, we feel this will lead to a substantial reduction that will be felt in a matter of months.

There have been an enormous number of writings on how to improve the criminal justice system. However, most of these were presenting subjective recommendations on such things as length of sentence, type of incarceration, or method of rehabilitation. This study seeks to be more pragmatic by identifying who is committing crime (i.e., the repeat offender) and what can be done within the system to control this person. We take this stance with the belief that the sureness and swiftness of justice is more important than the degree or type of punishment.

In order to achieve the objectives of this study, we collected data from every conceivable area of investigation that was pertinent to identifying the offender. When we discovered the impact repeat offenders were having on the crime rate we continued our research to identify the weaknesses in the criminal justice system related to the control of these offenders.

METHODOLOGY

The major data collection portions of this research was in four distinct parts. They include (1) a review of the literature, (2) statistics on inmates, (3) interviews with inmates, and (4) arrest statistics and system time lags.

A review of the literature on recidivism from the law enforcement standpoint was conducted to determine what was known of repeat offenders, what research had been conducted and its design, and whether previous studies supported our research. This included information from published work, interviews with experts in the field, official documents of criminal justice agencies, and documented case histories of Dallas offenders.

An analysis and summation of statistical information on all the Dallas County offenders now incarcerated in the Texas Department of Corrections was conducted to secure information on what type of person transversed the system from beginning to end. This included a review of social characteristics, offense information, and criminal histories of these offenders.

Personal interviews were conducted with a sample of Dallas County offenders who were convicted and sentenced to prison in order to determine their feelings and experiences with the system. This effort was made to expand on the information gained in the statistical analysis mentioned in the previous paragraph.

An analysis of a substantial number of offenders filed on by the Dallas Police Department was made to determine their criminal histories and their experience in the criminal justice system. This also includes a review of the time delays within the system and the *case fallout* that occurs from time of offense to the time of sentence.

DEFINITIONS

For the purpose of this study a **repeat offender** is any person who has been arrested by a police agency; has had a case filed against him for a felony or major misdemeanor; and is subsequently rearrested and filed on by the Dallas Police Department for other felonies or major misdemeanors.

Consequently, a **first offender** is a person filed on by the Dallas Police Department who has not previously had a felony or major misdemeanor case filed against him.

A **case filed** indicates an act of presenting information and evidence to the District Attorney for the purpose of prosecution of a specific individual for a criminal act. The specified individual is at that time usually in detention or free on bail bond.

Bail bond is a cash or real property surety that an accused will appear to answer charges levied against him. It can be posted by himself or a third person. The third person is often a **bondsman** who will post the bond for a fee of 10 to 20 per cent of the value of the bond.

The **criminal justice system** in Texas is comprised of several entities working together to comprise a system. Chronologically, it usually begins with a police agency investigating a criminal offense, gathering evidence, and arresting the perpetrator. This information is filed with the District Attorney, who in turn files the information with the grand jury. The **grand jury** consists of twelve citizens who decide if the evidence is strong enough to bind the accused over for trial. Insufficient evidence results in a **no bill,** otherwise a **true bill** is returned to the District Attorney to place the case on a court docket.

The **court,** which may or may not have a jury, receives the information and evidence on the case and decides if the accused is guilty or not guilty. A **not guilty verdict** results in a discharge from the system while a **guilty verdict** requires a sentence. The court or jury decides the amount of punishment and the judge decides whether it will be served on probation or by incarceration. In Texas a jury may recommend for or against probation but the judge makes the decision with no bind to the jury's recommendations.

Probation is served while free in the community under the supervision of the court through its probation officers, while **incarceration** is served in the County jail or at the Texas Department of Corrections. If a specified time is served in the Department of Corrections, the Parole Board can grant parole. **Parole** is the serving of the remainder of a sentence while free in the community under the supervision of the Parole Board.

Thus, it can be seen that there is considerable diversity in the criminal justice system. The police department is responsible to the city government; the probation officers are responsible to the courts; the sheriff, bond administration, and the county jail are responsible to the county government; and the Department of Corrections and the Parole Board are responsible to the state.

There is little wonder, therefore, that the criminal justice system has been called a *non-system*. It did not grow as a system. Rather, it grew like a series of compartments created to care for specific needs. Perhaps this research will open avenues wherein a workable, effective system can be built.

Chapter II
LITERATURE ON THE REPEAT OFFENDER

Conception of this study into the impact of repeat offenders first brought about a search of the literature. This was done in order to determine if we could draw conclusions from research previously conducted on the subject. We found a preponderance of theory and little research.

This is not to say that there were no studies found on repeat offenders. In fact, we found four informative studies pertinent to the subject which are worth summarizing in this chapter. The President's Commission on Law Enforcement and the Administration of Justice addresses the characteristics of offenders in the second chapter of their study, *The Challenge of Crime in a Free Society.*

The FBI publishes the *Uniform Crime Report* annually and this report contains the most in-depth statistical analysis of repeat offenders available under the section entitled "Careers in Crime." This study is conducted periodically to document the extent to which criminal recidivism over a period of time contributes to annual crime counts.

Perhaps the most valid and undisputable study found was *Delinquency in a Birth Cohort* written by M.E. Wolfgang, R.M. Figlio, and Thorsten Sellin. Although it concerned juvenile delinquency, many of the facts discovered carry over into adult crime characteristics. It was a longitudinal study of a birth cohort, meaning it concerned a group of boys, all born in 1945 (cohort). The study tracked them from age seven to eighteen (longitudinal). This cohort study was a study of crime and delinquency conducted in Philadelphia, Pennsylvania, tracking the boys from the time they entered school until they were eighteen years old. After data gathering, they categorized the youths into non-delinquents, one-time offenders, non-chronic repeaters (1 to 4 offenses), and chronic repeaters (5 or more offenses). They found that these 9,945 boys accounted for 10,214 official criminal offenses.

Another well documented, pertinent study found was an analysis conducted by the Washington, D.C. Police Department. It consisted of documentation that a substantial amount of Washington crime was committed by persons previously arrested and free on probation, parole, or personal recognizance bond. There were 2,755 documented rearrests with over half of them being free on personal recognizance bonds.

Excerpts from these studies are presented in the following sections of this chapter, along with additional pertinent excerpts and documentation of three Dallas offender's case histories.

CHARACTERISTICS OF OFFENDERS

The most striking fact discovered when an in-depth study is made of criminal offenders is that a great many of them continued to commit crimes even after criminal sanctions had been brought against them. Arrest, court, and prison records furnish insistent testimony to the fact that these repeat offenders constitute the hard-core of the crime problem. (President, 1968)

The Commission's study has looked into a great many state and federal prison system's statistical studies that lead to the conclusion that despite considerable variation among different jurisdictions, roughly one-third of the offenders released from prison will be reimprisoned, usually for committing a new offense within a five year period. Those who commit monetary crimes such as burglary, auto theft, forgery, or larceny are much more likely to be recidivists. However, robbery and narcotic offenders are also frequently repeaters. Those who are least likely to commit new crimes after release are persons convicted of crimes of violence such as murder, rape, and aggravated assault. The figures on recidivism are extremely high even when only those detected and rearrested are considered. Undoubtedly, many commit crimes that are never detected. (President, 1968)

A two year follow-up by the Uniform Crime Reporting System of the arrest records of 6,907 offenders released from the federal system between January and June of 1963, shows that 48 per cent had been arrested for new offenses by June of 1965. Complete figures on the per cent convicted are not available. (President, 1968)

Any study made of adult offenders will show the importance of juvenile delinquency as a forerunner to an adult crime career. It will support the conclusion that the earlier a juvenile is arrested or brought to court for an offense, the more likely he is to carry on criminal activity in his adult life. Also, the more serious the first offense for which a juvenile is arrested, the more likely he is to continue serious crimes, especially in the case of major crimes against property. The more frequently and extensively that a juvenile is processed by the police, court, and correctional system, the more likely he is to be arrested, charged, convicted, and imprisoned in adult life. (President, 1968)

The President's Commission on Law Enforcement and The Administration of Justice points out that a person in the business of crime is in a risky business. The Commission's studies found that the professional and habitual criminal's need for ready capital often opens him to severe exploitation by loan sharks. Most often this problem arises as a consequent of an arrest. To meet the cost of his bonds and initial legal fees, he must engage in more frequent criminal activity, often more risky than his ordinary line of work. If arrested while out on bond, he will have additional cost. This

pattern may be repeated many times over before the habitual criminal is brought to trial. (President, 1968)

The Commission's studies also pointed out that the professional and habitual thief could not exist without the fence and quasi-legal fence such as pawn shops. The habitual thief means to sell his stolen goods, although habitual thiefs often retail their own stolen wares. Many sell them to receivers of stolen goods who resell them. Sale to a fence may cost the thief 75 per cent of the value of the goods but it reduces the risk of it being stolen from him or of being arrested with it in his possession. He also avoids the risk involved in the retail process. Other instances involve a large quantity of goods, goods that are perishable, or otherwise likely to quickly lose their value, and goods for which there is specialized demand and require a division of labor and a level of organization beyond the capacity of an individual thief. (President, 1968)

Professional thieves, because they work regularly at crime, account for a large share of thefts, particularly costly thefts that occur. Control of this type of criminality requires new forms of police intelligence operations which some police departments are now beginning to develop. Furthermore, this type of work needs to be supplemented by much more intensive research on professional criminality as a way of life.

CAREERS IN CRIME

The following section is an enumeration of the most in-depth study found on recidivism. It is a report from the *1970 Uniform Crime Report* chapter on "Careers in Crime." It is inserted in this study of the Dallas repeat offender because most federal crimes are also state and local offenses, thus, the repeat offenders depicted in the UCR study closely paralleled the repeat offender in Dallas County from all indications.

From 1963 through 1969, the Uniform Crime Reporting Program processed data on some 240,000 offenders for statistical use. This study has been used to document the extent to which criminal recidivism over a period of time contributes to annual crime counts and has also been used to show the need for the centralization of law enforcement information at the state and national level in view of criminal repeating and mobility. This study was made possible by the cooperative exchange of criminal fingerprint data among local, state, and federal law enforcement agencies. **While the basis of selection in this study was a federal offense, it should be kept in mind that most federal criminal violations are also violations of local and state laws.** The offender records examined in this study are, therefore, felt to be comparable to the local and state experience for the more serious violators. (FBI, 1971)

The "Careers in Crime" study brought to the Uniform Crime Reporting Program valuable statistical experience in the field of criminal histories, and has demonstrated the potential use of criminal history information to measure the success or failure of the entire criminal justice system. The key to the effectiveness of the system is in knowing what happened to the people who were handled or treated by the criminal justice process, specifically, whether they were deterred from further criminal acts and/or rehabilitated.[1]

Beginning in January 1970, the FBI commenced converting federal offender records to computer forms for an operational criminal history file within the National Crime Information Center (NCIC). The record formats and data elements for criminal history, although designed for operational use, were established with full recognition of the value of criminal history for statistical and research purposes.

Profile

A summary of 37,844 offenders arrested on federal charges in 1970 is on the following table. Of these offenders, 25,909 or 68 per cent had previously been arrested on a criminal charge.

Average Four Arrests Per Offender

These 37,844 offenders had an average criminal career of five years and five months (span of years from first to last arrest). During this time they were arrested on criminal charges an average of four times each for a total of 158,000 charges. These offenders had a total of 52,936 convictions and 22,240 imprisonments of six months or more during their crime careers prior to their arrest in 1970.

The extent to which these offenders had a prior arrest for any offense is set forth in the following table. Likewise, per cent convicted for a prior crime is set forth.

Statistics Conservative

Keep in mind that this presentation is conservative and understates the amount of crime committed by these offenders since it is based on police detection, arrest and submission of a fingerprint card. As indicated in earlier pages of the publication, law enforcement agencies do not clear or solve most crimes. It is also true that the prior conviction and imprisonment rates are slightly lower than actual because police agencies do not always submit such data after arrest, conviction and release.

A profile of criminal repeating for selected offenders is shown in the following table. Average age for the first arrest is high because of the general practice not to submit criminal fingerprint cards on juveniles. Criminal career is the average years between the first and last arrest.

The offender profile is classified by type of crime for which arrested in 1970.

A study of the 25,909 repeat offenders indicate that 45 per cent were rearrested in the same state during their criminal careers and 55 per cent were rearrested at least one time in states other than that of the original arrest. Twelve per cent of the repeat offenders were arrested in three different states during their criminal career and 10 per cent were rearrested in more than three different states.

Four Year Follow-Up

A part of the Careers in Crime Program was the follow-up on offenders after their release from the federal criminal justice system. The records of offenders released during 1965 were followed for new arrests through 1969. Charts and tables are presented in this section on the rearrest experience by offense; type of release; and age, sex, and race of the offender.

	Forgery	Embezzlement	Fraud	Weapons	Narcotics	Gambling	Stolen property	All other offenses
Total number of subjects	1,706	1,187	1,411	2,166	5,131	867	1,519	11,910
Average age at last charge	29	30	35	31	26	45	30	31
Average age at first charge	23	28	29	25	22	35	24	25
Average criminal career	6	2	6	6	4	10	6	6
Average number of charges during criminal career	5	2	4	4	3	3	5	5
Frequency of charges (percent of total subjects):								
One	21.9	66.0	32.8	30.7	39.7	35.3	25.0	28.2
Two	18.1	17.5	19.4	23.0	21.1	21.1	20.1	18.2
Three	13.1	7.3	12.0	12.3	11.4	12.0	12.5	11.2
Four or more	46.9	9.2	35.8	34.0	27.8	31.6	42.4	42.4
Frequency of convictions (percent of total subjects):								
One	21.7	26.9	23.9	20.8	21.6	19.4	22.5	22.4
Two	12.0	5.1	10.1	10.8	8.0	6.5	10.1	12.3
Three	7.4	1.5	5.2	6.6	4.0	3.8	6.3	7.3
Four or more	18.2	1.5	10.6	8.7	6.2	5.3	13.0	16.8
Mobility (percent of persons rearrested):								
One State	49.0	63.8	43.2	50.7	48.4	62.7	47.9	39.0
Two States	26.0	25.3	33.3	33.7	37.0	28.2	30.9	33.7
Three States	11.3	6.7	11.9	9.7	10.5	6.8	10.6	14.3
Four or more States	10.7	4.2	11.6	5.9	4.1	2.3	10.6	13.0

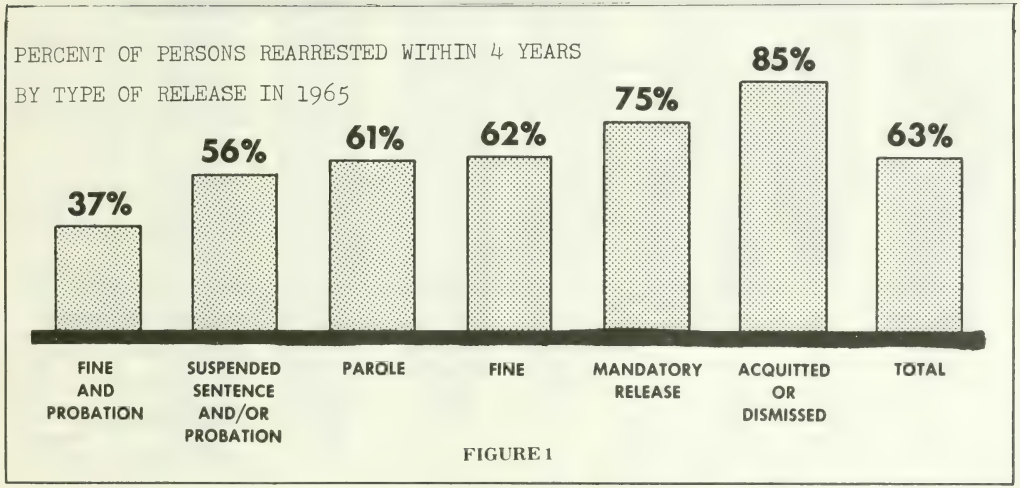


FIGURE 1

SOURCE: FBI CHART

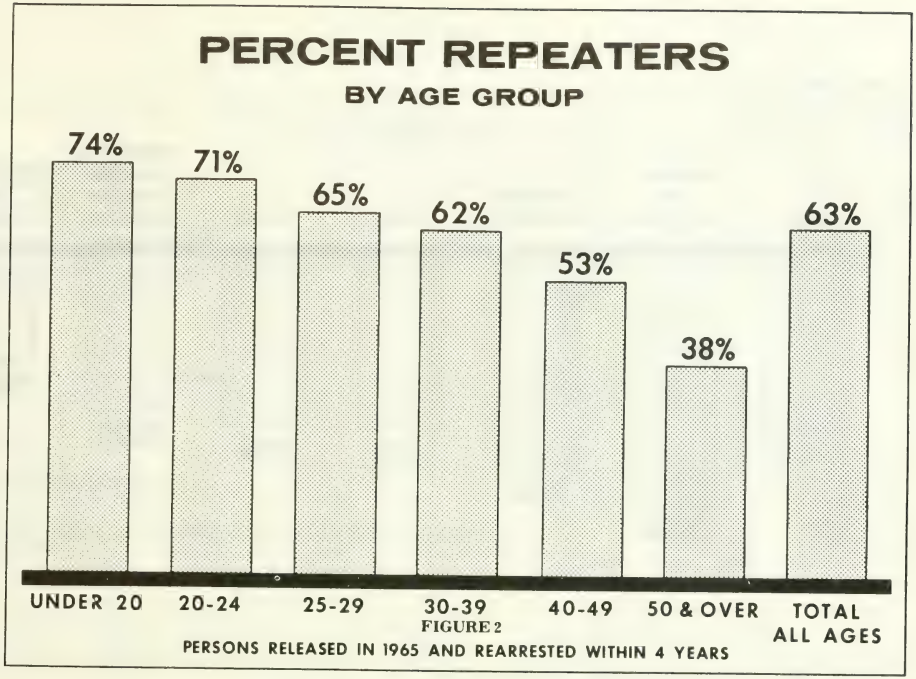


FIGURE 2

FBI CHART

TABLE 2

4-Year Follow-Up of Persons Released in 1965

[By age, sex and race]

Age	Total	Race			Sex	
		White	Negro	Other	Male	Female
Total all ages	16,332	10,890	3,980	1,462	15,042	1,290
Percent with subsequent charge	62.5	60.4	67.6	64.5	64.3	41.1
Under 20	1,751	1,220	330	201	1,669	82
Percent with subsequent charge	73.7	71.6	77.2	80.1	74.9	48.8
20–24	3,816	2,661	825	330	3,479	337
Percent with subsequent charge	71.2	68.8	77.6	74.8	73.7	45.4
25–29	2,780	1,800	720	260	2,524	256
Percent with subsequent charge	65.0	62.2	71.1	67.7	67.0	45.7
30–39	4,066	2,533	1,192	341	3,712	354
Percent with subsequent charge	62.4	61.1	68.4	58.9	64.5	41.0
40–49	2,501	1,709	603	189	2,314	187
Percent with subsequent charge	52.6	51.0	56.7	53.4	54.4	30.5
50 and over	1,418	967	310	141	1,344	74
Percent with subsequent charge	38.1	36.9	40.6	40.4	38.8	24.3

Keep in mind that this program for completeness depends on the criminal fingerprint identification function. The arrest fingerprint card establishes the charge and, usually on minor charges, the actual disposition. Otherwise, to obtain disposition data at prosecutive or court level the system relies on the submission of a second form. Further, for correctional release, another form or fingerprint card must be submitted. For the follow-up study only those records can be used that are complete and actually show a release in a given year (1963, 1965) back to the community. If the disposition or correctional release information is not received routinely for a specific charge, it does not become known on a subsequent rearrest.

Sixty-Three Percent Rearrest Rate

Of the 16,332 offenders released to the community in 1965, 63 per cent had been rearrested by the end of the fourth calendar year after release. Of those persons who were acquitted or had their cases dismissed in 1965, 85 per cent were rearrested for new offenses. Of those released on probation, 56 per cent repeated, parole 61 per cent, and mandatory release after serving prison time 75 per cent. Offenders receiving a sentence of fine and probation in 1965 had the lowest repeating proportion with 37 per cent rearrest. This type of sentence is generally found in connection with violations such as income tax, fraud and embezzlement.

When criminal repeating is viewed by type of crime for which arrested, convicted, or released in 1965, rearrests ranged from 16 per cent for the income tax violators to 80 per cent of the auto thieves. The predatory crime offenders had high repeat rates with 76 per cent of the burglars, 68 per cent of the assault offenders, and 57 per cent of the robbers who were released in 1965 were rearrested within four years. Likewise, 69 per cent of the narcotic offenders who are frequently users were rearrested after release. The fact that 67 per cent of the forgery offenders were rearrested for new violations within the four-year follow-up, documents law enforcement experience with this type offender.

This has been documented many times, as it is here. Nevertheless, this fact calls for greater rehabilitation efforts directed at the younger offender, if hardened criminal careers are to be aborted. Of the offenders released in 1965, 74 per cent of those under the age of 20, 71 per cent of those 20 to 24 years of age, and 65 per cent of those offenders 25 to 29 years of age were rearrested by the end of 1969. When viewed by race, the Negro rearrest rate, 68 per cent, was higher than the white offender rate of 60 per cent. All other races, made up primarily of Indian Americans, had a rearrest rate of 65 per cent between release in 1965 and 1969. Of the 1,290 female offenders released in 1965, 41 per cent had been rearrested for new offenses by 1969.

Table 3 sets forth the cumulative percentage of rearrest by age group and by year after release. By the end of the second calendar year (1967), after release during 1965, 53 per cent of the offenders had been rearrested. This pattern supports prior studies of this kind and is consistent for all age groups. Of all offenders rearrested during this four-year follow-up, over one-half were under 30 years of age and the majority of these rearrests occurred within two years after release. There is set forth in the same table the rearrest experience of federal offenders released compared to a generally different group released in 1963. The latter experience has been previously published in prior issues of *Uniform Crime Reports*. The repeat rate for both groups over the similar periods of follow-up (four years) is about the same. This is true not only for each age group as shown here but also by type of offense and type of release.

COHORT STUDY

Delinquency in a Birth Cohort was published in 1972, and was written by Marvin E. Wolfgang, R. M. Figlio, and Thorsten Sellin.

A **birth cohort** is a population or group of persons born in a given year. The cohort that this study covers is all of the boys born in 1945 who lived in Philadelphia, Pennsylvania, during the eight years following their tenth birthday. Females were excluded from this study because of their low delinquency rate and because registration with the Federal Selective Service was used as a terminal data source. (Wolfgang, 1972)

The study used school records, police records, and selective service lists to track and document the histories of these boys. Police records were used in this study, rather than the court disposition records, for the same reasons they are used in this Repeat Offender Study. The authors felt that police arrest figures gave a truer picture of the actual delinquency rate. (Wolfgang, 1972)

This very in-depth study analyzed the youth in connection with delinquency, social-economic status, race, mobility, age at first arrest, offense seriousness, recidivism, and academic success. The following paragraphs are a summary of the findings in relation to delinquency and recidivism in an urban setting and it is believed that these facts are as germane to Dallas as they are to Philadelphia.

The cohort consisted of 9,945 boys and the search of police records indicated they were responsible for 10,214 recorded offenses. These 10,214 offenses were committed by 35 per cent of the boys or 3,475 delinquents. Thirty per cent of these offenses were Index offenses as defined by the FBI. (Wolfgang, 1972)

The 35 per cent of the cohort that were delinquent were further categorized into one-time offenders, non-chronic repeaters, and chronic repeaters. A non-chronic repeater is a youth arrested from two to four times, while a chronic repeater is a youth arrested five or more times. (Wolfgang, 1972)

Table 4 gives a breakdown of the number of boys in each category and the number of offenses committed by that category. Of the 10,214 cohort offenses, 8,601 (84.2 per cent) were committed by the 1,862 recidivists (53.6 of all the delinquents). Those who committed five or more offenses (627 or 18 per cent), whom they call chronic offenders, were responsible for 5,305 of these delinquent acts or 51.9 per cent. (Wolfgang, 1972)

Table 4 indicates that 18 per cent of the delinquents

TABLE 3

4-Year Follow-Up by Age Group and Type of Release in 1965

Type of release	Total	Under 20	20–24	25–29	30–39	40–49	50 and over
Total	16,332	1,751	3,816	2,780	4,066	2,501	1,418
Percent with a subsequent charge	62.5	73.7	71.2	65.0	62.4	52.6	38.1
Probation and suspended sentence	5,787	902	1,422	975	1,258	796	434
Percent with a subsequent charge	56.1	68.7	63.2	58.6	55.4	42.7	28.1
Fine	1,340	84	235	219	359	243	200
Percent with a subsequent charge	61.6	83.3	77.4	66.2	59.9	52.7	43.0
Fine and probation	663	28	87	103	163	147	135
Percent with a subsequent charge	37.0	50.0	43.7	59.2	30.1	32.0	26.7
Acquitted or dismissed	995	159	255	166	244	110	61
Percent with a subsequent charge	84.6	88.1	82.7	83.7	88.1	84.5	72.1
Parole and pre-release	4,421	499	1,555	847	789	465	266
Percent with a subsequent charge	61.3	76.8	74.7	60.7	51.8	38.5	23.7
Mandatory release	3,126	79	262	470	1,253	740	322
Percent with a subsequent charge	74.8	79.7	86.6	80.4	76.2	71.4	58.7

Persons Rearrested after Release in 1963 and 1965

[Cumulative percentage by year after release]

When Rearrested	Total all ages		Under 20		20–24		25–29		30–39		40–49		50 and over	
	1963	1965	1963	1965	1963	1965	1963	1965	1963	1965	1963	1965	1963	1965
During year of release	21.8	21.2	23.0	23.3	25.3	25.4	23.6	22.3	22.3	20.9	18.4	17.6	11.4	12.3
By end of first year after release	43.0	42.7	52.3	51.8	49.3	50.6	45.8	44.3	42.8	41.6	34.2	34.7	25.4	23.8
By end of second year after release	52.6	52.5	62.5	63.2	59.3	61.2	55.9	54.7	52.4	51.7	43.1	52.9	32.5	30.6
By end of third year after release	57.9	58.3	67.9	69.6	64.3	67.5	61.9	60.5	57.8	57.5	48.4	48.5	36.7	34.8
By end of fourth year after release	60.9	62.5	70.6	73.6	67.5	71.2	64.9	65.0	61.1	62.4	51.8	52.4	39.0	38.1

Source: FBI/UCR, 1971

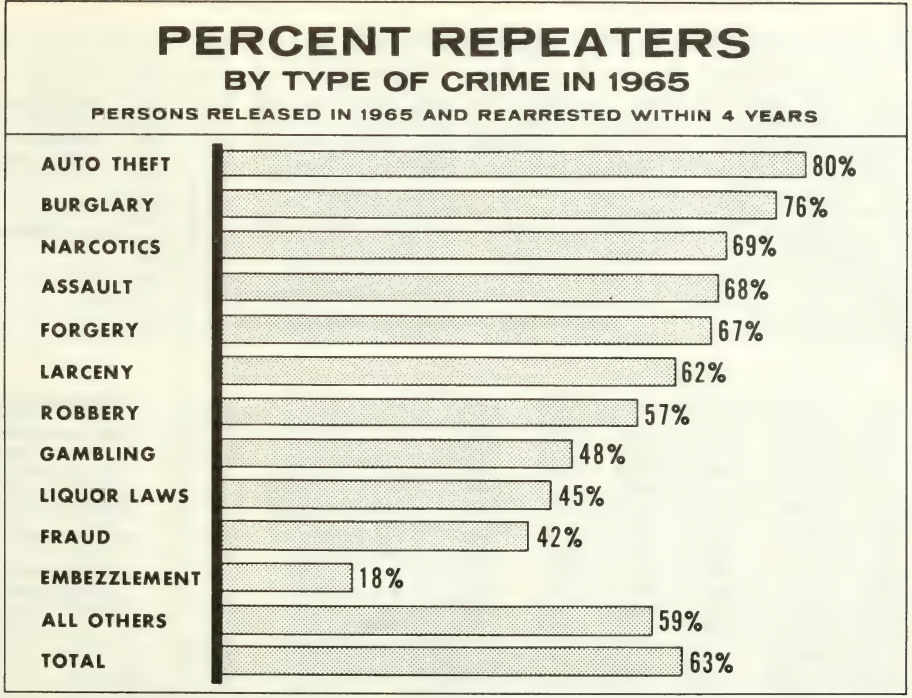

PERCENT REPEATERS
BY TYPE OF CRIME IN 1965
PERSONS RELEASED IN 1965 AND REARRESTED WITHIN 4 YEARS
AUTO THEFT 80%
BURGLARY 76%
NARCOTICS 69%
ASSAULT 68%
FORGERY 67%
LARCENY 62%
ROBBERY 57%
GAMBLING 48%
LIQUOR LAWS 45%
FRAUD 42%
EMBEZZLEMENT 18%
ALL OTHERS 59%
TOTAL 63%
FBI CHART

FIGURE 3

TABLE 4

OFFENDER CATEGORIES AND NUMBER OF OFFENSES COMMITTED BY COHORT BOYS

Category	Number of Boys	Per Cent of Cohort	Per Cent of Delinquents	Number of of Offenses	Per Cent Offenses
Non-Delinquents	6470	65.1	———	———	———
Delinquents	3475	34.9	100.0	10214	100.0
One-Time Offenders	1613	16.2	46.4	1613	15.8
Non-Chronic Repeaters	1235	12.4	35.6	3296	32.3
Chronic Repeaters	627	6.3	18.0	5305	51.9

(Wolfgang, 1972, Tables 6.1 and 6.2)

committed almost 52 per cent of the crime. Therefore, 627, or 6.3 per cent of the cohort committed over one-half of the crime. This cohort study supports the hypothesis of the Dallas Repeat Offender Study. It demonstrates that a small number of high-risk repeaters committed a majority of the criminal offenses attributed to the cohort.

The authors of this study also conducted analysis on the seriousness of offenses committed by these boys. They discovered that 90 per cent of all offenses resulting in bodily injury to the victim were committed by boys that were repeat offenders. This leads to the conclusion that continuation in criminal activity increases the probability of violence. (Wolfgang, 1972)

In the summary of this study, the authors addressed themselves to the question of when should some type of intervention other than routine criminal justice administration be imposed on a delinquent criminal career.

> The most relevant question, then, is at what point in a delinquent boy's career an intervention program should act. One answer would be that the best time is that point beyond which the natural loss rate of probability of desistance, begins to level off. Because 46 per cent of the delinquents stop after the first offense, a major and expensive treatment program at this point would appear to be wasteful. We could even suggest that intervention be held in abeyance until the commission of the third offense, of an additional 35 per cent of the second-time offenders desist from then on. Thus, we reduce the number of boys requiring attention in this cohort from 3,475 after the first offense, to 1,862 after the second offense, to 1,212 after the third offense, rather than concentrating on all 9,945 or some large subgroup under a blanket community action program. Beyond the third offense, the desistance probabilities level off. (Wolfgang, 1972)

SENTENCING THE REPEATER

An important facet of controlling repeat offenders lies in the type of punishment given him upon conviction. Mr. Sol Rubin discusses increased punishment for repeat offenders in his book, *The Law of Criminal Correction*.

He states that practically every state in the United States, as well as the federal government, has one or more laws providing for increased punishment for a crime committed by a person who had been previously convicted or previously incarcerated in a correctional institution. (Rubin, 1963)

Specific recidivism statutes provide for increased punishment if the crime of which the person is convicted is the same as one for which he had been previously convicted. The American colonies used specific recidivism statutes, and the form was continued in the states. General recidivism statutes, more common than the specific type, provide for increased punishment for a reptition of crime whether or not the earlier offense was the same as the later one. [Texas has a general recidivism statute] (Rubin, 1963)

Rubin tells us that both the general and specific recidivism statutes have been attacked as unconstitutional on a variety of grounds. None of these attacks have prevailed. The courts have firmly held that the additional penalty is not ex post facto, does not constitute double jeopardy, does not deny the offender equal protection of the laws, and does not violate due process requirements. The additional penalty is held to be incurred not for the first offense once more, but for a condition represented in the repeated crime. (1963)

Under the common law, a court has power to impose cumulative sentences on conviction of several offenses charged in separate indictments or in separate counts of the same indictment, with imprisonment for one commencing at the termination of imprisonment for the other. Similarly, a court may impose a sentence to commence upon the termination of another sentence imposed by another court, although a statute may prohibit it. However, wherever the statute does not control, multiple sentences are construed as running concurrently, unless the sentencing judge states otherwise. This is generally so even where the terms are imposed by different courts. [This is true in Texas.] (Rubin, 1963)

INTERVIEW

On April 12, 1972, members of this section interviewed Dr. John Holbrook, Chief Psychiatrist, and Mr. Eric J. Holden, Psychological Counselor, of the Texas Department of Corrections to obtain their opinions, relative to their professional experience, regarding repeat offenders. We felt their experience in dealing with offenders would give us valuable insight on repeat offenders. For that reason we include a summary of their opinions and theories in this chapter. These were given from the professional training and experience of these men and from scientific studies known to them.

Dr. Holbrook and Mr. Holden had these observations relative to this study. There has been practically no meaningful research conducted to identify the specific impact the repeat offender has on the overall crime picture. They felt that this definition of a repeat offender (utilizing persons filed on) was a fairly valid indicator of a person's involvement in crime. They felt that most stranger-to-stranger crime is committed by psychopaths.

Relative to the offender and repeat offender in general, Dr. Holbrook and Mr. Holden had the following observations and estimations. Forty per cent of all criminals are psychopaths (sociopaths). Eighty to ninety per cent of all crime is committed by these psychopaths. They stated that Cleckley, a noted authority on psychopaths, gives the following description of the psychopathic personality in his book, *The Mask of Sanity:*

> ... we can conclude that he does not profit from experience. He will not accept blame and responsibility for his failures or for any of his antisocial actions ... Emotionally, he is shallow

and incapable in most human feeling, especially is he lacking in any feeling of remorse... He is irresponsible, antisocial, and destructive without any known motivation for such behavior

These two professionals feel that psychopaths are genetically created, that is, they are different from the day they are born. According to different studies, forty to seventy per cent of all psychopaths have different brain wave patterns.

They state that psychopaths characteristically do not respond emotionally in the same manner a normal person does. Their whole central nervous system is different. They make true emotional physiological responses to only two things; an ego threat or ego stimulation. That is to say that normal emotions such as love, fear and desire for security have no effect on their social interactions.

Dr. Holbrook states the opinion that psychopaths have a high average or superior intelligence, giving him the ability to avoid detection. He feels that money is only a minor secondary motivation for criminal activity with psychopaths, and that they commit antisocial acts for ego stimulation. At the present time there are no known methods of therapy or behavior modification that are effective in treating the psychopath. According to these professionals, time is the only factor that will cause a psychopath to reach any degree of normalcy. They state that 30 per cent of them burn out in the third or fourth decade.

Their opinion is that present correctional institutions only further criminalize inmates. Prisons only give convicts more vocations, more education, and more mobility. The convict utilizes these things to continue his criminal activity.

By attacking the environment, new situations are being created for the psychopath to operate in. They feel the offender must be modified, not the environment. In their opinion the offenders being caught by the police and eventually sent to prison are only high grade morons, while the psychopath who is committing eighty to ninety per cent of the crime is seldom being caught.

They state a study has shown that psychopaths can be identified in terms of a basic physical response. One method is the Galvanic Skin Response (GSR) which is a function of the autonomic nervous system. By presenting ego relevant stimuli to a person, the emotional response as recorded by a GSR machine will identify the psychopath. Any technician who can operate the GSR machine can be easily trained to present the proper stimuli which are relevant to the psychopath. A polygraph machine can be used for GSR recording and police officers would be ideal people to train to operate the machine and interpret reactions. Dr. Holbrook feels that not only will this method identify the psychopath, it can predict the types of crimes the person is likely to commit, and the predictability of this person committing a crime with 80 to 90 per cent accuracy. He states that whenever a psychopath receives a serious ego threat, with almost 100 per cent certainty, this person is going to commit an antisocial act within 24 hours to rebuild his ego. The mere act of a police officer questioning a psychopath on the street can be enough ego threat to cause this person to commit a criminal act to stimulate his ego.

There were post-identification actions recommended by Dr. Holbrook. The first calls for very early identification. The goal should be to make identification before the person becomes involved in antisocial activity, preferably at ages five and seven. At this stage there may be some therapeutic treatments which will prove effective in preventing antisocial behavior.

Secondly, Dr. Holbrook felt that if the police know who the psychopaths are, they can have some idea what crimes the psychopath is going to commit and with what frequency they are going to commit these acts. With these factors known, the police can develop and employ more effective preventive methods and apprehension measures.

They predict that treatment and behavior change is ultimately going to be chemical or neuro-surgical by placing an implant in the brain. The technological capability to do this and control deviant behavior is here.

These men predict that if action is not taken to control the psychopath, we can expect one major crime committed against each family every year by the turn of the century.

A POLICE DEPARTMENT STUDY

The Washington, D.C. Police Department conducted a study relating to the repeat offender and the criminal justice system in that area (1972). This report covers the calendar year of 1971, with particular emphasis on the last quarter, October, November, and December. The report primarily concerns the individual who is on some form of release, parole, probation, personal recognizance, or housed in a community correctional center, and who is rearrested.

The individuals studied in this police department report were under the supervision of one or more of the following agencies at the time of their rearrest: District of Columbia Bail Agency, Superior Court Probation Office, District of Columbia Department of Corrections, or the United States District Court Probation and Parole Office. The Criminal Investigation Division in Washington documented the rearrest of 2,755 individuals in one of these release status.

A study by that division of the 2,755 individuals rearrested while on some type of release status reveals that felony charges were placed in 1,680 or 60.9 per cent of the rearrests. Included in these felony charges are thirty-six individuals who were rearrested for homicide in 1971 while in release status. They found that these thirty-six homicide arrests accounted for 12.7 per cent of the 283 homicides committed in the District of Columbia in 1971.

The following chart is a breakdown of the 2,755 individuals rearrested by the agency responsible for the supervision of the individual at the time of his second arrest. (Washington, 1972)

D. C. Bail Agency (personal recognizance)	1,437
Superior Court Probation	609
D. C. Department of Corrections	555
U. S. District Court Probation and Parole	154
TOTAL	2,755

Between February 1, 1971, and December 31, 1971, the Washington Police Department documented the rearrests of 1,437 individuals who, at the time of their rearrest, were under the supervision of the D.C. Bail Agency on Personal Recognizances releases. These 1,437 individuals accounted for 52.6 per cent of the total rearrests documented by them in 1971. (1972)

In October, November, and December, 1971 a total of 482 persons on personal recognizance releases were rearrested by the Washington Police Department. Felony charges were placed in 295 or 61.2 per cent of the rearrests. Ninety-eight or 36.6 per cent of the felony charges were for robbery. Fifty-four of the robbery cases were for armed robbery. There was an average of 105 days between the first arrest and the rearrest. (1972)

These figures document the futility of police departments arresting and filing on criminals if they are not brought to trial in a reasonable time and a meaningful rehabilitation effort made.

NEED FOR COORDINATION

Ex-attorney General Ramsey Clark articulates the need for efficiency and coordination in the criminal justice system. If police are not effective in preventing crime, prosecution, courts and prisons are flooded. If police fail to solve crimes, prosecutions cannot proceed and courts cannot do justice — the rest of the system never has its chance. When a district attorney's office inadequately presents cases developed by police, the deterrent effect of the process is lost. Guilty persons are not convicted and the public is not protected (Clark 1970).

If courts have huge backlogs and are unable to reach criminal cases for many months, burdens are placed on police, who may be confronted with a series of crimes committed by people released on bail pending trial. Prosecution offices face the difficult task of keeping up with witnesses, constantly reviewing old matters and endeavoring to present stale evidence when trial is reached. Jails will be overcrowded with defendants who are not released pending trial. Additional burdens on manpower and facilities are costly, but more costly still in the loss of deterrent effect through delay (Clark, 1970).

For the accused, delay often means an increased capability to commit crimes or a diminished chance for rehabilitation because of continued exposure to forces tending him toward crime — the old gang, the broken home, the narcotics habit — because crimes may be committed while he is awaiting trial, or because of associations and experiences in jail before trial. For the innocent person accused of crime, delay means prolonged anxiety. If held in jail pending trial, the accused faces reduced ability to obtain evidence or witnesses to establish innocence. Failure of the correctional aspects of the system render the entire process practically useless (Clark, 1970).

Mr. Clark's observations closely match those of this study. There is a strong need for coordination between the agencies of the system. This coordination cannot take place without increased information exchange and data gathering.

DALLAS CASE HISTORIES

The following study was made in order to present the criminal histories of three repeat offenders in the Dallas area. From this documentation can be derived the extent of criminal activity of these men and how the criminal justice system has been unsuccessful in its attempt to thwart these offenders. It is obvious that no statistical conclusions can be made from this data, but it does indicate that the system is failing in far too many instances. The following true case histories are not presented as being typical or representative. However, they are true case histories of three individuals and are indicative of the need for efficiency in the system. Complete documentation of these histories are on file with the Dallas Police Department.

Fictitious names will be used in this study to allow distribution outside the criminal justice system. The first repeat offender case history compiled in this study was that of Mr. X.

Mr. X first came to the attention of the Dallas Police Department at age 16 when he admitted to five Residential Burglaries and two Auto Thefts. He was turned over to the juvenile authorities. He was arrested at 17 for AWOL from the Air Force and turned over to the Air Police.

At 25, he was arrested for Driving While License Suspended. While he was on bond, the city filed a case of Sodomy on him. The grand jury delivered a no bill in the case.

In the following ten years Mr. X's criminal activities included:

- Arrested for Investigation of Burglary — released by Dallas Police Department.
- Arrested three times in seven months on "Vagrancy Law", twice in company of prostitutes and once with working burglar who was out on bond.
- Arrested for Driving While License Suspended — fined $250 and court costs.
- Arrested for Driving While Intoxicated — fined $150 and court costs and served three days in jail.
- Two cases of Theft Over $50 filed on him and warrant issued. When arrested, he had possession of stolen property. He was released on a $1,500 bond covering two cases of Theft Over $50, one case of Burglary and one case of Receiving and Concealing Stolen Property. The grand jury returned a no bill on the Burglary case.
- A few days later arrestee on Tarrant County Burglary Warrant. Secured a $1,000 bond and was released.
- The two cases of Theft Over $50 were reduced to Theft Under $50. The court assessed his penalty at $500 in fines and one day in jail in each case.
- Arrested for Theft of $12,000 from department store. Later true billed and released on $1,000 bond.
- Killed two men with his shotgun, contended they tried to rob him. Grand jury no billed him.
- Arrested for Receiving and Concealing Stolen Goods and released on bond.

Arrested for defrauding an innkeeper in Nueces County

Mr. X is a man who has become very adept at avoiding arrest and delaying conviction. His only convictions have been for Driving While License Suspended, Driving While Intoxicated, and Theft Under $50. He has paid fines and served five days in the County Jail. He has been no billed on Sodomy, Theft/Over, Burglary, and Murder charges. True bills have been returned in Theft Over $50 and Receiving and Concealing charges. Mr. X was out on bond on the Receiving and Concealing charge after September, 1970 and after October of 1970, on the Theft/Over charge. As of November 28, 1972, he was still free on these bonds.

The second case history is that of Mr. Y. His criminal career began at age 13. Between the ages of 13 and 16 he was transferred to the Dallas County Juvenile Home seven times. Among the activities that prompted this action was his involvement in three Theft charges, one Burglary, Auto Theft, Indecent Language Over the Telephone, Shoplifting, Carrying Prohibited Weapon, and Simple Assault.

Between the ages of 17 and 26 Mr. Y's criminal record includes the following:

- Auto Theft — filed by grand jury — two-year probated.
- Burglary and Violation of Parole — True billed by grand jury — sentenced to Texas Department of Corrections for two three-year concurrent terms.
- Three months after his parole from the Texas Department of Corrections was completed, he was arrested for Burglary — true billed by grand jury — sentenced to a five-year term.
- Less than three years later, he was charged with Theft Under $50 and Alias Tickets — received City jail time and a fine.
- Arrested for Burglary — true billed — released on cash bond.
- Eight days later, again arrested for another Burglary and released on bond.
- Theft Over $50 — released on bond.
- Arrested for outstanding Auto Theft and Burglary Warrants — pled guilty to Theft from Interstate Shipment — received five year federal penitentiary sentence.
- Pled guilty to the Burglary and Theft Over $50 charges — received two two-year sentences to run concurrently with federal time.
- Pled guilty to the Burglary Business House Nighttime charge and received an additional two-year sentence to run concurrently with the federal sentences.
- In January of 1972, Mr. Y was transferred to the Federal Correctional Institution at Texarkana, Texas. Although he was assessed a total of eleven years, the terms will run concurrently. (The longest being the five year federal prison term.)

During his adult career, Mr. Y, presently 27 years old, has been true billed for Auto Theft twice, Burglary four times, and one time for Theft from Interstate Shipment and Theft Over $50.

Before he began to serve his current time at the federal penitentiary, he had spent less than four years in confinement. Spending four years in prison out of his thirteen years of participation in crime evidently did not act as a deterrent to his financially rewarding profession.

Another case is that of Mr. Z. His adult life of crime began in August of 1967. The following is a brief account of his activities.

- Forgery case filed — Grand jury no billed him.
- Arrested for Sodomy, posted $1,000 bond and released—assessed a two-year probated sentence.
- Arrested, while still on probation, for Illegal Possession of a Narcotic Drug. His probation was revoked and he was assessed a two-year sentence in the Texas Department of Corrections.
- Thirteen months later he was released from prison.
- Arrested for Theft Under $5 - fined.
- Arrested for Unpaid Traffic Tickets — fined and City jail time.
- Arrested for Disorderly Conduct — Posted bond and released.
- Arrested for Burglary — made bond and released.
- Charged with Theft Over $50 - warrant issued.
- Residence Burglary arrest — bond - released.
- Arrested on three Burglaries and one Theft Over $50 warrant — placed in County jail.
- At this time an additional hold was placed on Mr. Z for the New Mexico authorities while he remained in the Dallas County jail.
- Grand Jury returned true bill on all of the offenses. He received a ten-year sentence on each case, the sentences to run concurrently.
- He was assessed a ten-year sentence for Burglary.
- Assessed a five-year sentence for Auto Theft.
- Mr. Z was transferred to the Texas Department of Corrections at Huntsville, assessed a total of fifty-five years, all of which he is serving concurrently, and a detainer from Otero, New Mexico.

The maximum time Mr. Z will spend in prison on this fifty-five year total will be ten years (i. e., the longest sentence of the group). He will be eligible for parole in three years and four months minus any time off for good behavior. In view of these and other case studies, the swiftness and surety of justice in Dallas is questioned.

Chapter III
PRISON INMATES FROM DALLAS COUNTY

The purpose of this study was to summarize and report statistical information on all the Dallas County offenders incarcerated in the Texas Department of Corrections, in March, 1972.

The statistical information in this study was derived from information supplied to this Department by the Data Processing Department of the Texas Department of Corrections. The total number of Dallas County prisoners confined in the Texas Department of Corrections at Huntsville was 2,933 according to data analysis obtained in March of 1972.

The information reported below gives the social characteristics, offense information, and prior criminal histories of Dallas area inmates. Convictions for robbery and burglary account for a majority of the inmates with an overall average of five-year sentences. This data source was not designed to give previous criminal histories and does not give an aggregate per cent of inmates with previous arrests or convictions. It does indicate that 25 per cent had been sentenced to state reformatories and that 73 per cent had convictions resulting in jail sentences. It also indicates that 37 per cent had previously been in the Texas Department of Corrections.

SOCIAL CHARACTERISTICS

Race

Of these prisoners, it was determined that 57.17 per cent were black, 38.35 per cent were white, and 4.46 per cent were of Mexican extraction.

Sex and Age

It was also determined that 95.36 per cent were male and 4.64 per cent were female. Their average age was 31 years with 50.6 per cent of the prisoners falling between the ages of 20 and 28 years old.

Marital Status

The marital status of the prisoners indicated that 44.87 per cent were single, 27.20 per cent were married, 16.36 per cent were divorced, and the remainder fell into other categories.

Citizenship

Ninety-nine and eighty-six hundredths per cent were citizens of the United States and the remainder were citizens of other countries.

Military Service

Seventy-five and forty-five hundredths per cent were shown to have never served time in any branch of military service. The majority of those who did serve (14.11%), did so in the Army and the minority (0.03%) were reservists.

OFFENSE INFORMATION

Murder

There were 278 or 9.48 per cent of the Dallas County prisoner population serving sentences for *murder* at the Texas Department of Corrections. Of these, 265 have committed one (1) murder, 12 have commited two (2) murders, and one is responsible for five (5) murders. Their combined total was indicated as 293 murder victims or an average of 1.05 victims per offender.

Rape

One hundred and forty-two or 4.84 per cent of the Dallas County prisoner population were serving sentences for *rape*. Of these, 116 have committed one (1) rape, 18 have committed two (2) rapes, 7 have committed three (3) rapes, and one is responsible for six (6) rapes. Their combined total was indicated as 179 rape victims or 1.26 victims per offender.

Robbery

Eight hundred and thirty-five or 28.47 per cent of the Dallas County prisoner population were serving sentences for *robbery*. Of these, 517 committed one (1) robbery, 142 committed two (2) robberies, 73 committed three (3) robberies, and 103 were responsible for four (4) or more. One individual was shown to have committed ten (10) robberies. Their combined total was indicated as 1,539 robbery victims or an average of 1.84 victims per prisoner.

Assault

Seventeen or 0.58 per cent of the Dallas County prisoner population were serving sentences for felonious *assaults*. There were no prisoners serving sentences for multiple offenses of assault.

Burglary

Eight hundred and sixty or 29.32 per cent of the Dallas County prisoner population were serving sentences for *burglary*. Of these, 630 committed one burglary, 161 committed two burglaries, 34 committed three burglaries, and 35 were responsible for four or more. One individual was shown to have committed 39 burglaries. Their combined total was indicated as 1,293 burglary offenses or an average of 1.50 offenses per prisoner.

Theft Over Fifty Dollars

Six hundred and sixteen or 21.00 per cent of the Dallas County prisoner population were serving sentences for *theft over fifty dollars*. Four hundred and seventy-nine committed one theft over, 102 committed two, and 35 were responsible for three or more. Their combined total was indicated as 805 theft over fifty offenses or an average of 1.31 offenses per prisoner.

Auto Theft

Ten or 0.34 per cent of the Dallas County prisoner population were serving sentences for *auto theft*. There were no prisoners serving sentences for multiple offenses of auto theft.

Number of Codefendants

Fifty-one and forty-eight hundredths per cent of the prisoners stood trial alone, 23.42 per cent had one codefendant, 13.50 per cent had two, and the remainder had from three to fifteen codefendants.

Detainers

Two and ninety-four hundredths per cent of the prisoners had one or more detainers by authorities in the State of Texas. Sixty-seven hundredths per cent had one or more out-of-state detainers, and there were 0.40 per cent with one or more federal detainers.

The total number of Dallas County prisoners were serving an average sentence of 19.9 years with 61.2 per cent of the prisoners serving between two and ten years.

PRIOR CRIMINAL HISTORY

Previous Sentences

Fifteen and forty-six hundredths per cent of the prisoners had received one or more suspended or probated sentences as juveniles from state courts. Thirty-two and eighty-seven hundredths per cent had been confined in county detention homes one or more times and 25.03 per cent had been confined in state reformatories. No tabulation is available from the Texas Department of Corrections to determine the aggregate per cent of prior juvenile confinements.

As adults, 7.46 per cent had received one or more suspended sentences from state courts and 45.56 per cent had received probated sentences. Federal probations had been received by 2.04 per cent of the prisoners. Seventy-three and twenty-seven hundredths per cent had previously been convicted and served one or more county jail sentences. Sixty-three and twenty-seven hundredths per cent were at that time in the Texas Department of Corrections for the first time, 21.24 per cent were there for the second time, and 15.43 per cent had served three or more sentences. Fourteen and thirty-six hundredths per cent had been confined one or more times in other state or federal prisons and 6.79 per cent had served time in military prisons. No aggregate tabulations were available to show previous prison experience ratios.

Parole Violations

Six and sixty-nine hundredths per cent had previously been returned to the Texas Department of Corrections for parole violations and 1.36 per cent to other prisons.

Profile of Dallas County Prisoner

From this information, the characteristics of a typical Dallas County offender in the Texas Department of Corrections can be drawn. The character description was derived from modal values of variable distributions of Dallas County inmates and is by no means representative of any known individual.

The typical Dallas County offender was:

- Twenty-two and one-half (22 1/2) years old.
- Black
- Male
- Presently single.
- Had not served in any branch of military service.
- Had a 9th grade education.
- Had an I.Q. of 85 to 90.
- Classified his occupation as unskilled.
- Had not served prior sentences in the Texas Department of Corrections or any other prison.
- At that time serving time for one offense.
- Was convicted of burglary.
- Was serving a sentence of five years.
- Had not received a probated sentence as an adult or juvenile.
- Had a previous conviction for which he had served County jail time (offense not determined).

Chapter IV
INTERVIEWS WITH DALLAS COUNTY INMATES

Members of the Planning and Research staff interviewed the 99 inmates from Dallas County that were in the Diagnostic Center on March 4, 1972. Inmates are assigned three months of their sentence for testing and evaluation. For that reason, we chose to test all inmates at that Center to represent a pseudo-random sample of recently committed inmates. It was felt our questionnaire would obtain a greater degree of truthfulness if it was administered in conjunction with other prison interviewing.

The interview was introduced as being voluntary and strictly for research purposes. It sought to determine the inmates account of how much crime they had committed, their previous criminal history, and their experience with the criminal justice system. As indicated in the information following, the interviews determined that: nearly all inmates convicted of more than one offense were serving concurrent sentences; a majority had juvenile arrest records; and the repeat offenders admitted to many more offenses than they were convicted of committing.

The inmates were all arrested and convicted in Dallas County and arrived at the penitentiary in January and February of 1972. The following information was obtained from these interviews. The questionnaire used in these interviews can be found in Appendix I.

The average length of time the prisoner lived in Dallas County before he was arrested for his current offense was 15.7 years.

Sixty-nine and seven tenths per cent had been employed full-time when they committed the offense for which they were convicted. Thirteen and one tenth per cent had part-time employment and 17.2 per cent were unemployed.

Inmates classified their employment prior to their convictions as:

42.4% - Unskilled
30.3% - Semi-skilled
23.2% - Skilled
4.0% - Professional

The following indicated they were caught for their current offense by these listed methods:

48.5% - In The Act or Fleeing
24.2% - Informant
15.2% - Arrested by Detective
13.1% - Caught with the Loot
12.1% - Arrested for Another Offense
4.0% - Surrendered

The average length of time between the inmate's arrest and his trial was 5.3 months.

Thirty-six and four tenths per cent obtained their own attorney and 63.6 per cent were represented by a court appointed attorney. (Only one of the inmates admitted to paying for his attorney and bond fees with money obtained through criminal activity.)

Twenty-nine and three tenths per cent secured a bond for their release while awaiting trial. Seventeen and two tenths per cent of those who obtained a bond admitted to committing criminal offenses while released.

Guilty pleas were entered by 81.8 per cent of the inmates. Ninety-three and eight tenths per cent of these indicated they did so because they were guilty or to lessen their punishment.

Seventy of the inmates were convicted of an Index offense. A breakdown of the offenses were:

26 - Burglary
15 - Robbery
10 - Theft Over $50.00
9 - Aggravated Assault
7 - Auto Theft
4 - Murder

Fifty-seven and six tenths per cent have been convicted of one offense, 29.3 per cent convicted of two offenses, and 13.1 per cent of three or more offenses. Of those with convictions of more than one offense, 37 are serving concurrent sentences and one is not. The other five inmates did not respond.

Fifty-two and five tenths per cent thought that they would not be apprehended when they committed their current offense.

The sentences received ranged from one year to life. The average length of sentence was 8 years.

Fourteen of the inmates appealed their convictions. Two of these inmates withdrew their appeals before they were heard and the remainder received affirmed convictions.

Only four of those appealing their convictions secured an appeal bond.

Fifty-four of the inmates stated that they had been taken into custody as juveniles. Twenty-two of those 54 were confined in reformatories for their offenses.

Fifteen and two tenths per cent have served two or more previous sentences in other state or federal penitentiaries.

Sixty-nine and seven tenths per cent responded that prison acted as a deterrent to crime for them. The remainder disagreed.

Out of the 45 persons responding, only 26.7 per cent stated that being an ex-inmate limited their chances of finding employment.

Forty-two and four tenths per cent were arrested the first time for Index offenses.

The inmates considered the police attitude toward them at the time of their arrest as:

37.4% - Average
35.4% - Hostile
24.2% - Friendly
6.1% - Suspicious
4.0% - Helpful

The following reasons were given as the cause of their criminal activity:

37.4% - Old Gang
21.2% - Drinking
21.2% - Drugs
9.1% - No Opinion
6.1% - Employment
5.0% - High Living

The following responses were given to the question - "Why did you commit the current offense?":

23.2% - Money
20.2% - Using Drugs
19.2% - Had Been Drinking
14.1% - No Opinion
12.1% - Influenced by Friends
11.1% - Enjoy Excitement
4.0% - Didn't Think They Would be Caught

Sixteen of the inmates estimated their average income from criminal activities as $980.00 per week. The others either refused to answer this question or claimed to have received no monetary gain from their criminal activity.

Forty-two and four tenths per cent of the inmates indicated they used the money obtained by criminal activities for:

47.6% - High Living
40.5% - Rent
31.0% - Food
23.8% - Drugs
21.4% - Drinking
16.7% - Women
9.5% - Gambling and Debts

Forty-seven and five-tenths per cent of the inmates indicated they had used drugs as indicated below:

97.9% - Marijuana
34.0% - Pep Pills
31.9% - Hard Narcotics
29.8% - Barbiturates
23.4% - LSD
19.2% - Speed

Forty-nine inmates admitted committing a total of 3,204 offenses of burglary. Only 46 or 1.4 per cent of these offenses were brought to trial. This reveals an average of 65 offenses committed per person.

Twenty-nine admitted committing a total of 353 offenses of auto theft. Only 22 or 6.2 per cent of these offenses were brought to trial. This reveals an average of 12 offenses committed per person.

Forty-two inmates admitted committing a total of 467 offenses of theft over $50.00. Only 21 or 4.5 per cent of these offenses were brought to trial. This reveals an average of 11 offenses committed per person

Seventeen inmates admitted committing a total of 50 offenses of armed robbery. Only 16 or 32 per cent of these offenses were brought to trial. This reveals an average of 3 offenses committed per person.

Those 74 inmates who were repeat offenders admitted to committing 4,047 Index offenses, while the 25 that were first offenders claimed to have committed only 27 Index offenses.

Forty-eight of the repeat offenders admitted to committing 3,201 burglaries for an average of 65 offenses each, while four first offenders admitted to only four burglaries.

The inmates indicated they had used one or more of the below listed services in the preparation of successful completion of their criminal acts:

13.1% - Fence (Receiver & Concealer)
12.1% - Lawyer
10.1% - "Square" as a Buyer or Informer
8.1% - Drug Supplier

These opinions were expressed as means to prevent a person from committing a future offense after his release from prison:

49.5% - Job Placement
41.4% - Counseling
41.4% - Learning a Trade
21.2% - A Place to Live
6.1% - Education

In addition to what they were arrested for, 47 inmates admitted to committing one or more of the following offenses since their last release from prison. Of these 47 inmates:

61.9% - have committed at least one burglary
19.0% - have committed at least one auto theft
19.0% - have committed at least one lesser offense
14.3% - have committed at least one theft over $50.00
9.5% - have committed at least one armed robbery
4.8% - have committed at least one aggravated assault

The following opinions were expressed as reasons why persons become repeat offenders:

42.4% - Money
30.3% - Need for Drugs
22.2% - Don't Believe They Will Be Caught
17.2% - Associates
10.1% - Not Afraid of Punishment
9.1% - Enjoy Excitement
8.1% - Unable to Lead a Normal Life

Only two inmates of the 99 interviewed expressed a desire to return to criminal activity when released from prison.

Chapter V
DALLAS POLICE DEPARTMENT ARREST CHARACTERISTICS

An important source of understanding concerning who is committing criminal offenses is an analysis of who the police are arresting and filing cases against. Such an analysis is the substance of this chapter. Because of the large number of offenders filed on in a year, we sought a smaller yet valid sample from which to draw our conclusions. The sample source used for this segment of the Repeat Offender Study was the names of all adult persons filed on for Index offenses during the months of January, April, and July of 1971. This sample yielded 1,076 persons. Records could not be located on nine (9) persons after a diligent search of all available records, leaving a valid sample of 1,067. These months were picked at random and represent 32 per cent of the Index cases filed in 1971. From this total, it was determined by a search of the Dallas County Sheriff's Identification Section and the Dallas County District Attorney's Office that:

General Facts

- Six hundred and thirty-five (635) persons were repeat offenders.
  Four hundred and thirty-two (432) persons were first offenders.

Repeat Offenders

- Fifty-nine and two tenths per cent of the persons filed on were repeat offenders.
- Fifty-four and five tenths per cent of the repeat offenders were black and 45.5 per cent were white, Mexican and others.
- Ninety-four and six tenths per cent of the repeat offenders were male and 5.4 per cent were female.
- The average age of the repeat offender was 27 years for males and 29 for females.

First Offenders

- Forty-eight and seven tenths per cent of the first offenders were black and 51.3 per cent white, Mexican and others.
- Eighty-five and four tenths per cent of the first offenders were male and 14.6 per cent were female.
- The average age of the first offender was 26 years for males and 28 years for females.

The following tables indicate grand jury and court actions by offense and the relationship between first and repeat offenders. Each offense is dichotomized by type of offender showing the disposition or status of the case. The average length of sentence does not vary substantially between types of offenders and it is interesting to note first offenders averaged longer

TABLE 5
OFFENDER AND DISPOSITION ANALYSIS FOR MURDER

Disposition	REPEAT OFFENDER Persons	REPEAT OFFENDER Per cent	FIRST OFFENDER Persons	FIRST OFFENDER Per cent
Grand Jury Action:				
No Bill	5	17.9	9	42.9
True Bill/Prosecution Complete	12	42.8	4	19.1
True Bill/Case Pending	11	39.3	8	38.0
TOTAL	28	100.0	21	100.0
Trial Disposition:				
Case Dismissed	None	None	None	None
Probation*	2	7.1	3	14.3
Fine and/or County Jail	None	None	None	None
Prison†	9	32.1	None	None
Acquitted	None	None	None	None
Insane	1	3.6	1	4.8
Deceased:	None	None	None	None
TOTAL	12	42.8	4	19.1
TOTAL CASES	28		21	

**Average probated sentence for first offender 6.7 years, for the repeat offender 7.5 years.*

†Average prison sentence for repeat offenders 18.9 years, the first offender served no prison sentence.

TABLE 6
OFFENDER AND DISPOSITION ANALYSIS FOR RAPE

Disposition	REPEAT OFFENDER Persons	REPEAT OFFENDER Per cent	FIRST OFFENDER Persons	FIRST OFFENDER Per cent
Grand Jury Action:				
No Bill	4	23.5	13	56.5
True Bill/Prosecution Complete	8	47.1	4	17.5
True Bill/Case Pending	5	29.4	6	26.0
TOTAL	17	100.0	23	100.0
Trial Disposition:				
Case Dismissed	None	None	None	None
Probation*	None	None	1	4.4
Fine and/or County Jail	1	5.9	None	None
Prison†	7	41.2	2	8.7
Acquitted	None	None	1	4.4
Insane	None	None	None	None
Deceased:	None	None	None	None
TOTAL	8	47.1	3	17.5
TOTAL CASES	17		23	

**Average probated sentence for first offender is 5 years, repeat offender received no probations.*

†Average prison sentence for first offender is 12.5 years, the repeat offender received an average of 40 years. [One individual had received a twelve hundred year sentence. This sentence was reduced to one hundred years for the purpose of this report.]

TABLE 7
OFFENDER AND DISPOSITION ANALYSIS FOR ROBBERY

Disposition	REPEAT OFFENDER Persons	Per cent	FIRST OFFENDER Persons	Per cent
Grand Jury Action:				
No Bill	16	23.2	13	34.2
True Bill/Prosecution Complete	36	52.2	20	56.2
True Bill/Case Pending	17	24.6	5	13.2
TOTAL	69	100.0	38	100.0
Trial Disposition:				
Case Dismissed	4	5.8	4	10.5
Probation*	None	None	3	7.9
Fine and/or County Jail	2	2.9	None	None
Prison†	30	43.5	12	31.6
Acquitted	None	None	1	2.6
Insane	None	None	None	None
Deceased:	None	None	None	None
TOTAL	36	52.2	20	52.6
TOTAL CASES	69		38	

* Average probation received by first offender is 3 years, the repeat offender received no probations.

† Average prison sentence received by first offender is 8.5 years, the repeat offender received 14.7 years.

TABLE 8
OFFENDER AND DISPOSITION ANALYSIS FOR AGGRAVATED ASSAULT

Disposition	REPEAT OFFENDER		FIRST OFFENDER	
	Persons	Per cent	Persons	Per cent
Grand Jury Action:				
No Bill	20	14.7	30	26.1
True Bill/Prosecution Complete	51	37.5	40	34.8
True Bill/Case Pending	65	47.8	45	39.1
TOTAL	136	100.0	115	100.0
Trial Disposition:				
Case Dismissed	5	3.7	6	5.2
Probation*	6	4.4	4	3.5
Fine and/or County Jail	29	21.3	26	22.7
Prison†	11	8.1	2	1.7
Acquitted	None	None	2	1.7
Insane	None	None	None	None
Deceased:	None	None	None	None
TOTAL	51	37.5	40	34.8
TOTAL CASES	136		115	

* Average probation received by first offender is 3.2 years, the repeat offender received 3.3 years.

† Average prison sentence received by first offenders is 4 years, the repeat offender received 5.6 years.

TABLE 9
OFFENDER AND DISPOSITION ANALYSIS FOR BURGLARY

Disposition	REPEAT OFFENDER Persons	REPEAT OFFENDER Per cent	FIRST OFFENDER Persons	FIRST OFFENDER Per cent
Grand Jury Action:				
No Bill	22	11.5	17	20.1
True Bill/Prosecution Complete	131	68.6	43	50.5
True Bill/Case Pending	38	19.9	25	29.4
TOTAL	191	100.0	85	100.0
Trial Disposition:				
Case Dismissed	11	5.8	4	4.7
Probation*	29	15.2	32	37.6
Fine and/or County Jail	13	6.8	3	3.5
Prison†	76	39.8	4	4.7
Acquitted	None	None	None	None
Insane	1	0.5	None	None
Deceased:	1	0.5	None	None
TOTAL	131	68.6	43	50.5
TOTAL CASES	191		85	

** Average probation received by first offender is 3.3 years, the repeat offender received 3.6 years.*
† Average prison sentence received by first offender is 2 years, the repeat offender received 4.1 years.

TABLE 10
OFFENDER AND DISPOSITION ANALYSIS FOR THEFT OVER $50

Disposition	FIRST OFFENDER Persons	Per cent	REPEAT OFFENDER Persons	Per cent
Grand Jury Action:				
No Bill	25	20.0	23	26.7
True Bill/Prosecution Complete	64	51.2	37	43.1
True Bill/Case Pending	36	28.8	26	30.2
TOTAL	125	100.0	86	100.0
Trial Disposition:				
Case Dismissed	6	4.8	2	2.3
Probation*	10	8.0	19	22.1
Fine and/or County Jail	17	13.6	14	16.3
Prison†	31	24.8	2	2.3
Acquitted	None	None	None	None
Insane	None	None	None	None
Deceased:	None	None	None	None
TOTAL	64	51.2	37	43.1
TOTAL CASES	125		86	

** Average probation received by first offender is 2.8 years, the repeat offender received 2.5 years.*
† Average prison sentence received by first offender is 4.0 years, the repeat offender received 3.5 years.

TABLE 11
OFFENDER AND DISPOSITION ANALYSIS FOR AUTO THEFT

Disposition	REPEAT OFFENDER Persons	Per cent	FIRST OFFENDER Persons	Per cent
Grand Jury Action:				
No Bill	5	7.2	15	23.4
True Bill/Prosecution Complete	49	70.8	39	61.0
True Bill/Case Pending	15	21.7	10	15.6
TOTAL	69	100.0	64	100.0
Trial Disposition:				
Case Dismissed	5	7.2	4	6.2
Probation*	9	13.0	27	42.2
Fine and/or County Jail	8	11.6	3	4.7
Prison†	25	36.2	4	6.2
Acquitted	1	1.4	None	None
Insane	None	None	1	6.1
Deceased:	1	1.4	None	None
TOTAL	49	70.8	39	61.0
TOTAL CASES	69		64	

** Average probation received by first offender is 2.8 years, the repeat offender received 2.7 years.*
† Average prison sentence received by first offender is 3 years, the repeat offender received 2.6 years.

NOTE: Average first offender prison sentence for all Index crimes is 6.2 years, the repeat offender is 7.7 years.

sentences in the offenses of theft and auto theft. Overall, the repeater averaged 7.7 years in prison compared to 6.2 years for first offenders.

Comparisons

The following figures give a relationship of offender's previous history by offense. Further, it shows the number of offenders filed on for each Index offense and the per cent of those that are first or subsequent offenders. Burglary and robbery have the largest per cent of repeaters with 69 and 64 per cent respectively.

Persons Charged With:	Total Persons	% Repeat Offenders	% First Offenders
Murder	49	57.1	42.9
Rape	40	42.5	57.5
Robbery	107	64.5	35.5
Aggravated Assault	251	54.2	45.8
Burglary	276	69.2	30.8
Theft Over $50	211	59.2	40.8
Auto Theft	133	51.9	48.1
INDEX CRIME TOTALS	1067	59.5	40.5

Previous Criminal Records of Repeat Offenders

Murder

Of the 28 repeat offenders filed on for murder, the following previous criminal histories were revealed:

- Two persons or 7.1 per cent have previously been filed on for murder and had one or more no bills returned by grand juries.
- Five persons or 17.9 per cent have previously been sentenced to prison for Index crimes. (The records indicated that there have been no prison sentences for convictions of lesser crimes.)
- Three persons or 10.7 per cent have previously received probated sentences for Index crimes. (The records also indicate that there were no probationers for lesser crimes.)
- Thirteen persons or 46.4 per cent have been previously convicted of one or more major misdemeanor or felony offenses and served County jail sentences.
- Eighteen persons or 64.3 per cent have previously been filed on for other violent crimes. (Rape, Robbery, Aggravated Assault, or more serious assaults.)
- Seven persons or 25.0 per cent have previously been filed on for prohibited weapon offenses.
- One person or 3.6 per cent had previously been filed on for a drug offense.

Rape

Of the seventeen (17) repeat offenders filed on for rape:

- Two persons or 11.8 per cent have been previously filed on for rape and had one or more no bills returned by grand juries.
- Three persons or 17.6 per cent have been previously filed on for rape and had one or more true bills returned.
- Seven persons or 41.2 per cent have been previously sentenced to prison for Index offenses. Two persons or 11.8 per cent have been sentenced to prison for lesser offenses.
- Eight persons or 47.1 per cent have previously received probated sentences for Index offenses. One person or 5.9 per cent received a probation for a lesser offense.
- Seven persons or 41.2 per cent have been previously convicted of one or more major misdemeanor or felony offenses and served County jail sentences.
- Ten persons or 58.8 per cent have been previously filed on for other violent crimes. (Murder, Robbery, Aggravated Assault or more serious assaults.)
- Seven persons or 41.2 per cent have been previously filed on for other sex crimes. (Sodomy, Fondling, Indecent Exposure, etc.)
- Seven persons or 41.2 per cent have been previously filed on for prohibited weapon offenses.

Robbery

Of the sixty-nine (69) persons filed on for robbery:

- Three persons or 4.4 per cent have been previously filed on for robbery and had one or more no bills returned by grand juries.
- Seventeen persons or 24.6 percent have been previously filed on for robbery and had one or more true bills returned.
- Twenty-five persons or 36.2 per cent have been previously sentenced to prison for Index offenses. Five persons or 7.2 per cent have been sentenced to prison for lesser offenses.
- Twenty-three persons or 33.3 per cent have previously received probated sentences for Index offenses. (The records indicate that there were no probations received for lesser offenses.)
- Sixteen persons or 23.2 per cent have previously been convicted of one or more major misdemeanor or felony offenses and served County jail sentences.
- Twenty-six persons or 37.6 per cent have been previously filed on for violent crimes. (Murder, Rape, Aggravated Assault or more serious assaults.)
- Thirteen persons or 18.8 per cent have been previously filed on for prohibited weapon offenses.
- Seven persons or 10.1 per cent have been previously filed on for drug offenses.

Assault

Of the 136 persons filed on for assault:

- Two persons or 1.5 per cent have previously been filed on for assault and had one or more no bills returned by grand juries.
- Thirty persons or 22.1 per cent have previously been filed on for assault and had one or more true bills returned.
- Thirty-four persons or 25.0 per cent have previously been sentenced to prison for Index offenses. Eleven or 8.1 per cent have been sentenced to prisons for lesser offenses.

- Thirty-four persons or 25.0 per cent have previously received probated sentences for Index offenses. Eleven or 8.1 per cent have received probations for lesser offenses.
- Forty persons or 29.4 per cent have previously been convicted of one or more major misdemeanor or felony offenses and served County jail sentences.
- Forty-seven persons or 34.6 per cent have previously been filed on for other violent crimes. (Murder, Rape, or Robbery.)
- Thirteen persons or 9.6 per cent have previously been filed on for prohibited weapon offenses.
- Seven persons or 10.1 per cent have previously been filed on for drug offenses.

Burglary

Of the 184 persons filed on for burglary:

- Ten persons or 5.4 per cent have previously been filed on for burglary and had one or more no bills returned by grand juries.
- Eighty-seven persons or 47.3 per cent have previously been filed on for burglary and had one or more true bills returned.
- Seventy persons or 40.2 per cent have previously been sentenced to prison for Index offenses. Fifteen persons or 8.2 per cent have been sentenced to prison for lesser offenses.
- Fifty-eight persons or 31.5 per cent have previously been convicted of one or more major misdemeanor or felony offenses and served County jail sentences.
- Thirty-seven persons or 20.1 per cent have previously been filed on for violent crimes. (Murder, Rape, Robbery, Aggravated Assault.)
- Fifteen persons or 8.2 per cent have previously been filed on for prohibited weapon offenses.
- Twenty-one persons or 11.4 per cent have previously been filed on for drug offenses.

Theft Over $50

Of the 125 persons filed on for theft over $50:

- Twelve persons or 9.6 per cent have previously been filed on for theft over $50 and had one or more no bills returned by grand juries.
- Forty-five persons or 36.0 per cent have previously been filed on for theft over $50 and had one or more true bills returned.
- Thirty-one persons or 24.8 per cent have previously been sentenced to prison for Index offenses. Twelve persons or 9.6 per cent have been sentenced to prison for lesser offenses.
- Forty persons or 32.0 per cent have previously received probated sentences for Index offenses.
- Ten persons or 8.0 per cent have received probations for lesser offenses.
- Forty persons or 32.0 per cent have previously been convicted of major misdemeanor or felony offenses and have served County jail sentences.
- Fifteen persons or 12.0 per cent have previously been filed on for violent crimes. (Murder, Rape, Robbery or any assault.)
- Nine persons or 7.2 per cent have previously been filed on for prohibited weapon offenses.
- Thirteen persons or 10.4 per cent have previously been filed on for drug offenses.

Auto Theft

Of the 69 persons presently filed on for auto theft:

- One person or 1.4 per cent had been filed on for auto theft and had a no bill returned by a grand jury.
- Ten persons or 14.5 per cent have been previously filed on for auto theft and had true bills returned.
- Twenty-five persons or 36.2 per cent have previously been sentenced to prison for Index offenses. Eleven persons or 15.9 per cent have received probations for lesser offenses.
- Sixteen persons or 23.2 per cent have previously been convicted of major misdemeanor or felony offenses and have served County jail sentences.
- Nine persons or 13.0 per cent have previously been filed on for violent crimes. (Murder, Rape, Robbery, or Aggravated Assault.)
- Four persons or 5.8 per cent have previously been filed on for prohibited weapon offenses.
- Five persons or 7.2 per cent have previously been filed on for drug offenses.

The following figures indicate the repeat offenders and the number of previous Index offenses that have been filed on them:

Number of Previous Offenses Filed	Persons	Percentage
One Offense	298	46.9
Two Offenses	144	22.7
Three Offenses	82	12.9
Four Offenses	50	7.9
Five or More Offenses	61	9.6
TOTAL	635	100.0

Chapter VI
A CRIMINAL JUSTICE SYSTEM

The preceding four chapters have been documentation of the fact that repeat offenders are accountable for a substantial amount of the crime problem. This study will now present a subjective analysis of the criminal justice system to indicate the areas needing improvement to control repeat offenders.

The Police

Often when a repeat offender is arrested for burglary, or other monetary offenses, his arrest clears up dozens of offenses, although, in many instances, only one or two cases are filed with the County Grand Jury.[2] Because of the large number of offenses committed in a city the size of Dallas, detectives are unable to study each individual offense. Subsequently, a great many offenses without leads are suspended and are not reviewed by the individual detective. During 1971, there were 12,481 Index offenses cleared by arrest, yet only 6,178 were filed with the District Attorney or Juvenile Court. This represents a prosecution rate on only 49.5 per cent of the cleared cases. A research of multiple-offense clearances by the Criminal Investigation Division in February and May of 1972 show that repeat offenders account for 90 per cent of the multiple case clearances investigated by this Department. Since 90 per cent of the multiple clearances are cleared by repeat offenders, it follows that a majority of the unfiled cases or approximately 5,670 cases were probably committed by repeat offenders.

The following tables represent a quantitative model of how Index crimes are processed by the Dallas Police Department. It has been developed in order to make visible our response to citizen victimization and to highlight areas within our part of the criminal justice system which should be strengthened. They document the offenses reported from September, 1970 to August, 1971.

Each table represents a separate category of Index crimes. By reading from left to right across each month, the reader is able to trace the Department's efforts once an Index crime has been reported.

For example, on Table 12, consider the offense of murder. By reading from left to right across the top line, we see that for September, 1970, there were 21 murders reported, two unfounded, or 9.52 per cent, which left a total of 19 murders known to police. This means that only 90.48 per cent of the murders reported for that month were actually murders. Column 5 indicates that the Police Department cleared 20 murders by arrest or exceptional arrest, which was 105.26 per cent of the murders known to police. During the modeling period, juvenile cases were averaged and for this category, an average of .83 persons or 4.37 per cent of the crimes known to police were filed against juvenile offenders. This makes a total of 31.83 per cent cases filed, or 167.63 per cent of the crimes known to police. Column 8 shows how many of the total cases filed were filed "at large." In this instance there were five, or 26.32 per cent of the murders known to police. The next column (No. 9) is divided into two sub-columns and shows two important conclusions.

The first sub-column indicates the per cent of cases filed as compared to the number of crimes cleared. This column answers the question, "What is the ratio of cases filed to cases cleared?", and 100 per cent would be a one-to-one ratio. In this category for September, the ratio was in excess of one and one-half to one. The final column reflects the relationship of cases filed to murders known to the police. Here again, 100 per cent would reflect one crime filed for every crime known to police.

In summary, by reading across the model, one can easily see what proportion of the reported crime falls out or becomes a by-product of the criminal justice system as it applies to the Police Department.

Column 9 becomes the most important portion of the model since it permits comparison of the end product, i.e., cases filed against criminals as compared to the number of crimes cleared and crimes known.

The concept of modeling is not a new term; it is only new in law enforcement. It simply means to set out in quantitative form what is believed to be the significant factors in a situation, and to structure them in a logical manner.

Since this concept did not prevail during the years that our information system was being constructed, the data necessary to construct a model is fragmented in this Department. Therefore, data must be gathered from a number of sources and in some instances is simply not directly available, and must be reconstructed. An example of this is the number of juvenile cases filed each month.

Data had to be gathered from the *FBI Return B, Annual Return of Offenses Known to Police, Criminal Investigation Division's Monthly Report on Cases Filed with the District Attorney; the Dallas Police Department Summary of Crime of the Month;* and the *FBI Return C, Actual Return of Persons Charged,* in order to construct this model. Inasmuch as no monthly report is made of the number of juvenile cases filed, an average had to be drawn from the annual report to the FBI.

Police response is most vigorous in the crimes of murder, rape, auto theft, and robbery, when viewed in terms of the number of cases filed to the number of crimes known to police. For the period of this analysis, September, 1970, through August, 1971, the Department filed the following percentages of cases in those instances where the case was cleared by arrest: murder 115.42 per cent, rape 62.54 per cent, auto theft

QUANTITATIVE ANALYSIS OF MURDER CASES
Table 12

MONTH	[1] REPORTED	[2] UNFOUNDED	% OF NO. 1	[3] CRIMES KNOWN	% OF NO. 1	[4] CBA or CBEA	% OF NO. 3	[5] CASES FILED ADULT
Sept. '70	21	2	9.52	19	90.48	20	105.26	31
Oct. '70	23	2	8.70	21	91.30	21	100.00	18
Nov. '70	16	2	12.50	14	87.50	16	114.29	16
Dec. '70	17	1	5.88	16	94.12	14	87.50	20
Jan. '71	14	2	14.29	12	85.71	11	91.67	12
Feb. '71	28	1	3.57	27	96.43	28	103.70	28
Mar. '71	13	3	23.08	10	76.92	11	110.00	12
April '71	16	0	0	16	100.00	14	87.50	12
May '71	22	1	4.55	21	95.45	21	100.00	18
June '71	20	1	5.00	19	95.00	16	84.21	18
July '71	15	0	0	15	100.00	12	80.00	17
Aug. '71	18	1	5.56	17	94.44	17	100.00	20
TOTALS	223	16	7.17	207	92.83	201	97.10	222

% OF NO. 3	[6]CASES* FILED JUVENILE	% OF NO. 3	[7]TOTAL CASES FILED (#5 & #6)	% OF NO. 3	[8]CASES FILED AT LARGE	% OF NO. 3	[9]PER CENT OF CASES FILED TO CRIMES CLEARED	[9]PER CENT OF CASES FILED TO CRIMES KNOWN
163.16	.83	4.37	31.83	167.63	5	26.32	159.15	167.53
85.71	.83	3.95	18.83	89.67	2	9.52	89.67	89.67
114.29	.83	5.93	16.83	120.21	0	0	105.19	120.21
125.00	.83	5.19	20.83	130.19	2	12.50	148.79	130.19
100.00	.83	6.92	12.83	106.92	4	33.33	116.64	106.92
103.70	.83	3.07	28.83	106.78	5	18.52	102.96	106.78
120.00	.83	8.30	12.83	128.30	3	30.00	116.64	128.30
75.00	.83	5.19	12.83	80.19	0	0	91.64	80.19
85.71	.83	3.95	18.83	89.67	1	4.76	89.67	89.67
94.74	.83	4.37	18.83	99.11	5	26.32	117.69	99.11
113.33	.83	5.53	17.83	118.87	5	33.33	148.58	118.87
117.65	.83	4.88	20.83	122.53	3	17.65	122.53	122.53
107.25	10.00	4.83	232.00	112.08	35	16.91	115.42	112.08

* Juvenile Cases Filed is a monthly average

QUANTITATIVE ANALYSIS OF RAPE CASES
Table 13

MONTH	[1] REPORTED	[2] UNFOUNDED	%OF NO. 1	[3] CRIMES KNOWN	% OF NO. 1	[4] CBA or CBEA	%OF NO. 3	[5] CASES FILED ADULT
Sept. '70	67	7	10.45	60	89.55	32	53.33	17
Oct. '70	49	6	12.24	43	87.76	27	62.79	18
Nov. '70	49	7	14.29	42	85.71	23	54.76	9
Dec. '70	48	3	6.25	45	93.75	18	40.00	11
Jan. '71	63	14	22.22	49	77.78	21	42.86	13
Feb. '71	57	17	29.82	40	70.18	44	110.00	11
Mar. '71	43	14	32.56	29	67.44	32	110.34	15
April '71	64	16	25.00	48	75.00	24	50.00	18
May '71	62	12	19.35	50	80.65	44	88.00	29
June '71	58	12	20.69	46	79.31	28	60.87	15
July '71	81	17	20.99	64	79.01	36	56.25	18
Aug. '71	66	20	30.30	46	69.70	18	39.13	10
TOTALS	707	145	20.51	562	79.49	347	61.74	184

% OF NO. 3	[4] CASES* FILED JUVENILE	% OF NO. 3	[7] TOTAL CASES FILED [#5 & #6]	% OF NO. 3	[5] CASES FILED "AT LARGE"	% OF NO. 3	[9] PER CENT OF CASES FILED TO CRIMES CLEARED	[9] PER CENT OF CASES FILED TO CRIMES KNOWN
28.33	2.75	4.58	19.75	32.92	6	10.00	61.72	32.92
41.86	2.75	6.40	20.75	48.26	2	4.65	76.85	48.26
21.43	2.75	6.55	11.75	27.98	5	11.90	51.09	27.98
24.44	2.75	6.11	13.75	30.56	3	6.67	76.39	30.56
26.53	2.75	5.61	15.75	32.14	2	4.08	75.00	32.14
27.50	2.75	6.88	13.75	34.38	2	5.00	31.25	34.38
51.72	2.75	9.48	17.75	61.21	3	10.34	55.47	61.21
37.50	2.75	5.73	20.75	43.23	8	16.67	86.46	43.23
58.00	2.75	5.50	31.75	63.50	7	14.00	72.16	63.50
32.61	2.75	5.98	17.75	38.59	3	6.52	63.39	38.59
28.13	2.75	4.30	20.75	32.42	7	10.94	57.64	32.42
21.74	2.75	5.98	12.75	27.72	6	13.04	70.83	27.72
32.74	33.00	5.87	217.00	38.61	54	9.61	62.54	38.61

* Juvenile Cases Filed is a monthly average

QUANTITATIVE ANALYSIS OF
ROBBERY CASES
Table 14

MONTH	[1] REPORTED	[2] UNFOUNDED	% OF NO. 1	[3] CRIMES KNOWN	% OF NO. 1	[4] CBA or CBEA	% OF NO. 3	[5] CASES FILED ADULT
Sept. '70	309	14	4.53	295	95.47	71	24.07	50
Oct. '70	293	16	5.46	277	94.54	68	24.55	45
Nov. '70	344	16	4.65	328	95.35	91	27.74	50
Dec. '70	352	11	3.13	341	96.88	105	30.79	62
Jan. '71	323	10	3.10	313	96.90	59	18.85	43
Feb. '71	231	16	6.93	215	93.07	86	40.00	49
Mar. '71	214	13	6.07	201	93.93	64	31.84	28
April '71	187	19	10.16	168	89.84	53	31.55	38
May '71	207	15	7.25	192	92.75	56	29.17	36
June '71	211	12	5.69	199	94.31	79	39.70	30
July '71	247	18	7.29	229	92.71	69	30.13	43
Aug. '71	272	18	6.62	254	93.38	84	33.07	46
TOTALS	3190	178	5.58	3012	94.42	885	29.38	520

% OF NO. 3	[6] CASES* FILED JUVENILE	% OF NO. 3	[7] TOTAL CASES FILED (#5 & #6)	% OF NO. 3	[8] CASES FILED "AT LARGE"	% OF NO. 3	[9] PER CENT OF CASES FILED TO: CRIMES CLEARED	CRIMES KNOWN
16.95	10.67	3.62	60.67	20.57	3	1.02	85.45	20.57
16.25	10.67	3.85	55.67	20.10	2	.72	81.87	20.10
15.24	10.67	3.25	60.67	18.50	4	1.22	66.67	18.50
18.18	10.67	3.13	72.67	21.31	8	2.35	69.21	21.31
13.74	10.67	3.41	53.67	17.15	9	2.88	90.97	17.15
22.79	10.67	4.96	59.67	27.75	6	2.79	69.38	27.75
13.93	10.67	5.31	38.67	19.24	5	2.49	60.42	19.24
22.62	10.67	6.35	48.67	28.97	7	4.17	19.83	28.97
18.75	10.67	5.56	46.67	24.31	10	5.21	83.34	24.31
15.08	10.67	5.36	40.67	20.44	9	4.52	51.48	20.44
18.78	10.67	4.66	53.67	23.44	12	5.24	77.78	23.44
18.11	10.67	4.20	56.67	22.31	13	5.12	67.46	22.31
17.26	128.00	4.25	648.00	21.51	88	2.92	73.22	21.51

* Juvenile Cases Filed is a monthly average

QUANTITATIVE ANALYSIS OF BURGLARY CASES
Table 15

MONTH	[1] REPORTED	[2] UNFOUNDED	%OF NO 1	[3] CRIMES KNOWN	% OF NO 1	[4] CBA or CBEA	%OF NO 3	[5] CASES FILED ADULT
Sept. '70	1782	34	1.91	1748	98.09	291	16.65	93
Oct. '70	1643	29	1.77	1614	98.23	360	22.30	108
Nov. '70	1583	26	1.64	1557	98.36	232	14.90	61
Dec. '70	1677	35	2.09	1642	97.91	311	18.94	83
Jan. '71	1707	48	2.81	1659	97.19	298	17.96	79
Feb. '71	1370	42	3.07	1328	96.93	281	21.16	85
Mar. '71	1486	35	2.36	1451	97.64	391	26.95	117
April '71	1420	43	3.03	1377	96.97	370	26.87	103
May '71	1307	40	3.06	1267	96.94	328	25.89	97
June '71	1493	36	2.41	1457	97.59	351	24.09	83
July '71	1614	39	2.42	1575	97.58	345	21.90	81
Aug. '71	1712	40	2.34	1672	97.66	412	24.64	123
TOTALS	18794	447	2.38	18347	97.62	3970	21.64	1113

% OF NO. 3	[6] CASES* FILED JUVENILE	% OF NO. 3	[7] TOTAL CASES FILED (#5 & #6)	% OF NO. 3	[8] CASES FILED "AT LARGE"	% OF NO. 3	[9] PER CENT OF CASES FILED TO CRIMES CLEARED	CRIMES KNOWN
5.32	73.67	4.21	166.67	9.53	16	.92	57.27	9.53
6.69	73.67	4.56	181.67	11.26	18	1.12	50.46	11.26
3.92	73.67	4.73	134.67	8.65	7	.45	58.05	8.65
5.05	73.67	4.49	156.67	9.54	10	.61	50.38	9.54
4.76	73.67	4.44	152.67	9.20	14	.84	51.23	9.20
6.40	73.67	5.55	158.67	11.95	5	.38	56.47	11.95
8.06	73.67	5.08	190.67	13.14	25	1.72	48.76	13.14
7.48	73.67	5.34	176.67	12.83	18	1.31	47.75	12.83
7.66	73.67	5.81	170.67	13.47	24	1.89	52.03	13.47
5.70	73.67	5.06	156.67	10.75	20	1.37	44.64	10.75
5.14	73.67	4.68	154.67	9.82	23	1.46	44.83	9.82
7.36	73.67	4.41	196.67	11.76	19	1.14	47.74	11.76
6.07	884.00	4.82	1997.00	10.88	199	1.08	50.30	10.88

* Juvenile Cases Filed is a monthly average

QUANTITATIVE ANALYSIS OF ASSAULT CASES
Table 16

MONTH	[1] REPORTED	[2] UNFOUNDED	%OF NO. 1	[3] CRIMES KNOWN	%OF NO. 1	[4] CBA or CBEA	%OF NO. 3	[5] CASES FILED ADULT
Sept. '70	661	21	3.18	640	96.82	406	63.44	88
Oct. '70	611	21	3.44	590	96.56	394	66.78	70
Nov. '70	521	23	4.41	498	95.59	351	70.48	70
Dec. '70	499	25	5.01	474	94.99	328	69.20	49
Jan. '71	515	21	4.08	494	95.92	307	62.15	60
Feb. '71	482	38	7.88	444	92.12	263	59.23	64
Mar. '71	496	47	9.48	449	90.52	326	72.61	47
April '71	502	48	9.56	454	90.44	351	77.31	86
May '71	676	46	6.80	630	93.20	410	65.08	115
June '71	655	40	6.11	615	93.89	416	67.64	87
July '71	685	47	6.86	638	93.14	494	77.43	114
Aug. '71	634	45	7.10	589	92.90	414	70.29	80
TOTALS	6937	422	6.08	6515	93.92	4460	68.46	930

% OF NO 3	[6] CASES* FILED JUVENILE	% OF NO 3	[7] TOTAL CASES FILED [5 & 6]	% OF NO 3	[8] CASES FILED "AT LARGE"	% OF NO 3	[9] PER CENT OF CASES FILED TO CRIMES CLEARED	CRIMES KNOWN
13.75	10.58	1.65	98.58	15.40	36	5.63	24.28	15.40
11.86	10.58	1.79	80.58	13.66	20	3.39	20.45	13.66
14.06	10.58	2.12	80.58	16.18	16	3.21	22.96	16.18
10.34	10.58	2.23	59.58	12.57	16	3.38	18.16	12.57
12.15	10.58	2.14	70.58	14.29	18	3.64	22.99	14.29
14.41	10.58	2.38	74.58	16.80	12	2.70	28.36	16.80
10.47	10.58	2.36	57.58	12.82	23	5.12	17.66	12.82
18.94	10.58	2.33	96.58	21.27	27	5.95	27.52	21.27
18.25	10.58	1.68	125.58	19.93	36	5.71	30.63	19.93
14.15	10.58	1.72	97.58	15.87	36	5.85	23.46	15.87
17.87	10.58	1.66	124.58	19.53	40	6.27	25.22	19.53
13.58	10.58	1.80	90.58	15.38	22	3.74	21.88	15.38
14.27	127.00	1.95	1057.00	16.22	302	4.64	23.70	16.22

* Juvenile Cases Filed is a monthly average

QUANTITATIVE ANALYSIS OF
AUTO THEFT CASES
Table 17

MONTH	[1] REPORTED	[2] UNFOUNDED	% OF NO. 1	[3] CRIMES KNOWN	% OF NO. 1	[4] CBA or CBEA	% OF NO. 3	[5] CASES FILED ADULT
Sept. '70	828	155	18.72	673	81.28	79	11.74	84
Oct. '70	812	198	24.38	614	75.62	160	26.06	42
Nov. '70	769	196	25.49	573	74.51	85	14.83	37
Dec. '70	707	215	30.41	492	69.59	137	27.85	52
Jan. '71	843	205	24.32	638	75.68	153	23.98	43
Feb. '71	690	137	19.86	553	80.14	136	24.59	21
Mar. '71	740	173	23.38	567	76.62	171	30.16	57
April '71	591	139	23.52	452	76.48	73	16.15	33
May '71	666	123	18.47	543	81.53	120	22.10	50
June '71	649	136	20.96	513	79.04	129	25.15	34
July '71	765	117	15.29	648	84.71	141	21.76	47
Aug. '71	806	96	11.91	710	88.09	137	19.30	46
TOTALS	8866	1890	21.32	6976	78.68	1521	21.80	546

% OF NO. 3	[5] CASES* FILED JUVENILE	% OF NO. 3	[7] TOTAL CASES FILED (#5 & #6)	% OF NO. 3	[8] CASES FILED "AT LARGE"	% OF NO. 3	[9] PER CENT OF CASES FILED TO: CRIMES CLEARED	CRIMES KNOWN
12.48	40.25	5.98	124.25	18.46	15	2.23	157.28	18.46
6.84	40.25	6.56	82.25	13.40	4	.65	51.42	13.40
6.46	40.25	7.04	77.25	13.48	7	1.22	90.88	13.48
10.57	40.25	8.18	92.25	18.75	7	1.42	67.34	18.75
6.74	40.25	6.31	83.25	13.05	4	.63	54.41	13.05
3.80	40.25	7.28	61.25	11.08	2	.36	45.04	11.08
10.05	40.25	7.10	97.25	17.15	6	1.06	56.87	17.15
7.30	40.25	8.90	73.25	16.21	5	1.11	100.34	16.21
9.21	40.25	7.41	90.25	16.62	7	1.29	75.21	16.62
6.63	40.25	7.85	74.25	14.47	7	1.36	57.56	14.47
7.25	40.25	6.21	87.25	13.46	6	.93	61.88	13.46
6.48	40.25	5.76	86.25	12.15	12	1.69	62.96	12.15
7.83	483.00	6.92	1029.00	14.75	82	1.18	67.65	14.75

* Juvenile Cases Filed is a monthly average

QUANTITATIVE ANALYSIS OF LARCENY — THEFT CASES
Table 18

MONTH	[1] REPORTED	[2] UNFOUNDED	%OF NO. 1	[3] CRIMES KNOWN	% OF NO. 1	[4] CBA or CBEA	%OF NO. 3	[5] CASES FILED ADULT
Sept. '70	3264	74	2.27	3190	97.73	635	19.91	170
Oct. '70	3507	76	2.17	3431	97.83	676	19.70	200
Nov. '70	2946	52	1.77	2894	98.23	610	21.08	152
Dec. '70	3328	56	1.68	3272	98.32	743	22.71	157
Jan. '71	3091	69	2.23	3022	97.77	605	20.02	151
Feb. '71	2646	61	2.31	2585	97.69	423	16.36	114
Mar. '71	3050	90	2.95	2960	97.05	623	21.05	179
April '71	3121	83	2.66	3038	97.34	747	24.59	182
May '71	3000	91	3.03	2909	96.97	703	24.17	158
June '71	3317	80	2.41	3237	97.59	631	19.49	150
July '71	3406	108	3.17	3298	96.83	747	22.65	195
Aug. '71	3735	92	2.46	3643	97.54	705	19.35	189
TOTALS	38411	932	2.43	37479	97.57	7848	20.94	1997

% OF NO 3	6CASES* FILED JUVENILE	% OF NO 3	7 TOTAL CASES FILED (#5 & #6)	% OF NO 3	8CASES FILED "AT LARGE"	% OF NO 3	9 PER CENT OF CASES FILED TO	
							CRIMES CLEARED	CRIMES KNOWN
5.33	100.50	3.15	270.50	8.48	27	.85	42.60	8.48
5.83	100.50	2.93	300.50	8.76	19	.55	44.45	8.76
5.25	100.50	3.47	252.50	8.72	29	1.00	41.39	8.72
4.80	100.50	3.07	257.50	7.87	28	.86	34.66	7.87
5.00	100.50	3.33	251.50	8.32	26	.86	41.57	8.32
4.41	100.50	3.89	214.50	8.30	25	.97	50.71	8.30
6.05	100.50	3.40	279.50	9.44	31	1.05	44.86	9.44
5.99	100.50	3.31	282.50	9.30	30	.99	37.82	9.30
5.43	100.50	3.45	258.50	8.89	41	1.41	36.77	8.89
4.63	100.50	3.10	250.50	7.74	25	.77	39.70	7.74
5.91	100.50	3.05	295.50	8.96	31	.94	39.56	8.96
5.19	100.50	2.76	289.50	7.95	27	.74	41.06	7.95
5.33	1206.00	3.22	3203.00	8.55	339	.90	40.81	8.55

* Juvenile Cases Filed is a monthly average

67.65 per cent, and robbery 73.22 per cent. Murder exceeded 100 per cent because of cases filed that had been cleared earlier

In the aggravated assault category, there was a low correlation between cases cleared and cases filed. For the survey period, only 23.70 per cent of the cases cleared resulted in the filing of a case with court. Larceny/theft and burglary also received a less vigorous prosecution rate. Larceny/theft was 40.81 per cent and burglary was 50.30 per cent.

Psychologists tell us that it is not the degree of punishment which serves as a deterrent to crime, but the certainty of it. By examining this model we are able to determine the certainty of having a case filed with the District Attorney's Office by the Dallas Police Department when a crime is reported.

Criminal Courts

Two related areas of responsibility of the criminal courts that lead to repeat offenses of habitual criminals are the bail bond procedure and the excessive time required to try a case.

The right to bail is a constitutional guarantee and is designed solely as a method of ensuring the defendant's appearance at trial. In a majority of cases, a released defendant takes advantage of the bail system to live with and support his family, maintain ties with his community, and busy himself with his own defense by searching for witnesses and evidence, and by keeping in close touch with his lawyer. The repeat offender and habitual criminal takes advantage of this freedom to earn money by criminal activity to pay for the bond fees and lawyer fees. A released habitual criminal realizes that any further offenses he commits will not, in most cases, lead to further punishments. He also knows that these additional offenses will be expeditiously disposed of if he is filed on for further offenses. Two possibilities are available; either the prosecutor will only prosecute the best case allowing the others to go unprosecuted, or he will prosecute all of the cases and routinely these additional sentences will run concurrently.

A multitude of examples of such misuse of the bond system can be enumerated. Suspect, Dallas Police Department # 65536, a 24 year old burglar, is one such example. He is presently out on 11 bonds, most of them for burglary and he was still at large as of the first of June, 1972. The total amount of bail for these 11 warrants is in excess of $51,000. This indicates that the amount of bond is not of great importance to a successful burglar.

Some further examples of habitual criminals using the bond system to further their careers are:[3]

- T.J.M. has seven bonds against him for habitual burglar outstanding for a total of $30,000.
- B.G.R. has a total of 17 bonds against him for forgery and theft totaling over $23,000.
- M.S. has a total of nine bonds totaling $7,100 for such offenses as theft over $50, auto theft, drugs, shoplifting, and passing worthless checks.
- J.L.S. has a total of 17 bonds totaling $108,000 for offenses ranging from carrying a prohibited weapon to theft over $50, with a majority of the cases being for passing worthless checks. These bonds go back as much as 30 months.

The people in these examples and many more are still free and walking the streets of Dallas with no indication that the criminal justice system has had any deterrence on their criminal activity. More detailed examples of criminal activity while on bond can be found in the three case histories outlined in Chapter II.

While conducting this study, it was found that the Sheriff of Dallas County and his bond desk are eager to cooperate with the Dallas Police Department when bond abuse cases that are contributing to our crime problem are brought to their attention. Sheriff Clarence Jones has volunteered to set cash bonds on Dallas Police Department suspects with a current history of multiple offenses if we request it. One week several cash bonds were set at our request. The mechanics to request such bonds must be established in this Department. The setting of a cash bond rather than a property bond severely limits a suspect's capability of remaining free on bond. The Sheriff's cooperation must, of course, be tempered with the fact that he has extremely limited incarceration space.

The following is an analysis of a project recently conducted by the Patrol Bureau and by Sergeant C. J. Macsas of the Operations Analysis Unit of the Planning and Research Section. In the first three weeks, the Sheriff's Office has required cash bond on four suspects and subsequently they remained in jail. While the remainder of the city is experiencing the normal seasonal increase in residence burglaries, this experimental area in South Dallas has shown a 50 per cent reduction. Similarly, the entire Southeast District experienced an 18 per cent reduction in residence burglaries that we believe can be attributed to this repeat offender control effort.

PATROL CRIME CONTROL PROJECT
—Twenty-Five Day Evaluation—

The Patrol Bureau in the Southeast District has initiated a "Crime Control Team" consisting of five patrolmen and one sergeant. This team utilizes a covert operation in that all of them work out of uniform. Their main target area has been beats 312 and 313 selected because of their high residential burglary density this year. The team differs from most in that it consists of patrol officers very familiar with the work location. This familiarity coupled with such measures as requiring higher bond (even cash bonds) for those arrested in the area for burglary and the raiding of fences in the Southeast District has brought a surprising change to the residential burglary trend in the Southeast District. Following is a short evaluation of the results thus far for the "Patrol Crime Control Project."

Last year residential burglary increased citywide from May to June. During the twenty-five day period of the project's operation in June (June 5th-30th), the Southeast District has had a decrease of seventy residence burglaries from the corresponding period in May. This is by far the largest decrease recorded in the city per district for this time period. It is more than double the next largest decrease (30 burglaries in the Northwest District). The rest of the city (excluding Southeast District), in fact, recorded an increase of

thirty-two residence burglaries during this time period.

The specific target areas within the Southeast District, beats 312 and 313, had residence burglary decreases of nine and five offenses respectively in this time span. This represents decreases of 34.6 per cent and 31.2 per cent respectively.

The second watch, which was the primary work time, recorded a decrease of 64 offenses in June from the corresponding period in May.

It must be pointed out here that bail is a constitutional right and cannot be used solely to detain a person in jail before conviction. Under the present system where months pass before a case can come to court, it would be unconstitutional to incarcerate a suspect this long without recourse.

Consequently, another area of solution would be to provide an accelerated trial process for high-risk and habitual defendants. In Philadelphia, for example, a special calendar for defendants charged with habitual offenses or crimes of violence has recently been set up. Such defendants are to come to trial no more than thirty days after indictment. It is still too early to know whether and how much this lessens the likelihood that released defendants will commit further criminal acts; but other studies have shown that the risks are closely related to the length of time that elapses before trial, according to the President's Commission On Law Enforcement and Administration of Justice. This possible solution is very timely if indeed Dallas County requests funds for two additional criminal courts from the upcoming Impact program. One or both of these new courts could be used to calendar only habitual and multiple offenders.

Nine Month Delay In Trial

Crowded court calendars are the indirect cause of bail abuses by repeat offenders. In 1971, a total of 3,294 Index offenses filed by the Dallas Police Department were disposed of by grand jury no bills or by criminal court action; 988 offenses were disposed of by grand jury no bills with 268 Index offenses being reduced to lesser charges and handled by the three Dallas County Criminal Courts. The seven Dallas County Criminal District and Judicial Courts disposed of 2,038 Index offenses. Table 19 gives information on the average elapsed time for court disposition. It takes approximately nine months to dispose of an Index offense. This means that a man arrested for an Index offense and filed on may be free on bail to commit further offenses without threat of further punishment for several months. *The average is not affecting law enforcement as much as the exception.*[4]

Interviews with Dallas inmates indicate that it takes an average of 5.9 months to even plead guilty. Only 10 per cent of those pleading guilty were able to get dispositions in less than 60 days. There is no basis for claiming Dallas County justice is either swift or sure.

Delay Results In Multiple Cases

This delay in disposition of criminal cases leads to repeat offenders having multiple cases pending against them by the time they are finally brought to trial. For the purpose of this study, the term **person with multiple cases pending** will refer to any person who has two or more cases pending, at least one of which is classified as an Index offense. As of February 1st of this year (1972), the Dallas Police Department's Identification Section records indicated that a total of 995 persons filed on by this Department had two or more cases awaiting trial in the Dallas County Courts. These include 2,446 cases filed from March 3, 1972, through January 31, 1972.[5]

Of these 995 persons, a total of 1,728 Index offenses and 718 other felony or major misdemeanor offenses were filed against them. Sixty per cent of these people are awaiting trial for Index offenses. Over 28 per cent of these people have three or more offenses awaiting trial. Aggravated assault, theft, and burglary, in that order, are the offenses for which most individuals are awaiting trial while aggravated assault, theft, and robbery account for the largest number of cases pending. A sample of our records indicate that well over half of these multiple offenses derive from separate offenses and separate arrests.

Concurrent sentencing is the rule in Dallas County courts. This creates a **free crime** atmosphere for second and subsequent offenders. Concurrent sentencing is permitted under Article 42.08 of the *Texas Code of Criminal Procedure*. By law it is the prerogative of the judge to permit his sentence to run concurrent with previous unserved convictions. Juries do not decide.

Of the 99 convicts interviewed at the Texas Department of Corrections, 37 were serving sentences on a concurrent basis, while only one man was serving one sentence after another.

One man said he was serving 17 concurrent 5-year sentences for armed robbery.

This practice is common knowledge among the criminal subculture and is, therefore, actually responsible for a great number of crimes since the deterrence or threat of prosecution is removed from the mind of an offender once he is filed on by a police agency. The offender is actually driven and encouraged to commit crimes by a system which imposes financial need for money to defend himself against criminal allegations on the one hand, and on the other removes additional criminal sanctions for the subsequent crimes he does commit.

Parole and Probation

A number of people benefit from both probation and parole and become law abiding citizens. But a 1970 FBI report on persons rearrested after release in 1965 quoted in Chapter II that 56 per cent of those probated and 61 per cent of those paroled were rearrested within four years.

Parole and probation are humane treatments and deserve a try, but this study indicates that they cannot be used to treat repeat offenders. Increased and improved treatment of offenders on probation and parole may also ease the problem.

Prison Release

It is hard to get into prison in this state considering nondetection (73 per cent in 1971), reduction of charge (22 per cent in 1971 of those arrested), probation (28 per cent in 1971 of those true billed), and nonconviction (42 per cent of those filed on in 1971). Figures from the Texas Department of Corrections show that 40 per cent of their inmates from Dallas County do return. Fifteen

per cent manage to get to the Texas Department of Corrections three or more times.[6] Because of the difficulty and crowded court dockets, far too few *habitual criminal* cases are prosecuted in this country.[7]

An analysis of the judicial statistics for the Dallas Police Department in 1971 indicates that of the 2,306 grand jury true bills for Index offenses, only 34 per cent actually received a prison sentence. This data is gathered from monthly reports of the Criminal Investigation Division on *Cases Filed With The District Attorney* and an annual Data Services printout on *Police and Court Releases*. Documentation is on Table 22.

This study strongly indicates that control of the repeat offender is the primary means of reducing crime for the criminal justice system. If a house is burglarized in this city today, there is a 70 per cent chance the burglar has been subjected to the criminal justice system before. In all Index offenses except rape (42.5 per cent), the chances are over 50 per cent.

COMPARISON OF AVERAGE ELAPSED TIME FOR 1971 COURT DISPOSITION BY NUMBER OF DAYS

Filed by The Dallas Police Department

Table 19

Index Offense	Grand Jury*	County Criminal Courts			Criminal District Courts							All Courts†	
		1	2	3	1	2	3	4	5	6	7	Mean	Median
Murder	52	352	——	——	661	296	324	435	625	232	164	386	338
Rape	43	——	194	——	272	373	199	353	262	204	214	259	238
Robbery	35	127	——	——	217	231	263	199	248	197	146	204	208
Agg. Asslt.	68	285	311	464	722	412	559	370	290	269	174	385	340
Burglary	35	——	——	18	260	191	222	204	185	124	110	164	188
Theft	40	131	65	183	590	248	344	335	84	155	155	229	169
Auto	40	——	——	——	297	385	159	173	177	166	143	214	173
Average Time Elapsed In Days	46	277	300	446	396	277	265	250	193	166	140	271	271

* Figures Indicate No Bills Only

† Not Including Grand Jury Disposition

Source: Dallas Police Department Annual Report on Court Dispositions for 1971-May 1, 1972

COMPARISON OF 1971 COURT DISPOSITIONS BY OFFENSE

Filed by The Dallas Police Department

TABLE 20

Index Offense	Grand Jury[1]	County Criminal Courts			Criminal District Courts							Total Cases Disposed of
		1	2	3	1	2	3	4	5	6	7	
Murder	73	2	0	0	21	16	12	14	7	21	8	174
Rape	72	0	1	0	9	18	17	5	8	4	8	142
Robbery	102	1	0	0	53	35	54	48	41	31	20	385
Agg. Asslt.	232	107	76	68	22	21	25	16	19	19	23	625
Burglary	209	0	0	1	91	76	130	94	96	89	92	778
Theft	204	6	3	3	71	57	79	64	56	56	59	657
Auto	96	0	0	0	35	46	61	47	55	37	53	430
Totals	988	116	80	72	302	269	378	288	282	257	262	3294

[1]Figures Indicate No Bills Only

Source: Dallas Police Department Annual Report on Court Dispositions for 1971 - May 1, 1972

TABLE 21

TOTAL NUMBER OF CASES PENDING
Filed by The Dallas Police Department

Murder	Rape	Robbery	Aggravated Assault	Burglary	Theft	Auto Theft	Other Offenses	Total
108	39	307	409	274	427	164	718	2,446

PERSONS WITH MULTIPLE CASES PENDING

Number of Cases Pending	Murder	Rape	Robbery	Aggravated Assault	Burglary	Theft	Auto Theft
Two	55	23	95	186	127	166	59
Three	22	7	31	45	31	37	14
Four	7		12	9	14	11	1
Five	2	1	5	4	6	5	
Six or Over	3	2	3	2	5	3	
TOTAL	89	33	146	247	183	223	74

PERSONS WITH MULTIPLE CASES PENDING BY RACE

Race	Murder	Rape	Robbery	Aggravated Assault	Burglary	Theft	Auto Theft
White	32	9	49	122	90	105	50
Negro	57	24	97	125	93	118	24
TOTAL	89	33	146	247	183	223	74

Source: Dallas Police Department Identification Section, February 1972

Dallas Police Department

CRIMINAL JUSTICE STATISTICS FOR 1971

TABLE 22

AGE CLASS	Murder A	Murder J	Murder Total	Rape A	Rape J	Rape Total	Robbery A	Robbery J	Robbery Total	Agg Assault A	Agg Assault J	Agg Assault Total	Burgulary A	Burgulary J	Burgulary Total	Theft/50 A	Theft/50 J	Theft/50 Total	Auto Theft A	Auto Theft J	Auto Theft Total	Total
Offenses Reported			234			760			3043			5742			18779			12587			8598	49743
Offenses Unfounded			27			175			182			460			457			358			1684	3343
Actual Offenses			207			585			2861			5282			18322			12229			6914	46400
Number of Arrests	224	4	228	269	27	296	813	126	939	2076	165	2241	2048	1008	3056	1838	186	2024	1111	332	1443	10229
Number of Releases	32		32	122		122	408		408	773		773	866	3	869	1204	1	1205	575		575	3984
Reduced Charges	20		20	46		46	124	1	125	565	8	573	279	17	296	135	4	139	194	5	199	1398
Unknown Dispositions	3		3	10		10	29	8	37	160	5	165	71	65	136	6		6	35	20	55	412
Filed On At Large	58		58	66		66	185		185	416		416	310		310	359		359	199		199	1593
Total Persons Filed On			283			259			785			1632			2453			1314			1045	7771
Transferred to Juvenile Court			4			27			121			152			928			179			306	1717
Persons With Multiple Cases Pending	89		89	33		33	146		146	247		247	183		183	223		223	74		74	995
Total Multiple Cases Pending			108			39			307			409			274			427			164	1728
Disposition of Adults	174		174	142		142	385		385	628		628	878		878	657		657	430		430	3294

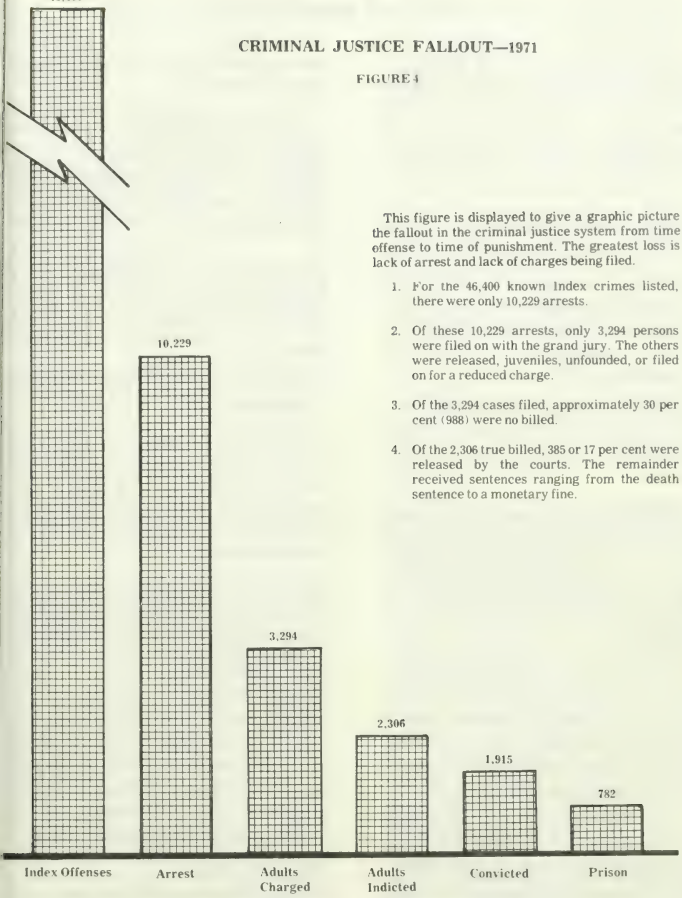
TYPE OF PLEA	G / I	Total	G / I	Total	G / I	Total	G / I	Total	G / I	Total	G / I	Total	G / I	Total	
No Bill	73 /	73	73 /	73	102 /	102	231 /	231	209 /	209	207 /	207	93 /	93	988
True Bill	101 /	101	69 /	69	283 /	283	397 /	397	669 /	669	450 /	450	337 /	337	2306
Pleas	61 / 40	101	47 / 22	69	202 / 81	283	238 / 159	397	555 / 114	669	371 / 79	450	279 / 58	337	2306
Quashed	0 / 0		0 / 0		0 / 0		0 / 2	2	0 / 0		0 / 0		0 / 0		2
Dismissed	0 / 9	9	0 / 5	5	0 / 29	29	0 / 116	116	0 / 87	87	0 / 68	68	0 / 44	44	358
Acquitted	0 / 4	4	0 / 4	4	0 / 4	4	0 / 8	8	0 / 3	3	0 / 1	1	0 / 1	1	25
Penitentiary Sentence	29 / 13	42	30 / 9	39	146 / 39	185	36 / 11	47	230 / 18	248	100 / 6	106	106 / 9	115	782
Jail	3 / 0	3	7 / 1	8	16 / 0	16	75 / 6	81	35 / 0	35	44 / 0	44	31 / 0	31	218
Jail Sentence & Fine	1 / 0	1	0 / 0	0	0 / 0	0	18 / 1	19	28 / 0	28	62 / 0	62	28 / 0	28	139
Fined	4 / 0	4	0 / 0		3 / 0	3	54 / 2	56	11 / 0	11	5 / 0	5	3 / 0	3	82
Fined & Probated	0 / 0		3 / 0	3	0 / 0		28 / 3	31	1 / 0	1	11 / 0	11	0 / 0		46
Death	0 / 5	5	0 / 1	1	0 / 0		0 / 0		0 / 0		0 / 0		0 / 0		6
Life Imprisoned	0 / 2	2	1 / 0	1	0 / 7	7	0 / 1	1	0 / 4	4	0 / 0		0 / 0		15
Probated Sentence	24 / 2	26	6 / 0	6	35 / 2	37	27 / 5	32	249 / 2	251	148 / 4	152	109 / 0	109	613
Insane	0 / 5	5	0 / 2	2	1 / 0	1	0 / 2	2	0 / 0	0	0 / 0	0	0 / 2	2	12
Other	0 / 0		0 / 0		0 / 0		0 / 2	2	1 / 0	1	1 / 0	1	2 / 2	4	8

G = Guilty Plea
J = Juvenile
I = Innocent Plea
A = Adult

Source: Dallas Police Department 1971 Annual Report on Police and Court Releases (May, 1972)

CRIMINAL JUSTICE FALLOUT—1971

FIGURE 4



This figure is displayed to give a graphic picture of the fallout in the criminal justice system from time of offense to time of punishment. The greatest loss is in lack of arrest and lack of charges being filed.

1. For the 46,400 known Index crimes listed, there were only 10,229 arrests.
2. Of these 10,229 arrests, only 3,294 persons were filed on with the grand jury. The others were released, juveniles, unfounded, or filed on for a reduced charge.
3. Of the 3,294 cases filed, approximately 30 per cent (988) were no billed.
4. Of the 2,306 true billed, 385 or 17 per cent were released by the courts. The remainder received sentences ranging from the death sentence to a monetary fine.

Source: Dallas Police, 1972

Chapter VII
CONCLUSIONS AND RECOMMENDATIONS

The actual amount of crime being committed by repeat offenders in Dallas cannot be determined offense by offense, however, the foregoing information builds a strong case to support the hypothesis that they are responsible for a substantial amount. Valid estimates can be drawn from arrest statistics, actual case histories, and inmate interviews. Our findings allow us to draw the following conclusions based on these inquiries.

THE REPEAT OFFENDER

It can now be reasonably concluded that well over one-half of all Dallas crime is committed by repeat offenders. Arrest statistics indicate that almost 60 per cent of the suspects filed on by the Dallas Police Department are repeat offenders.[8] Further, a review of multiple-offense clearances by the Criminal Investigation Division in February and May of 1972, show that repeat offenders account for 90 per cent of the multiple case clearances investigated by this Department with first offenders accounting for the remaining ten per cent.[9]

Additionally, the interviews with 99 Dallas County inmates at the Texas Department of Corrections on page 17 indicates that repeat offenders claim to have committed 55 times as many offenses as a like number of first offenders or 99 per cent of all offenses admitted by inmates.

Summarizing, we find that repeat offenders accounted for 60 per cent of the serious cases filed, 90 per cent of the multiple clearances, and commission of 99 per cent of the offenses admitted by inmates. Although these statistics cannot be averaged or mathematically combined, a preponderance of evidence exists supporting an estimate that over one-half of Dallas' crime is being committed by repeat offenders. Such an estimate is both conservative and logical in view of these findings.[10]

It would seem to follow that by removing the repeat offender from society, crime will be drastically reduced. This was borne out when the Dallas Police Department recently conducted an experimental procedure in a high burglary incidence area to control these burglaries. The major difference of this project over similar efforts was the securing of cash bonds on repeat offenders apprehended in this area. Control of repeat offenders proves more effective than other police practices such as saturation patrol.[11]

Further, a concentrated effort to control repeat offenders would probably have the greatest impact in the crimes of burglary and robbery. These two offense categories had a higher number of repeat offenders. The study indicated that almost 70 per cent of the persons who were charged with burglary were repeat offenders. Robbery also reflected a high repeat offender involvement with 64.5 per cent of the persons charged being repeaters.[12]

THE CRIMINAL JUSTICE SYSTEM

We found there is no continuity of information on criminal cases to permit measurement, evaluation and correction of problems in the criminal justice system in Dallas. This is probably the most important finding of this research with respect to the criminal justice system, for without sufficient information about the system's problems, present and future, they lay dormant and unsolved.

An example of the lack of sufficient information to track criminal cases is evidenced by our inability to learn the current whereabouts in the system of the 7,052 Index offenses filed last year by this Department. They simply cannot be found unless each individual's name is specifically traced using hand searches of records.

This lack of continuity leads to a lack of coordination. This means the agencies of the system have different or even conflicting goals.

Chapter VI points out that the police often concentrate on clearance rates while this study indicates prosecution of the repeat offender would reduce crime more effectively. Before effectiveness can be measured in any segment of the criminal justice system, it must be determined what are the goals of that segment of the system. Why are efforts expended? What do we intend to accomplish? What will that accomplishment mean?

It is not the intent of this study to infer that the sole purpose of the Dallas Police Department is to put people behind bars. Nevertheless, it cannot be denied that it is the purpose of this Department to respond to each and every complaint by a victim of a crime with a vigorous effort in bringing the perpetrator of the crime before a court of proper jurisdiction.

Since our society provides a filtering system for these offenses in the form of the grand jury, it can be said that the objective of the police role should be to receive and record complaints of crimes; to unfound those complaints which can be proved invalid, thereby establishing the total number of crimes known to police for this Department's jurisdiction; to investigate all offenses; to arrest those offenders which can be legally arrested; and finally, to file cases against adults with the office of the District Attorney, so that they may be brought before the grand jury for further processing in the criminal justice system and to file cases against juveniles, when appropriate.

In the past, law enforcement has not looked upon the number of cases filed as part of its measure of ef-

fectiveness. An example of this is the fact that the *FBI Annual Report* discusses how many offenses were solved, determines what per cent of those cases filed received conviction, but does not relate either what per cent of the cases or crimes known to police were ever filed with grand juries or district attornies, or what per cent of the cases cleared were ever filed with grand juries or the district attornies. This builds in the minds of policemen the concept that when a case is **cleared**, they have succeeded in their role. The consequence of this viewpoint by policemen equates clearing a case with success. This is not the case since clearing a case is only an administrative act which does not in any way deter crime. This has led to such practices on the part of law enforcement officers of **cleaning up the books**; that is, permitting a person who is being charged with one offense admit to a number of other offenses which later go uncharged in court.

Another consequence of such a viewpoint is that it permits law enforcement to passively accept the rejection of cases by the District Attorney's Office or the failure to convict by court through faulty testimony, or poor case preparation without triggering vigorous action to rectify shortcomings.

If, for instance, policemen equated success with convictions or cases accepted by the District Attorney's Office, they would perceive that a case had failed when and if a poor investigation had been conducted, and when the officer was unable to support his case with sufficient evidence to convict or even file his case.

Such an attitude would lead to a strengthening of investigations by investigating officers, insistance by police managers that cases were adequately prepared for prosecution. Finally, it would provide incentive to the Police Department to strengthen its capabilities through self-evaluation where offenses could not be filed.

It is certain that some members of law enforcement as well as some members of the District Attorney's Office would argue that any attempt on the part of law enforcement officers to file more cases will flood the courts with cases, since courts are already overcrowded, grand juries overworked, prosecution staff limited, etc. However, the question must be asked, are those cases which are not being filed too many to file, or too weak to file? Or is it a case of both? Similarly, would the filing of some additional cases on suspects only clog the wheels of justice or would this serve as an incentive to the courts to turn from the practice of allowing convictions to be served concurrently, avoid imposing illogical penalties, and ultimately bring about the reevaluation of the court and prosecutor's part of the criminal justice system.

One can understand that in the case where the crimes of an occasional suspect have been so numerous that it would be unrealistic and counter-productive to file all his cases, however, it would seem that the judgment about how many of the cases to file with the grand jury legally lies with the District Attorney's Office. Therefore, the best course of action would seem to be that of filing all the cases with the office of the District Attorney, and assume that he exercise the prerogative of his office in determining which cases are to be presented to the grand jury.

In the event the District Attorney determines that it would not be in the best interest of public policy to file a case prepared by the Police Department with the grand jury, it would be most helpful if this Department could receive information concerning this judgment along with comments from the District Attorney's Office setting out what could have been included to strengthen the state's case. By such actions, the Department would be in a position to better evaluate its efforts.

Certainly, as has been stated before, there will be occasions where the reason for not filing the case is that there are too many cases to file. On the other hand, one can anticipate that there will be instances where the reason for the failure to file the case is that the District Attorney feels that there is insufficient evidence. Certainly the Department needs a reply in either instance.

When the Department has filed a case which, in the opinion of the District Attorney, is not supported by sufficient evidence it should be incumbent on police management to objectively evaluate these cases and determine the cause of the insufficiency and to take such action as will ensure that an optimum level of investigation is obtained. Further, when the fatality of the case is due to a lack of testimony or poor support from the public, the Department needs the information to evaluate the amount of public assistance being given. Since the Police Department cannot function in a vacuum, and must have witness, complaint and general public participation in the prosecution of crimes, the District Attorney rejection on these grounds will be important data for the Community Services Division.

We discovered in this study that offenders are often free for months after arrest and have substantial financial burden placed on them for bond fees and attorney costs.

Available data indicates that cases filed by the Dallas Police Department and tried during 1971, in both district and county criminal courts averaged 271 days or over nine months. These same cases ranged from an average lapse time of 193 days in one court to 446 in another. The average lapse time for grand jury action in 1971, was 46 days. (See page 34)

We found that this leads to two other criminal justice problems. Repeat offenders often amass huge bonds--while continuing their criminal careers. These bonds are usually not ensured by cash. Repeat offenders learn to use the bail system as a means of continuing their careers in crime after arrest. Some examples are available of repeat offenders who have abused their bond privileges on page 32 of this study.

Bonds ensure future appearances in court — they do not preclude additional criminal offenses. The criminal justice system has no device for releasing criminals to await trial while assuring that no future crimes will be committed. Time and time again we have documented cases where persons were freed on 5, 7, and 9 bonds awaiting trial. The presumption under law is that the person is innocent until proven guilty, yet reason demands some protection for the public against a person who would require so many court appearances.

Nevertheless, our attorneys tell us that there is no

provision under criminal law in Texas to enjoin a person from committing future crime.

Our conclusion is that concurrent sentencing is the rule in Dallas County courts. We feel this creates a "free crime" atmosphere for second and subsequent offenders. It is our conclusion that sentences running consecutively would deter crime more than sentences served concurrently. We do not wish to usurp the judges prerogative of determining length of sentence but we feel concurrent sentencing is detrimental to control of repeat offenders.

Of the 99 convicts interviewed at the Texas Department of Corrections, 37 were serving sentences on a concurrent basis, while only one man was serving one sentence after another. (See page 16) One man said he was serving 17 concurrent five-year sentences for armed robbery.

This practice is common knowledge among the criminal subculture and is, therefore, actually responsible for a great number of crimes since the deterrence or threat of prosecution is removed from the mind of an offender once he is filed on by a police agency. The offender is actually driven and encouraged to commit crimes by a system which imposes financial need for money to defend himself against criminal allegations on the one hand and on the other, removes additional criminal sanctions for the subsequent crimes he does commit.

Lack of information prevents us from pinpointing the cause, but the time lag between charging an offender and sentencing him leads to abuses of the bond system and concurrent sentencing practice. Pinpointing the agency is not as important as identifying the problem. Bail is a constitutional right but a nine month delay before trial is not. Nor is concurrent sentencing a right.

The overall problem is lack of coordination and common goals. A great amount of additional research is needed to learn methods of identifying and prosecuting persons responsible for heretofore unsolved crimes. According to Dr. John Holbrook, the typical offender who is apprehended and prosecuted by the criminal justice system is not necessarily the same as the typical offender who escapes punishment. Dr. Holbrook feels that added research may prove the latter to be a much more intelligent individual who is able to evade arrest and avoid prosecution more often than his less successful counterpart.

RECOMMENDATIONS

The primary conclusion reached by this study is that there is a lack of negative sanctions sufficient to prevent a person from becoming a repeat offender. In fact, once his life style is set toward crime, the system appears to facilitate his career.

The bond system does not deter further criminal behavior, yet supplies the monetary need for further criminal action. The police department seems to be seeking offense clearances rather than actively seeking to control the repeat offender. The courts do not seek additional punishment or rehabilitation time for repeat offenders, rather they routinely give concurrent sentences to them. These, plus other problem areas that have not been quantified in this study, cause the criminal justice system to appear ineffectual against the repeat offender. The first offender may be inhibited by the system, but that is not part of this research.

Based upon the foregoing facts, the following measures are recommended as ways to combat repeat offenders.

• To control the repeat offender, the criminal justice system must become a true system.

The present system is, at most, only satisfactory in administering justice and rehabilitation to first offenders. However, for the repeat offender who strives to circumvent the criminal justice system, the uncoordinated haphazard efforts to divert him and correct his behavior are largely ineffective. The key word in creating an effective system is coordination. A search for coordination in the present system is disheartening.

In view of this, it is recommended that a task force be formed under the auspices of the Dallas Area Criminal Justice Council to develop measures for coordinating the efforts of the several components of the criminal justice system in this area. The product of this study should be a report to the Executive Council of the Dallas Area Criminal Justice Council setting forth specific steps to lead to a lasting system for coordination.

• There should be a prosecution policy within the Police Department which is understood by each component of the criminal justice system, the public and most importantly, the criminal.

During the month of May 1972, it can be observed that there was almost a direct one-to-one relationship between the cases filed by the Dallas Police Department and the number of persons charged, in other words, an average of only one case was filed against each person charged. However, a closer look will reflect that in many instances a person had ten, fifteen, twenty cases which were cleared. Similarly, there were many cases filed out of the city against persons by other jurisdictions which cleared Dallas' crimes. As far as can be determined, the decision to file or not file a case is an arbitrary one made by an investigator and/or his supervisor.

Therefore, it is recommended that a no-quarter policy against criminal offenders be implemented, clearance rates notwithstanding! If the police serve warning to the public, the criminal, the FBI/UCR and the press that they will no longer give credence to the number of offenses cleared, that preventing crimes and prosecuting offenders are their priorities, and further that they expect a sharp decrease in the clearance figure, they will be in a position to throw off the need to bargain for those clearances with the criminal.

Following that, it is recommended that a task force be convened to develop a prosecution policy which is aggressive. This policy should be couched in terms which offer the sternest possible threat to criminals in Dallas. The task force should be charged with developing policies which seek stringent prosecution, multiple case prosecution, habitual offender convictions and queuing of cases where necessary.

• **In order to reduce crime, the criminal courts of this district should serve justice as rapidly as is practical after indictment.**

A long delay between the time that a case is filed and the time of disposition allows the repeat offender to commit many more crimes. Two additional district courts will be recommended for Dallas in the 1973 Criminal Justice Plan being submitted by the Dallas Area Criminal Justice Council. These courts can and should be used to try repeat offenders as quickly as possible in order to remove these high-risk offenders quicker than first offenders. Similarly, appellate courts should be encouraged to follow this lead. A 60-day arrest-prosecution-appeal period is essential to crime control.

• **The legislature of this state should pass laws that would increase the difficulty of a repeat offender obtaining subsequent bonds when he commits further offenses while on bond and devise additional sanctions for offenses committed while on bond.**

At the present time, many repeat offenders are free on several bonds. Just the requirement that subsequent bonds be cash bonds could reduce the repeat offender's ability to make repetitive bonds. Also, legislation calling for the forfeiture of secondary bonds upon conviction for a crime committed while on that bond would assist in preventing the repeat offender from continuing his criminal activity and inhibit bond abuse.

• **The legislature of this state should develop legislation preventing the use of concurrent sentences for persons who are repeat offenders.**

It is not within the scope of this study to recommend how long a convicted felon should be incarcerated for his offense, but the criminal justice system cannot cease sanctioning criminal acts just because it has invoked a primary action against a repeat offender. Some form of judicial reform is needed.

FOOTNOTES

[1] This entire section is taken in context from the 1970 issue of the Uniform Crime Report published by the Federal Bureau of Investigation.

[2] This information obtained from a monthly report published by the Criminal Investigation Division of the Dallas Police Department.

[3] Bond information obtained from the Dallas Sheriff's Office, Bond Desk on June 1, 1972.

[4] These figures obtained from the Dallas Police Department Annual Report on Court Dispositions for 1971, printed May 1, 1972.

[5] Taken from the Dallas Police Department Special Report on Multiple Cases Pending Trial, February, 1972.

[6] This data taken from Texas Department of Correction's Special Statistical Report to the Dallas Police Department, April 1972.

[7] Report dated December 29, 1971, distributed by the District Attorney's Office — Combined Report For The Year 1971 for all Criminal and Judicial District Courts — Indicates that four persons received life sentences as convicted habitural criminals.

[8] This chapter is footnoted to supply the reader with textual reference. See page 18.

[9] See page 24 for reference.

[10] This estimate is also supported by the Birth Cohort Study that determined the juvenile repeat offenders committed 84 per cent of the offenses. See Table 4 on page 9 for reference.

[11] See page 32 for reference. (Patrol Crime Control Project)

[12] See page 22 for reference. (Comparisons)

Chairman PEPPER. Call the next witness?

Mr. LYNCH. Chief Peters from San Antonio.

Chairman PEPPER. Chief Peters, I want to tell you that your able representative in the House, and our colleague, the Honorable Henry Gonzalez, was especially anxious to be here this afternoon to introduce you and your associates. He had to take a plane to go back to San Antonio, and he asked us to express his regret he would not be here to hear your statements, although he is very much aware of the fine program you are going to tell us about today.

Incidentally, Chief, you have one of the interesting cities of this country, one of the beautiful cities. My regret is I don't get to go there often enough. It is a very hospitable city.

Mr. Lynch, will you proceed?

Mr. LYNCH. Yes, Mr. Chairman.

Mr. Emil E. Peters is the chief of police of the San Antonio Police Department. He has been with that department for 31 years and has served as chief since 1971. Mr. Peters is a graduate of the FBI Academy.

Mr. Peters, if you have a prepared statement would you deliver it to the committee at this time, sir?

STATEMENT OF EMIL E. PETERS, CHIEF, POLICE DEPARTMENT, SAN ANTONIO, TEX.; ACCOMPANIED BY ROBERT A. BENFER, CAPTAIN; THOMAS T. FENLEY, SERGEANT; AND ROBERT GLENN AND ARTHUR TREVINO, PATROLMEN

Mr. PETERS. Yes, sir. Thank you. And I thank you, Mr. Pepper, and the other members of the Crime Committee for inviting us up here to tell you about what we feel is one of our success stories in San Antonio.

I would like to introduce my people: Capt. Robert A. Benfer, who heads my crime bureau; Sgt. T. T. Fenley, who is one of the three sergeants in the special squad we are going to talk about; Robert Glenn and Arthur Trevino, who are members of the special squad we call the task force.

Now, I would like to explain their attire because this is part of their game. They wear very casual makeup and, in fact, I think that is one of the things we attribute much of the success to.

If I can go back very briefly and tell you a little bit of background of our story, because I think these are historical things that might bespeak the bare bones budget and why we never implemented a program of this type prior to the availability of some startup funds through LEAA.

Very briefly, in the past 2 years, our city has been one of the growing cities of the Nation in experiencing these growing pains and the usual constrictions and frustrations of a growing metropolis. Twenty years ago, our city had a population of 490,000, a police force of 380, and a total police budget of $1,800,000. Today, our population is 748,000; the area is 243 square miles while our police force numbers 1,000, with a budget of $15 million. I point this out to illustrate the job of "catch up" we have been faced with. Consequently, the demand for men was always greater than the force and any shift of a sizable number of men to a special assignment left other duties or needs for policing undone.

In the fall of 1970 our task force was born—made possible by a discretionary grant of LEAA in the amount of $146,000. The grant made possible the use of a 20-man team on overtime; thus not penalizing other needed operations. It provided funds for 6 months, then one-half of that amount for another 6 months during which time we were to assign 10 regular duty men with the promise to fund 10 more regular duty men at the end of the second 6 months. A 2-year grant from our S.P.A., the Texas Criminal Justice Council provided an additional sum of $84,000 through which we increased the squad by 10 men on an overtime basis with our promise to continue with regular duty men at the end of these 6 months to make for a permanent squad of 30 men. That is where we are today. At this time, our task force is funded by our city as a regular activity of the police department, the budget being in excess of $320,000.

The objective is to reduce crime or to slow down the increase in crime; to increase arrests by interception and other means than the standard preventative patrol and investigation method. The name of the game became inconspicuous surveillance and stakeouts in high crime areas or wherever a crime wave became obvious. We therefore adopted a very nonpolice appearance. The squad's vehicles are reclaimed abandoned unclaimed vehicles from our vehicle compound. Radio communication is provided by portable radios. Varied dress and personal attire replaces the uniform or business suit.

As you see them today, the way they wear their hair, or they wear a beard, or whatever it is depends on the assignment. These men are reserved for special assignments, do not do normal patrol and, therefore, blend into the environment perfectly.

The impact, in very brief form, can well be measured by the crime picture in our city: In 1968, 41,958 major crimes; 1969, 46,423; 1970, 43,279; 1971, 39,643; and 1972, 39,715.

The above figures differ from those on the FBI report only in that these are larger as they include assaults and misdemeanor thefts—which makes for the total picture—however, if the lower figures are used, the arc is the same. We peaked in 1969—then effected good decreases in 1970 and 1971. In 1972, we have a small increase—3 percent—but well below the higher years or the 5-year average.

The morale of this squad is exceptional—equaled only by their success, and the reputation of this squad among the criminal element as well as the citizenry is just the way we want it. It is great. In one more effort to get LEAA aid, I have just completed an application for an add-on—a 1-year budget for overtime to be used only and specifically to add to the capability of this squad by temporary expansion to 50 or 70 men, when needed, by using other off-duty officers in addition to this squad on an overtime basis. This would provide occasional semi-saturation with stakeout men during a wave of robberies, burglaries or gang-type assaults. Again, one year's experience would provide sufficient justification in future budget hearings to make it a regular component of the operation.

As I mentioned before, the name of the game is inconspicuous attire. These men are assigned daily, according to a design or plan, based on experience through reporting and computer aided history. Captain Benfer and his crime bureau decide where we need help: Burglaries, thefts, or robberies and, accordingly, try to anticipate where these men are to work.

The work hours vary. They may be daylight or nighttime, by and large, a blending with the environment with these old model cars in dress that fits the neighborhood, whether overalls, plumbers' gear, or what have you and that has contributed immeasurably to their success.

Mr. LYNCH. Chief Peters, this committee has heard previous testimony from Commissioner Patrick Murphy of New York, and this morning from Commissioner John Nichols of Detroit, concerning programs quite similar to your program. New York's is called the city-wide anticrime section. It has been quite effective in making felony arrests for street-level violent crimes. Would you describe for us what, in your judgment, the success rate of this special force has been in your city?

Mr. PETERS. Particularly, in the category of robbery and burglary, we have done a tremendous amount of good. In fact, in 1970, when we first went into operation, our robberies dropped probably 50 percent in 2 months because we used the stakeout method. Then, of course, we started concentrating on burglaries and thefts, parking lots, what have you, and did a lot of good in that, and then again we shifted back to robbery; but we do work on all major crimes. Although on special occasions, when there is a type of panic arising through maybe a rapist that is repeating or something of that order, we will use them in these fields.

Just in December and January, the past December and January, again the robbery picture went, what we thought was, out of sight in San Antonio, and through the months of January and February we concentrated on that at that time. We increased it through the method I have described.

I hope for some aid from the criminal justice council in Texas and a new grant which would enable us to use more men and add to these 30 men. In a city as large as ours, with a number of business houses, 30 men is not enough to provide saturation whatsoever. There are times we can add 50, 60, 70, and really do the job, and recently we did just that. Of course, we can't continue too long without bankrupt problems in our budget. We did that through February and March and the figure was reduced 100 percent.

Chairman PEPPER. Tell us, how do you deploy your men? Do they walk or go in cars?

Mr. PETERS. We have the vehicles we have reclaimed from the vehicle pound. We, of course, like other cities, have the job of picking up cars from the streets that are abandoned, and, after 60 days, because of space, they have to be sold under our law.

We select from this option the cars that might prove valuable in our work and claim them, take ownership by the city and, after some necessary repairs in our garage, put them in the field.

They are everything from 1962 Dodges to pickup trucks and what have you. This, along with the portable radio which, of course, is not unique, but along with this provides us mobility and, of course, communication for these improvised vehicles.

Mr. LYNCH. Do your officers patrol singly or in teams?

Mr. PETERS. In this squad, normally in teams.

We will do stakeouts singularly. For instance, we had a run on ice stations, or all-night shopping marts, so there we singled them out. We put men inside the building and, in a few cases, depending upon

the vision, the geography of the area, we would have maybe a second man in the area.

Mr. LYNCH. Have task force members in your city been involved in situations which resulted in fatalities to offenders?

Mr. PETERS. Yes, sir.

Mr. LYNCH. How many; could you tell us?

Mr. PETERS. I believe three.

Mr. LYNCH. And that is since when?

Mr. PETERS. December of 1970.

Mr. LYNCH. Could you tell us the circumstances surrounding those, what kind of offense?

Mr. PETERS. Business burglaries and groceries.

Mr. LYNCH. Were they on stakeouts?

Mr. PETERS. Yes, sir.

Mr. LYNCH. You have at present 20 full-time men?

Mr. PETERS. The first year was 20, yes, sir; under the original grant. Now, we have 30.

Mr. LYNCH. And they, in the normal course of their duties, dress as the gentlemen at the table with you are dressed?

Mr. PETERS. Right. And it's been including coveralls, the appearance of migrant workers, plumbers, what have you, depending upon the type of crime. That is the squad.

Mr. LYNCH. What is your police per capita ratio?

Mr. PETERS. About 1.3.

Mr. LYNCH. That would make you about the lowest police per capita ratio of any of the 13 cities that are appearing before this committee. Do you need more policemen in San Antonio?

Mr. PETERS. We do. We have an authorized strength of 1,075. I have about 40 vacancies; discounting the ones in school now, our strength is 986. We are right at a thousand and the class in school would put us over.

Mr. LYNCH. Do you need more policemen than your authorized strength?

Mr. PETERS. Correct.

Mr. LYNCH. How many policemen do you need to significantly reduce the crime rate?

Mr. PETERS. I believe that compared with cities throughout the Midwest, and not beginning to compare with Washington, D.C., which has five times as many, or St. Louis with twice as many, I would say 1,400 men in ratio to the cities throughout the Midwest.

Mr. LYNCH. You told us you have 1.3 policemen per thousand inhabitants. Washington, D.C., has close to seven policemen per thousand inhabitants, which is about five times as many.

Mr. PETERS. They have about 5,000 officers.

Mr. LYNCH. About five times as many per capita.

Mr. PETERS. No, five times as many.

Mr. LYNCH. They also have five times as many per capita, which is really a better measure.

I wonder if you could have some of your officers briefly tell the members of this committee what they do in a normal day's course of operation, how they police now and how it differs from duties which they performed as uniformed officers?

Mr. PETERS. Right.

Sergeant Fenley?

Mr. FENLEY. Yes, sir.

The assignments, like the chief said, are drawn up as to what specific crime area is needed. We have many different ways we go about this. Some of the ways are by picking up known burglars if burglaries happened to be the problem. We stake out their houses when they leave in the morning, we follow them. Then when they commit a crime we make the arrest and the police officer is a witness to the crime, which has led to better prosecution than depending upon the citizen coming in and testifying; which most of the time on burglary they weren't there when it happened anyhow.

We have other ways of staking out known "fences," where stolen property is sold, and just by going up and stopping everybody that comes in there we recovered a lot of property that way. However, in these cases our prosecution is no good but we run the fence out of business.

We do the same with narcotic connections.

If theft happens to be the problem, for instance, car prowling, most of it takes place at the average shopping mall. We place one, maybe two, on a roof with field glasses, and the other teams are mingled in with the vehicles. As soon as the car prowler is seen in action, the men on the roof radios—we have a special channel that doesn't go through the dispatcher's office—it to number so and so car whatever it is, "A car prowler in action." The men go over and again make the arrest as the crime is being committed.

We have been used as leg work—canvassing a neighborhood—for some of the crime bureaus such as homicide, on murder cases where it is imperative that as much information could be compiled as soon as possible. We have staked out areas where rapists have set up a pattern. It took us a week on one, 3 days on the other, and we got apprehensions on both of those.

Mr. LYNCH. Do you have a system of making out contact cards? I wonder if you would describe that to the committee and tell the committee what value those cards have.

Mr. FENLEY. Yes, sir. The contact card is the standard contact card which most cities have and which are in the municipal police administration. For each person that is contacted, a contact card is made out on them.

Mr. LYNCH. What does a "contact" mean? What kind of person would you contact?

Mr. FENLEY. This would be a person under suspicious circumstances or a known criminal. The card is completely filled out. It gives where the contact was made, the name of the subject, who was the subject, what type of vehicle he was driving, and the reason for the contact. These are then turned over to the intelligence bureau and also to the crime bureau, whichever bureau possibly would be interested in it. The intelligence bureau puts it out every morning. Once a month they print up an intelligence bulletin which is sent out on the local police departments, Texas Rangers, department of public safety, and it keeps an up-to-date listing of the vehicle license numbers, the type of vehicles, who so and so is running around with.

Mr. LYNCH. In essence, a field intelligence report?

Mr. FENLEY. Right. That is exactly what it is.

Mr. LYNCH. What value do those serve to other units in your department?

Mr. FENLEY. Well, there is a lot of time a crime has not been reported at the time the contact is made. And if we can place the subject in the area of where a crime took place, then the crime bureau will have this information; and through diligent detective work they can come up and clear their case most of the time through the fact the subject can't say he was not in town or that he was in another part of town when this took place. We have a contact card showing he was in the vicinity.

Mr. LYNCH. Do you serve any supervisory role in the task force?

Mr. FENLEY. Yes, sir.

Mr. LYNCH. Would you describe what that role is?

Mr. FENLEY. It is coordinating the assignments from Captain Benfer. Captain Benfer gives us an assignment, it is the supervisor's duty to review it. If it is a stakeout-type assignment, we go out, check the area, we make recommendations to our men, and this is one thing I want to stress. Because a man is a good policeman does not necessarily mean he will be a good undercover or task-force-type officer.

Mr. LYNCH. Fine. With that remark, would you tell us how you select men for this special task force assignment?

Mr. FENLEY. Yes, sir.

Well, from the very beginning, when we first began to set up our permanent task force, we went into the 201 file of each one of the men who had written requesting to come to the task force. We checked to see how if they had bad reports or anything like that, and then we talked with the immediate supervisor. We checked to see what disposition, whether they were under stress, whether they could hold up, whether they were cry babies, and, of course, you have some where the stakeout isn't exactly to their liking; they wouldn't want it. We even went back into their records as far as their service records to see what caliber a person they were. Then we personally interviewed them and asked them their reason for wishing to come to the task force. We didn't want somebody that was just looking for a home for retirement or something like this. We wanted people that would produce. When we round up, our average length of service on the department from our task force officers appeared to be 5 years on the department.

Mr. LYNCH. Does this kind of duty require an aggressive policeman?

Mr. FENLEY. It takes an aggressive policeman and one with great imagination.

Mr. LYNCH. I wonder if we could ask Mr. Trevino why he volunteered for the task force.

Statement of Arthur Trevino

Mr. TREVINO. Basically, the main reason was I wanted to do investigative work, and in the patrol function the techniques we use, we haven't enough time to actually investigate on calls we respond to.

Mr. LYNCH. In your present work you have a chance to do investigatory as well as regular noninvestigatory work?

Mr. TREVINO. Yes, sir; I believe time is of the essence, we have time to spend with the subject the whole day, for that matter. We might spend the whole day, the next day, a whole week, living with him.

We might get up with him in the morning, go with him to work, and follow him until he commits a crime.

Mr. LYNCH. How long have you been on the task force?

Mr. TREVINO. Since June of last year.

Mr. LYNCH. How many arrests have you made since you have been a task force member?

Mr. TREVINO. I couldn't recall the number.

Mr. LYNCH. Has it been a good number?

Mr. TREVINO. A good number, yes, sir.

Mr. LYNCH. A good number of felony arrests?

Mr. TREVINO. The majority, 99 percent.

Mr. LYNCH. What kind of felonies?

Mr. TREVINO. Robberies in action, burglaries in action, possession of narcotics, narcotic paraphernalia.

Mr. LYNCH. Is this kind of police work more dangerous to you than patrolling the streets in uniform?

Mr. TREVINO. I wouldn't say it was; no.

Mr. LYNCH. Chief, I wonder if you could tell us, have you lost, or had shot, or otherwise injured members of your task force?

Mr. PETERS. We have had some shot at. We haven't lost any. We have lost two patrolmen in the last 12 months.

Mr. LYNCH. But not task force members?

Mr. PETERS. No.

Mr. LYNCH. Under what circumstances did you lose the patrolmen?

Mr. PETERS. Patrol officers patrolling the district. We use one-man cars around the clock and have for some 30 years, but that didn't necessarily play into this nor was it the reason.

Mr. LYNCH. You have used one-man patrol cars for 30 years?

Mr. PETERS. Since 1939, over 30 years.

Mr. LYNCH. You must have been the first department in the country to start that.

Mr. PETERS. Wichita, Kans., and San Antonio were the two originally. Maybe Kansas City.

Mr. LYNCH. Do you use foot patrol?

Mr. PETERS. Very few. It is, like Chief Camp mentioned, a luxury we had to abandon when the city spread so rapidly. We do use some in the downtown area now. And, in fact, beginning Monday, I will have a little money through revenue sharing I am going to spend on overtime, following the pattern or St. Louis plan.

Mr. LYNCH. Do task force members, in fact, spend more time in quasi-foot-patrol than regular policemen do?

Mr. PETERS. No; except they can be assigned to a given area or on a given crime or particular crime and it doesn't take them away from their patrol duties or the duties that would otherwise be left undone. They are available for this purpose.

Mr. LYNCH. Do you use task force members on decoy assignment?

Mr. PETERS. Decoy and stakeout; yes, sir.

Mr. LYNCH. I wonder if Mr. Glenn could tell us why he volunteered for this kind of duty. I take it you did volunteer?

Statement of Robert Glenn

Mr. GLENN. Yes, sir; I did. I volunteered to get out on more extensive investigation work, because as a regular patrolman you are

identified with a marked car and wearing a uniform and you can't get close to the criminal element.

Mr. LYNCH. Do you think you are more effective now as an unknown officer out on the street dressed the way you are than you would be in a uniform?

Mr. GLENN. Yes, sir; I do.

Mr. LYNCH. Have you made more arrests since you have been a task force member than you made regularly as a uniformed officer?

Mr. GLENN. Yes, sir. Being a uniformed officer, the majority of arrests used to be misdemeanors, whereas now they are felonies.

Mr. LYNCH. How long were you a regular uniformed officer, sir?

Mr. GLENN. A little over 2 years.

Mr. LYNCH. Captain Benfer, I wonder if you could describe briefly for us how you operate this unit.

Statement of Robert A. Benfer

Mr. BENFER. My area of responsibility is homicide, robberies, burglaries, and thefts. In those duties I have regular detectives, lieutenants, and sergeants, but the problem we have now is that the detective, I suppose, spends 50 to 60 percent of his time riding to court and making reports. He has very little time for investigating.

And when we develop the problem, we develop an area. Recently we had a rash of robberies of icehouses. The time spent on these other things kept the detectives and the small detail we do have, due to lack of manpower, from being able to go out there and really follow up any leads they had. This particular instance, we took the area that was being hardest hit and we used the entire task force, plus extra men on overtime duty, and put them in these icehouses. There were several apprehensions. Mr. Glenn, here, managed to be in one place where a holdupman ran and Glenn did shoot the man, shot him in the leg.

It helps me in the fact that when we do have a problem in any area, and the detectives cannot handle it themselves, we have a man to put into this one particular problem area until it is solved. In most cases it has been solved. Rape cases, burglary cases, robbery cases, it is just throwing the whole group into that particular situation until the problem is solved. It may take 2 or 3 days, it may take 2 or 3 weeks, but we leave the man there until it is solved.

Mr. LYNCH. Could you use more members in the task force in a city your size if you were without present budget restrictions?

Mr. BENFER. Without budget restrictions, yes, sir; we could. The task force is 3 percent of the total police department. And due to other problems, I am sure we can't get that many men.

Mr. LYNCH. Do you publicize the existence of this task force within the city of San Antonio?

Mr. BENFER. It is a known fact, whether we publicize it or not, because the papers publicize any time a task force man makes a good arrest—so and so arrested by task force stakeout or something to that extent.

Mr. LYNCH. Do you regard the number of task force members as security information in your department or will you release that publicly?

Mr. BENFER. I don't understand the question.

Mr. LYNCH. Do you secrete the number of members you have on your task force, or if a newspaper reporter or citizen asks you, do you tell them how many people serve in this unit?

Mr. BENFER. That is a well-known fact within the department and the city.

Mr. PETERS. I might add we have, several times, increased sporadically for specific needs. I would like to have more flexibility to do that; this is the first specific need. At such times of course, we don't release our plans until after the strike is made, and then it comes out.

Mr. LYNCH. What kind of public response and what kind of response from the press has the task force received?

Mr. BENFER. Very well received by press and by the citizens; I know that by the demands made on me. Everybody that has a burglary calls up and wants the task force because the word has gotten out in the last 2 years of the success they have achieved; the capability they have; how they can do that.

So, frequently, businessmen, even residents now, call and ask for the task force. On an individual case of that nature, we can hardly use it but we look to use it where there is an area inflicted or a pattern established. That is where we feel it is most effective.

Mr. LYNCH. As you may know, the STRESS operation in Detroit was subjected to rather sustained severe criticism in the Detroit press. That came as a result of a number of fatalities inflicted upon people in Detroit, people in the act of committing crimes, by members of STRESS. I think your testimony was that three people have been killed by task force officers.

Mr. PETERS. I am going to reduce that to two.

Mr. LYNCH. After those fatalities, was there any kind of severe editorial criticism of your department in the newspapers?

Mr. PETERS. No, there wasn't. There was a group, very active at that time, that tried to come back at us on one of the shootings. It was a burglar, and different activists groups put up the complaint. But the grand jury, the district attorney's office, FBI, they all looked into the grievance and they all ruled in our favor; the officer was acting under law, under circumstances that would make any reasonably prudent officer react the way this officer did when he shot the burglar.

Mr. LYNCH. I take it your city has a substantial number of Mexican Americans and a substantial number of blacks, and in all likelihood other ethnic groups. Do you try to get relatively the same ethnic mix, or racial mix, on the task force?

Mr. PETERS. We try to have.

Mr. LYNCH. How are you doing?

Mr. PETERS. Well, we are not too far off, I don't think.

Bob, maybe you had better answer that.

Mr. BENFER. We have approximately 50 percent Mexican Americans, we have two blacks. Our population in the city is some 51 percent Mexican American and about 9 percent black. The rest are Anglos. A little over 50 percent are of the minority group, or in our case, the majority.

Mr. LYNCH. Would you, for instance, use Officer Glenn to conduct a task force operation in a predominantly black neighborhood?

Mr. BENFER. He would blend in a lot better in that neighborhood, yes; but he is not restricted.

Mr. LYNCH. He might use Officer Trevino in a Mexican American neighborhood?

Mr. BENFER. Yes.

In other words, where they would fit in better. They are not restricted to that area.

Mr. LYNCH. I understand that, but as a technique of making them "invisible."

Mr. BENFER. That is correct.

Mr. LYNCH. I have no further questions, Mr. Chairman.

Chairman PEPPER. Mr. Winn?

Mr. WINN. It sounds like your operation task force is working very well. You remarked in your opening remarks that you get these cars that have been abandoned and a great many of them look like what we call clinkers. Why do you go to clinkers? Because some of the narcotic peddlers and pushers are driving Cadillacs.

Mr. PETERS. That is true. We were using a Lincoln, a couple of Buicks. They weren't late models, of course, but none of our burglars and hijackers are driving around in that type of vehicle.

Mr. WINN. They are driving the older vehicle?

Mr. PETERS. Yes, sir; and in the neighborhoods where we were working.

Mr. WINN. Is that because they are not doing well or because they don't want to be conspicuous?

Mr. PETERS. Both. In the neighborhoods, parked on the street, and stakeouts, I think it would be less conspicuous than a shiny new car, and certainly less conspicuous than our normal staff detective cars, unmarked, but always giveaways.

The blending in or disguise is so well that the week before last the task force men were staked out and a pedestrian was walking down the street and a car drove by and shot him in front of the two task force men. They were parked. This was a petty gang-type thing that breeds in the West Side particularly, and, of course, our task force men pursued him and apprehended him. He really just didn't expect at all two officers were watching him. They didn't realize he was going to shoot.

Mr. WINN. The intent was to kill?

Chairman PEPPER. Was the man killed?

Mr. BENFER. No; he was chased down a blind alley and then turned on the officers, of course, and shot it out with them. He, in turn, was shot but he wasn't killed. He was shot in the leg and shots were fired at our men.

Chairman PEPPER. Did they catch the men that did the shooting?

Mr. BENFER. Yes, sir.

Mr. WINN. For instance, if Mr. Glenn goes into a black area, or predominantly black area, and sits in, and begins to make contact is he not fairly easy to spot after a while? I mean, because he is big, looks like an athlete. I don't know. It seems to me if a man was in either that or Mr. Trevino's, in maybe the Spanish-speaking area, could be singled out if they were in the area too long.

Mr. PETERS. I think our cars have been the secret to continuing success. They switch cars.

Mr. WINN. So they don't look like the same guy to the same people. If they were in the same car a couple of weeks in a row, or 10 days

they would think that guy, we see him all of the time. Of course, they can change their garb, too.

Mr. PETERS. That is true. On our automobiles, we just feel that has played a tremendous part in the success of the program, because these old "clinkers" don't usually last too long anyway.

Mr. WINN. Some of those don't look too good.

Mr. PETERS. Mr. Trevino was relating to me he arrested the same guy twice. This guy swore he knew he was a police officer, but he turned around and arrested him a week later and he didn't recognize him.

Mr. WINN. Do you shave your beards and mustaches and things to go along to make it fit the occasion?

Mr. BENFER. Some of the group have beards and shave them off. Some leave them on. In other words, they don't stand out as police officers, even though they may be recognized if they step out in front of someone. But they don't go down the street standing out as police officers in old clinkers. The thing I believe the character looks at is a car, and the second time to see who is driving it. And they know our police cars. They know our plainclothemen's cars.

Mr. WINN. Do the task force members go into a place, hang around the pool hall, go to the beer joint, or wherever the problem is, where they can pick up word about possible activities or possible robberies being planned?

Mr. PETERS. Not so much; that would be an undercover type of work. We use some men in undercover work.

Mr. WINN. I am having a hard time, even after hearing of this same type of operation three times in the last couple of days, how you differentiate between an undercover or task force officer.

Mr. PETERS. The undercover man does not make arrests.

Mr. WINN. He never makes arrests?

Mr. PETERS. Normally not, in our department. He will operate until he has fingered, and in the meantime we try to get sealed indictments and serve the warrants. Because once the warrant begins to be served, he is known.

Mr. WINN. I didn't particularly look, but I don't remember seeing any pictures of girls or women.

Mr. PETERS. Not in this force.

Mr. WINN. Would there be any place, because there are women connected with particularly planned robberies, getaway cars, things like that. At least, they are in the movies that way and you read about them. I guess there are. There are lots of women in jail.

Mr. PETERS. We haven't thought about using any as yet. It is possible. We don't have too many women right now. We use one in homicide on rapes.

Mr. WINN. How is that working out?

Mr. PETERS. Very well.

Mr. WINN. You just have the one?

Mr. PETERS. Just one in homicide, one in juvenile, and two in records.

Mr. LYNCH. Mr. Winn, I would like to comment to the chief that Commissioner Murphy is using a number of female police officers in his units similar to yours, and the commander of that unit indicates that they are even more effective than men and they are delighted with the performance of the women who are their counterpart of your task force, and hope to increase that number because they have been so ef-

fective, especially at getting muggers and robbers. They have been used primarily as decoys.

Mr. PETERS. I would envision we would eventually, also. We, as I mentioned before, are undermanned, and, of course, we always have to watch every program to be sure the tail doesn't wag the dog. So our task force is about as big as we can afford at this time, in ratio to our total personnel.

Mr. WINN. You, obviously, have a pretty efficient police department, but it would seem to me from the trends that there are going to be more and more places to use women. I suppose in task force work that women might be able to do a better job, because of the use of wigs and things like that, than the men.

Mr. PETERS. True.

Mr. WINN. Although one of the task force members said their men wore wigs and I am sure that is probable but I don't think they would last too long. I think they are too easily spotted.

Mr. PETERS. I would think so.

Mr. WINN. Thank you, Mr. Chairman.

Chairman PEPPER. Gentlemen, if you don't want to state it for the record you need not do so, but where do you gentlemen carry your badge and gun?

Mr. PETERS. They, of course, keep that concealed. They use one with a flapover so they can put it in their pocket to show when the occasion calls for it.

Chairman PEPPER. What about your weapon? Do you have a place to carry that?

Mr. PETERS. Right.

Chairman PEPPER. Gentlemen, this is the kind of thing we have been so much interested in, the innovative, ingenious approach. What you are doing is letting the criminal know that he never knows whether some fellow walking down the street or sitting in the car is a police officer or not. Just like the two fellows who shot that man down. The ordinary civilian would have been afraid to testify he saw him shot down. The culprits thought they would get away with it the way these criminals do get away with public shootings like that. Yet, there were officers who saw it and were not afraid to trace them and not afraid to testify they saw them do it. That seems to me to be an ingenious way of dealing with the criminal.

We want to commend you. You have done a very fine job.

Without objection, I would like to put in the record the document here entitled "Samples of Crime Task Force Case, 1970–73, San Antonio Police Department, San Antonio, Tex."

Without objection, it will be incorporated in the record.

[See material received for the record following Mr. Peters' testimony.]

Chairman PEPPER. Chief Peters, we want to thank you and your associates for coming here and giving us this very interesting presentation. We wish you good luck and further success. We hope that something can be done to help you get more money, more police, and more task force members. Personally, I think the Federal Government ought to put very large funds into the programs to carry out such things as you do, to give you more effective personnel. I hope someday we will be able to get such.

Mr. PETERS. We thank you, Mr. Chairman. And on behalf of our department and our city, we thank you for the privilege of coming before you.

Chairman PEPPER. Thank you very much. Good luck.

[The following material was received for the record:]

SAMPLES OF CRIME TASK FORCE CASES (1970–73), SAN ANTONIO POLICE DEPARTMENT, SAN ANTONIO, TEX.

We were having a rash of Convenience Food Store (called Ice Houses in our area) holdups. It seems "Ice Houses" are prime targets here because they are so numerous and very popular for quick purchases and usually have only one clerk on duty. At one "Ice House" we had a Task Force man staked out in the storeroom behind the checkout counter, at about 11 P.M. a man entered the store, looked at some books, then went to the register drew a small pistol (known as a Saturday night special) and informed the clerk, "this is a stick up, put the money in a paper bag". The clerk complied. At this time the Task Force officer slipped out the rear door with shotgun in hand and confronted the hijacker as he left, this so startled the hijacker, as he looked down the barrel of the officer's gun, he threw down his gun, the bag of loot and screamed loudly.

Many other cases on file were cleared by this arrest. This subject has been convicted and is now serving his time.

In an area of the city where a large hippie colony was gathered, information was received that they were dealing in stolen goods and narcotics. Two Task Force teams were assigned to obtain license numbers and descriptions of the vehicles in the area. One team was sent into the area and the other team remained outside the area as a backup team. Everything was going smoothly until dark when the hippies sent out "guards", one of the Task Force men was on foot, the other had remained in the car. The man on foot radioed the man in the car that the "guards" were headed his way, he slid down on the seat and acted passed out. Three hippies sat on the hood of the car and lit a "joint" of marijuana and smoked it while they debated rolling "the drunk" in the car (the Task Force officer), but soon tired of this and did nothing but finish smoking the "joint". The other Task Force officer was stopped by the "guards" but he put a story on them about looking for some street in the neighborhood and said he wanted to buy some stuff, they almost took him in but instead advised him to leave. The Task Force officer walked to the end of the block caught a bus and rode a couple of blocks, got off and contacted the backup team, they waited for the "down and out drunk" officer to join them.

With the license numbers obtained it was found that most had been used in burglaries, by setting up stake outs on the houses and watching the flow of articles being taken in, a Search Warrant was obtained and a large amount of stolen property was recovered. The "Burglary and Theft Ring" was broken up.

A rapist had established a pattern in a section of town consisting of a large number of duplexes. The Homicide Office asked Task Force to see what could be done. A map of the area was obtained and the addresses and times of the burglary/ rapes were marked. The area was then checked for the best placement of men. Three locations were selected (in the shape of a triangle) one on top of a fire house tower and one on each of the two other points. We worked from midnight to 5 a.m. each night. On the 7th night a subject fitting the description was spotted prowling, he spent about two hours trying windows in the neighborhood looking for one unlatched. He then approached one of our stakeout autos, leaned on the truck (two Task Force men were lying on the seats inside) then walked on past. The officers felt the suspect might have seen them so they stopped him. In checking our files we found the man was wanted on traffic warrants and placed him under arrest. While searching the subject a screwdriver was found on his person which belonged to Southwestern Bell Telephone, a screwdriver matching this one was found on the scene of one of the rapes. Homicide was contacted and a check of the suspect's fingerprints matched those from some of the crime scenes. Two cases of rape and three cases of burglary were filed on the man. A pistol taken in one of the burglaries was recovered from the suspect's mother's home. The suspect lived in one of the duplexes in the area of the crimes.

The subject has been convicted and is serving concurrent 25-year sentences.

One afternoon a brutal murder was committed, two Task Force men were assigned to do the "leg work" in the case. This consisted of knocking on doors in the neighborhood and talking to people, finding out what they had seen during

the day, then following up on all the information they received. Before the day was out, they had developed enough information for Homicide to "make their case". It turned out to be the nephew of the victim.

The subject was convicted and given a life sentence.

While two Task Force officers were watching a car (used in a robbery the night before) a known dope pusher parked nearby, from his position he could not observe the officers. As the Task Force team watched another car pulled up and a package was passed by the pusher, then both cars left. Another Task Force team, parked closeby, took over surveillance of the wanted car leaving the original team free to follow the car with the package. A short distance later the car, containing a man and woman, was stopped and the officers confiscated the package, in the package was 6½ grams of HEROIN. The couple was arrested and filed on. By the alertness of these Task Force men we were able to also file on the pusher who had boasted he was too smart to be caught.

The second Task Force team, that had remained at the sight of the staked out car, made two arrests for armed robbery.

All five subjects are now out on bond awaiting trial.

Through Intelligence information, it was learned that three men were planning to burglarize a gun shop. It was further learned that they might also "hit" another location (a lounge). Six Task Force teams were assigned (three to each location). At approximately 11 P.M. the subjects arrived at the gun shop, waited a short time, then got out of the auto with a crowbar and began working on the door, seeing an auto approaching they dropped the bar, returned to their car and drove away. About two hours later they returned, again prying on the door but were still unable to gain entry, this time they took the bar with them and left. About 35 minutes later the teams at the lounge location reported they had arrived there and were "casing the place", but again they left this scene only to return about an hour later. Upon their return they pried on the front door, both side doors and the rear door, they could not gain entry here either and left the lounge. Two Task Force teams followed them. The subjects went to an apartment complex under construction, broke into one of the apartments, but did not steal anything (it was later learned they intended to burglarize it the next night). Leaving the complex they again drove to the lounge, after driving past several times they stopped. Two men got out again and the car left the scene, one team of Task Force men followed. On this attempt they *FINALLY* gained entry. The team following the car was notified and all suspects were arrested. Through this arrest it was learned these subjects had been involved in many burglaries in San Antonio and South Texas, including the U.S. Coast Guard Armory at Port Isabel, Texas. Information was also obtained on a "fence" with several hundred dollars in property recovered.

The men have been tried and received 7 years.

Earlier this year a San Antonio Police Officer was murdered by a hijacker fleeing from an establishment he had just robbed. All Crime Task Force personnel were pressed into service. The Detectives had six good suspects, all with outstanding warrants for robbery. Within 30 hours, five of the subjects were located and booked in jail by the Task Force officers. The one remaining suspect was brought in by his father who had been contacted by a sergeant in Burglary. This subject confessed to the robbery and the killing of the officer. By locating the other subjects as rapidly as they did, the Task Force officers enabled the Detectives to eliminate the five and concentrate on the 6th man, causing him to "give himself up".

A footnote to this case should state in rounding up the other five men Robbery Detectives were able to clear many outstanding cases that were on file.

The muder suspect also implicated another man and they are both now out on bond, pending trial.

A subject was arrested in dowtown San Antonio for auto theft, by a team of Task Force officers. The next day word came from the jail the man wanted to talk to some Task Force men. Two men were assigned, the subject told them of an international car theft and narcotics ring, of which, he was a member. Cars, mostly expensive types, were being stolen in New York, New Jersey and California, titles were forged and license plates obtained, then the cars were brought to San Antonio. The cars remained here until 6 or 7 were accumulated, then were driven to Laredo, Texas, across to Nuevo Laredo, Mexico then about 20 miles into Mexico where a large manmade cave was located, the cars were left there. At this location a "lieutenant" of the gang would pick up heroin and cocaine in return for the automobiles, he and the drivers would all return to San Antonio

where the narcotics were "cut" and taken back to New York, New Jersey and California to be distributed. The local flunkies would each receive 10 grams of heroin a day to sell for $40.00 per gram, the going price being $30.00, the seller was allowed to keep the extra $10.00 from each gram as his pay. The subject stated there were 12 to 14 street sellers and they were making many trips to Fort Hood, Texas where a large market for narcotics existed.

With this information a conference was set up with the Narcotics Bureau, the Auto Theft Bureau, the State Intelligence office, the Texas Rangers and the F.B.I. It turned out each agency had some of the above information and with this, were able to tie it all together. After about three months of undercover work we were able to break up the gang. At this time D.A.L.E. (office of Drug Assistance Law Enforcement) is still working on some of the top members of the gang and have made some very good narcotic cases, plus recovering large sums of money which have been confiscated by the I.R.S.

(Officers Report—January 5, 1973)

CRIME SUPPORT GROUP ANNUAL REPORT

GENERAL INTRODUCTION

The San Antonio Police Department established its Crime Support Group in the Fall of 1970. It began with the training of policemen in the various police tactics that would be needed in a semi-undercover type of unit. There were approximately two-hundred and sixty officers that completed the sixteen hour training requirement. This was made possible by the aid of a federal grant received through the Criminal Justice Council in Austin, Texas.

Under supervision of the Intelligence Bureau Commander the Group began active participation in police assignments with an assist to the Narcotics Section of the SAPD on the night of December 2, 1970. Sixty-eight suspected drug offenders were rounded up and brought in.

The next few months the Group was in the process of developing toward becoming a permanent unit of the San Antonio Police Department. This was done on June 1, 1971 when the Group was formally made a permanent unit of the Crime Bureau in the Criminal Investigation Division.

PERSONNEL

The Group began operation with a total of twenty officers. There were two sergeants and eighteen patrolmen. These men were carefully selected for their new duties. This was done by a close review of each applicant's official 201 file with the view in mind of each one's potential that would be developed by careful supervision from the sergeants in charge of the Group.

In February 1972 a new grant was put into use which enabled the Group to expand operations with fifty extra officers working on their relief days. This program of overtime was continued until June 30, at which time the funds were exhausted. From this group of officers ten patrolmen and one sergeant was to be selected for permanent assignment to the unit. This was completed on July 7th. As of the present time the Group is at full strength with three sergeants and twenty-eight patrolmen. One civilian clerk is also assigned who assists in accounting, scheduling and the preparation of reports. This makes a total of thirty-two men.

ASSIGNMENTS

The Group's basic assignment is to work in the areas of high crime impact. This may be in any given area of the city. The assignment may be for one day, two days or it may go on for weeks. The area of assignment may shift or several areas may be covered at one time. It will depend upon which area or areas have the greatest need. It is easy to see that the unit must be very mobile and flexible.

The current commander of the Group is Captain Robert Benfer, Chief of Detectives. It is from his office that assignments are approved and issued to the sergeants in the Group. They then work up a plan and assign the personnel accordingly. The following is a list of Sections that the Group has assisted the current year: Burglary, Homicide, Narcotics, Robbery, Theft.

The above listed sections have received assistance in the form of day and night patrols, surveillance of subjects and fences, gathering information, and rounding up suspects for questioning. The Group has also supplied information and assist-

ance to the Department of Public Safety, the Federal Bureau of Investigation, the Texas Rangers, the Federal Postal Inspectors, and various Police Departments around the state.

METHODS OF OPERATION

The Group being a semi-undercover unit, must have a certain degree of cover in order to succeed in its objectives. To accomplish this the Group utilizes unmarked pound vehicles for its assignments. These vehicles cover the complete range of makes and models. They have been quite effective in that the criminal element have had police in their midst and never aware of that fact until they are placed under arrest. These officers wear their hair longer than the average police officer. They also wear clothing that allows them to blend in with the environment they are working in. They have been so effective in this that subjects under arrest just don't seem to be aware that it has happened. In one actual case two subjects came up, sat down on the fender and lit up Marijuana cigarettes never aware it was an unmarked police car occupied by two police officers.

SERVICES RENDERED

This Group has had a unique opportunity to be of service not only to the citizens of this city, but to the police department as a whole. The Group is composed of the three major ethnic groupings in this city. This had enabled them to go into all areas of the city and to gather information not always obtainable by uniformed officers and by the Detectives. Some of the members of the Group have had an almost unbelievable ability to know and keep tabs on the criminal element within the city. A subject would be needed for questioning or a person would be under a warrant for arrest and wanted by a Section in the Crime Bureau. The men in the Group would go out and bring that subject in to the station sometimes in a matter of hours.

In addition to supplying needed information on wanted subjects, the Group also has been very diligent in making out contact cards on active criminals in the city. These cards are forwarded to the Intelligence Office and are available to all members of the SAPD. Current information as to addresses, vehicles and associates of these subjects is listed on these cards.

The subjects brought in are also mugged in color portrait type pictures which make for greater accuracy in identification. This file of pictures is maintained in Captain Benfer's office and is available to members of the SAPD. Listed below is the number of contact cards and pictures produced in this current year of 1972: Pictures taken, 1,701; contact cards, 1,835.

APPREHENSIONS 1972

The Group has had a very productive year in the number and kinds of arrests. The Group has doubled the number of Felony arrests over the previous year of 1971. In certain categories of crime a reduction has been achieved by the SAPD. It is believed by those in a position to know that one of the reasons for a brighter picture in the fight against crime has been the Crime Support Group. Supplied with this report is a chart showing the breakdown on the number and kinds of arrests produced by the Group. Listed below is the number of arrests for this current year of 1972: Felonies, 688; misdemeanors, 503; total, 1,191.

SUMMARY

This report would just not be complete without a word about the morale in this unit. There is an attitude of cooperation existing between the officers and their supervisors that is reflected in some of the results produced this year by the Group. Many of the accomplishments of this year have come from men working on their off duty time. Many of the arrests were made on the way to work or on the way home after regular duty hours. This is the result of PRIDE.

The officers and sergeants are pleased to be a part of, along with the other units, of this San Antonio Police Department.

Sgt. Thomas T. Fenley.
Sgt. N. Russell Poppell.
Sgt. Robert L. Lewis.

CITY OF SAN ANTONIO (TEX.) DEPARTMENT OF POLICE CRIME SUPPORT GROUP ANNUAL REPORT 1972

Types of arrests	January	February	March	April	May	June	July	August	September	October	November	December	Total
FELONIES													
Murder	0	0	0	0	0	0	0	0	0	0	0	0	0
Narcotics	0	0	0	0	16	3	15	22	7	25	15	27	130
Robbery	4	0	0	0	0	0	2	0	1	2	3	1	13
Assault to murder	1	1	0	0	0	1	0	0	0	3	0	0	6
Burglary	9	1	8	8	4	0	4	0	11	8	1	11	65
Theft 050	10	11	2	5	6	2	7	11	2	5	8	3	72
Burglary of auto	9	4	0	5	0	0	0	1	0	2	5	6	32
Auto theft	1	0	4	2	1	2	2	3	4	0	1	3	23
Mal Misch 050	0	0	0	0	0	0	0	2	0	0	0	0	2
Felony warrants	38	15	16	10	12	15	21	5	41	19	23	18	233
Other felonies	23	9	25	24	3	4	3	2	1	13	4	1	112
Total	95	41	55	54	42	27	54	46	67	77	60	70	688
MISDEMEANORS													
Aggravated assault	0	1	4	0	2	0	0	0	1	5	0	0	13
Unlaw carrying	1	4	1	4	1	0	2	6	2	3	4	0	28
Mal Misch U50	0	0	0	0	0	0	0	0	0	1	0	0	1
Theft U50	1	0	0	2	1	0	0	0	1	0	3	3	11
Drunk	1	1	1	0	0	2	10	0	0	2	2	4	23
Traffic warrants	6	12	27	26	53	65	38	7	17	3	15	12	281
Other misdemeanors	7	11	6	20	16	5	7	4	31	17	12	10	146
Total	16	29	39	52	73	72	57	17	52	31	36	29	503
Grand total													1,191

Chairman PEPPER. The committee will adjourn until tomorrow morning at 10 a.m., when we reconvene in this room.

Whereupon, at 5 p.m., the hearing adjourned, to reconvene at 10 a.m., Friday, April 13, 1973.]

STREET CRIME IN AMERICA

(The Police Response)

FRIDAY, APRIL 13, 1973

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON CRIME,
Washington, D.C.

The committee met, pursuant to notice, at 10:15 a.m., in room 311, Cannon House Office Building, Hon. Claude Pepper (chairman) presiding.

Present: Representatives Pepper and Winn.

Also present: Chris Nolde, chief counsel; Richard Lynch, deputy chief counsel; and Leroy Bedell, hearings officer.

Chairman PEPPER. The committee will come to order, please.

This morning we close the first week of our hearings into street crime in America.

During the course of this week, we have heard testimony and received statements regarding effective, workable law enforcement programs designed primarily to respond to crime at the street level. We have, for instance, heard testimony from three specialized anticrime units from New York City, Detroit, Mich., and San Antonio, Tex. We have heard testimony from Indianapolis regarding its very heavy commitment to citizen participation programs and on the benefits which can flow from its policy designed to enable law enforcement officers to use patrol cars as private family vehicles.

We have heard testimony from the Dallas Police Department regarding its very thorough study of criminal recidivism, and from the same department we have heard testimony regarding a most imaginative legal services unit which provides on-the-scene, in-house legal assistance to street patrolmen.

We have heard testimony from the St. Louis Police Department regarding its most promising hardcore juvenile delinquency team counseling program—a program which this date has achieved significant results.

These and many other agencies have testified at length before this committee and have confirmed our faith in the ability of police and law enforcement agencies to respond to new problems and to adapt police operations to current needs.

To conclude this first week of hearings, we will today call upon four outstanding police patrolmen from the Kansas City Police Department to explain that department's resourceful and imaginative approach to police work in the 1970's. We would be remiss if we did not indicate our thanks to the many commissioners, chiefs of police, offi-

cials, and patrolmen who have contributed so much to make this phase of the hearings successful.

During the course of this very busy week, we have heard from and are indebted to the police departments of New York City, New Orleans, Indianapolis, Cincinnati, Chicago, Washington, D.C., Detroit, St. Louis, San Antonio, Dallas, and Kansas City, Mo. The programs and policies pursued by these police agencies can surely offer encouragement to our citizens and can show the way for other police agencies.

But the street level response to crime is only the first part of the criminal justice system's responsibility. Next week, we shall consider another portion of the criminal justice system. From April 14 through April 19 we will be hearing testimony on "crime in the streets—the reduction of juvenile and adult recidivism through new correctional approaches." During that week, we will be hearing testimony about new kinds of correctional programs, and about better ways of dealing with juveniles who are involved in serious delinquency and serious crime. The reduction of juvenile crime offers the best hope for the eventual reduction of all crime in the United States. As a priority matter we must devote massive and sustained attention to those individuals who early in their lives demonstrate a propensity for committing antisocial and criminal acts. We have learned long ago that the correctional systems in this Nation are ineffective when they are asked to "correct" a criminal who has already reached the mid-point in his criminal career.

We must, therefore, strengthen our resolve to bring to bear as many financial and personnel resources as necessary to attack criminality before it becomes an established lifestyle. The many professional specialists who will testify next week will describe in detail new approaches and new ideas in rehabilitating young delinquents. We are convinced that a sound way to deal with crime is to utilize our considerable correctional and social service resources when our young men and women first indicate that they are potential delinquents.

Finally, from May 1 through May 8, our hearings will concentrate on prosecution and court programs which offer the means to expedite criminal cases in our courts. These hearings then will cover the entire criminal justice process: they are practical hearings in that they are designed to demonstrate that many police, court, and correctional agencies are attempting to improve the administration of justice, thereby making our streets safer for all Americans.

It is now my pleasure to introduce one of our most distinguished, most faithful, and helpful members of this committee, a man who is deeply interested in the problem of crime in this country, and is as dedicated as any man in the Congress, or the country, in trying to do something about it. That man is my distinguished colleague and friend, Hon. Larry Winn.

I ask him if he will be kind enough to present our witnesses this morning.

Mr. WINN. Thank you, Mr. Chairman.

I don't represent Kansas City, Mo., although I had the privilege of being born in Kansas City, Mo. But when I went to the University of Kansas, I stayed in the State of Kansas and have the privilege of representing the Third Congressional District of Kansas now.

I am sorry our colleague, Mr. Bolling, cannot be here this morning. He said he would try to make every effort to be here, and I know that you gentlemen appreciate the fact that all of the Members of Congress have busy schedules. Mr. Bolling hopes he can make it before you leave the hearing room this morning.

It is my pleasure and privilege, Mr. Chairman, to introduce to the committee and to you as the chairman, five members of the Kansas City, Mo., Police Department.

Mr. Thomas J. Sweeney, who is a consultant to the Kansas City, Mo., Police Department, four young patrolmen: Darrel W. Stephens, James G. Post, Charles E. Brown, and James Head.

I would like at this time, Mr. Chairman, if I may, have the privilege of reading a letter addressed to you.

Chairman PEPPER. Glad to have you do that.

Mr. WINN. The letter is from a friend of mine, Mr. Clarence M. Kelley, chief of police in Kansas City, Mo. I might say that because of the setup in the Kansas City area, all of the police departments there in Wyandotte and Johnson Counties which I represent, and in Jackson County, and in Kansas City, Mo., work together very closely in an arrangement that does not come under the purview of this committee, but which we call the metro squad, because we have, as you well know, Mr. Chairman, a State line that divides us.

This letter to you from Chief Kelley reads as follows:

DEAR MR. PEPPER: We are honored to be one of the select group of law enforcement agencies invited to appear before your committee to discuss innovative crime control strategies. We welcome this opportunity to present our accomplishments and we stand prepared to assist your committee in any way possible.

I have chosen to send five young men as our representatives. Four are patrolmen, the fifth is a civilian. These men are representative of the large number of our personnel who have been instrumental in designing and implementing innovative programs in Kansas City. They personify the type of department we are striving to build.

In any department the support of such men is necessary if the implementation of change is to be successful. Their participation in management helps to gain that support. They have, in addition, an enormous contribution to make. These men in fact represent sources of talent that have been ignored all too long by police administrators. They know intimately the problems currently facing our personnel on the street. They attack problems with an openness and a vigor not characteristic of police administrators. The programs they present to you today give testimony to their abilities. They have visions of law enforcement in the future and they may very well be the police administrators of tomorrow.

Sincerely,

CLARENCE M. KELLEY,
Chief of Police.

KANSAS CITY, MO.

Mr. WINN. Mr. Chairman, I think that it is obvious by the ages of these young men, and some of the hearings we had earlier in the week, that we do have a new, innovative idea in police administration of using younger and younger men. I know you and I are both in agreement on that and we are very pleased to see young men in police administrative work.

Without further ado I would like to introduce to the committee Mr. Tom Sweeney.

Chairman PEPPER. Thank you very much, Mr. Winn.

Mr. Sweeney, we are glad to have you and the other gentlemen with you, and we appreciate the letter from the distinguished chief of police of Kansas City, Mo. Please convey our thanks to him.

Mr. Lynch, you may proceed.

Mr. Lynch. Thank you, Mr. Chairman.

Mr. Chairman, members of the committee, I suppose the key phrase for describing the Kansas City Police Department would have to be "participatory management." Each of that department's four major patrol divisions has a task force comprised of four to six men, mostly patrolmen. These task forces are responsible for deciding which projects within their respective areas of responsibility could best be undertaken by their division.

They are further responsible for implementing those projects. In effect, each task force operates as a "think tank" and it uses front-line, street-level patrolmen rather than departmental administrators or theorists who are far removed from crime in the streets.

Mr. Sweeney, I wonder if at this time you could briefly describe how the department is organized, what the task forces do, and then at that time, I wonder if you would call on the patrolmen with you this morning to describe what major projects will be implemented by them in their respective areas of Kansas City.

STATEMENT OF THOMAS J. SWEENEY, TASK FORCE PROGRAMS COORDINATOR, POLICE DEPARTMENT, KANSAS CITY, MO.; ACCOMPANIED BY DARREL W. STEPHENS, JAMES POST, CHARLES E. BROWN, AND JAMES HEAD, PATROLMEN

Mr. Sweeney. Thank you, Mr. Chairman.

Just as a prefatory remark I would like to indicate that Kansas City has, for the fourth straight year, experienced a declining crime rate. Since 1970, crime in Kansas City has declined by 23.8 percent. We would like to believe that decline is partly due to our efforts.

We have, however, some problems in identifying the precise contributions that the various innovations we have introduced have effected. The department has been characterized by change and introduction of new programs since Chief Kelly arrived 11 years ago. In addition to the programs we will talk about this morning, I should note Kansas City has increased its police force by 350 men in the past 2 years.

It has a modern crime lab, evidence technicians, a regional academy, and presently is the center for a national street lighting experiment.

In addition to measuring the impact, or trying to assess the impact of program innovations, we are faced with two realities: One is that crime is declining in a large number of cities; and second, there appear to be some social factors, we are not able to put our fingers on, that are also effecting the decline in crime. Additionally, the state-of-the-art in police work in measuring effectiveness is very, very poor.

I would like to take just a minute to read two brief quotes from the report prepared by the Rand Corp. to the Department of Housing and Urban Development in 1970. I think this provides some background for much of what we will talk about which we are doing in Kansas City.

We believe there are significant knowledge gaps which make it impossible to allocate as rationally as should be, the more than $1 billion devoted annually to police patrol programs. Because of these knowledge gaps, police administrators currently must plan, principally in terms of input measures (such as the number of patrolmen on the street or the number of patrol hours), although what they are trying to effect are output measures of police effectiveness, such as true crime rates, apprehension rates, and the speed and quality of service in response to calls for services. These knowledge gaps are one of the most important factors limiting the development of effective aids to police patrol decisionmaking.

That same report goes on to indicate—

In short, between one-third and one-half of all police time is devoted to preventive patrol and the police cannot specify with confidence what effect it has on crime or criminal apprehension. In such a situation, police administrators cannot know resources are being allocated effectively. Analytic and experimental studies are needed and could result in very substantial changes and improvements in the use of police manpower.

That, as I said, is a basis for much of what we are doing in Kansas City. We think our approach is somewhat unique in law enforcement agencies in that it is probably the most systematic and perhaps the first effort to introduce participatory management, using field patrolmen in the design of patrol strategies. We also believe it is the first time in the history of this country, fairly well controlled, fairly scientific patrol experiments have been conducted by a police agency.

Those experiments test many of the underlying assumptions of police work. We would like to talk this morning, very quickly, as we go through the discussion of the task force projects and the research we are presently engaged in, about the effectiveness of patrol activities and also about the problems we face.

The problems we face include police community relations, crime, et cetera.

We would like to talk about some of our technological innovations, our helicopters, our computers, and certain efforts we are making to professionalize our police personnel because we firmly believe the most important resource we have is our men on the street. They exercise enormous discretion and they are the key individuals in law enforcement. We would like to talk about some efforts we are undertaking to try to understand and improve our interaction with the citizens.

First, in response to Mr. Lynch's question, I will talk about the developmental process. In October of 1971, Chief Kelley established four task forces in the four major patrol divisions of the department. There is one for each of our three geographical divisions—northeast, central, and south patrol. The fourth task force is in our special operations division, which includes the tactical unit.

The composition was primarily field patrolman, the commanding officer of that division and usually one representative of the supervisors. They were given a mandate by Chief Kelley to identify more effective and responsive patrol strategies. The constraints placed on these individuals, basically, were that they had to maintain commitments made publicly as to the allocation of police personnel and that they had to undertake competent analysis of the problems and solutions and be prepared to defend those solutions when they presented them to Chief Kelley. But, basically, he entrusted to these men the authority to design patrol strategies.

The process was characterized by a conflict of ideas. For those of us who had been around police circles, we know generally there is a tendency not to introduce conflict of ideas, but rather maintain the status quo. Some of our discussions became quite heated, and we had occasions when individuals threw books at one another. But generally there was a sincere attempt to understand the problems that we faced, to get out different points of view and identify strategies.

We were provided support for this effort by the Police Foundation, and what is rather unique about that support is that the Police Foundation put a good deal of money, about $60,000, into Kansas City for developmental work and to support the activities of the task forces without any commitment or understanding of what the outcomes of those projects might be.

From our point of view, that is unique to funding agencies. Basically, we have had several outcomes with which we are rather happy. First, obviously, are our four patrol programs with their 13 separate components. We have had numerous outcomes, and perhaps the most significant is the demonstration of competence on the part of field patrolmen to design and administer projects. There is a desire among our men to remain in patrol and this, again, is uncharacteristic.

We have had men turn down transfers to specialized units such as detective and tactical units. There is a growing interest on the part of our personnel to understand problems and to acquire knowledge through research. Basically, there is an enthusiasm for change in the department.

I would like to turn the platform at the moment over to Patrolman James Head. James is going to talk about one of our primary efforts at the present time to analyze aggravated assaults and homicide. This, I think, is characteristic of an approach we are going to be taking in the future to cut apart all of the problems we face in developing innovative solutions.

Statement of James Head

Mr. HEAD. Thank you.

Mr. Chairman, I am from the Northeast Patrol Division, Kansas City, Mo., Police Department. What I would like to tell you about this morning is a new project our task force has undertaken. It is dedicated to the prevention of crimes of violence or investigating the possibility of reducing the same.

Our experience has been that posing the question of preventing crimes of violence, particularly those surrounded by environments of closures, acquaintance, and emotion, usually elicits responses that such events are nonpreventable. These responses appear to be predicated on the above situational elements which imply a spontaneity and privacy surrounding such acts, thus precluding any external control mechanism—such as the police—from being present in a preventive capacity.

We certainly do not take issue with statements regarding the inability of the police to be present in even a minority of such violent situations, but we have difficulty concluding from this that crimes of this nature are nonpreventable and that the police are, in effect, powerless to deal with them before the fact.

The data gathered for this study is from the years of 1970 and 1971. The data includes homicides and aggravated assaults for those years. They further substantiate the findings of several previous studies that a large portion of homicides and aggravated assaults occur during the course of domestic disturbances.

For purposes of this study, each homicide and aggravated assault was placed into one of three categories—nondisturbance, nondomestic disturbance, and domestic disturbance.

This data reveals that about half of the homicides occurred in disturbance situations. From a randomly selected sample of 500 aggravated assaults in each of the 2 years mentioned, with a confidence level of 99 percent, it was discovered about two-thirds of the aggravated assaults occurred in disturbance situations.

Dividing the disturbance-related category into two separate categories, domestic and nondomestic disturbances, it was revealed approximately one-third of the total homicides and aggravated assaults involved a domestic disturbance. This indicates that a sizable portion of the homicides and aggravated assaults occur in disturbances, particularly those of the domestic definition.

This appears to support the idea that the violent characteristics of a person are manifested in a disturbance situation, thus tending to support the hypothesis that police officers have contact with potentially violent offenders in these situations.

Mr. Chairman, I have statistics to support this from the years 1970 and 1971. In 1970, we had 122 total homicides in Kansas City. Of these homicides 59 took place in a disturbance environment. Of the 59, 34 took place in a domestic disturbance. In 1971, we had a total of 113 homicides in Kansas City, 58 of which were disturbance homicides.

Chairman PEPPER. What do you mean, Mr. Head, by a "disturbance homicide?"

Mr. HEAD. Let me define a disturbance. This is commonly known in police circles as a situation, a disturbance of the peace of some party in which the police are called to intervene and preserve the peace. This is a disturbance.

Chairman PEPPER. Thank you.

Mr. HEAD. Of the total 113 homicides in 1971, 58 were disturbance homicides and 45 of these 58, or 40 percent, were in a domestic disturbance situation.

Mr. LYNCH. Mr. Head, if I might interject one question. In the domestic disturbances you are talking about, did most of those occur indoors; inside some premises?

Mr. HEAD. Yes, sir, normally. A domestic disturbance, for purposes of definition, results from a disturbance which occurs in or within close proximity to a residence where the resident is directly involved in the disturbance, or which is responsible for the presence of one or more of the persons involved.

Mr. LYNCH. Thank you.

Mr. WINN. Mr. Head, do you have any figures for 1972? You gave us 1970 and 1971.

Mr. HEAD. No, sir; I don't.

Mr. WINN. You don't have the 1972 figures yet?

Mr HEAD. No, sir.

Mr. WINN. Do you think they are down?

Mr. SWEENEY. Our homicide rate is down slightly. We believe basically the percentages seem to be holding pretty consistent from year to year so far as what proportion are disturbance related and nondisturbance, and what proportion domestic we have not as yet determined. Approximately 25 percent are involved in domestic disturbance.

Mr. WINN. I was talking about the whole total of homicides. You gave us 122 in 1970 and 113 in 1971, which is a small decrease. I was wondering if you had anything for 1972.

Mr. SWEENEY. Seventy-one homicides in 1972.

Mr. WINN. So it is down pretty good.

Mr. SWEENEY. Down 31.1 percent.

Mr. WINN. Thank you.

Mr. HEAD. To continue, the aggravated assault rates for 1970 and 1971. In 1970 statistics, we studied 500 aggravated assaults. Of the 500 studied, 312 were disturbance-aggravated assaults. A total of 31 percent, or 155 of these disturbance-aggravated assaults, were domestic-disturbance related.

Mr. LYNCH. Would you define, in Kansas City police terms, what aggravated assault is?

Mr. HEAD. An aggravated assault is an assault on another person with a weapon. It can be a gun, a knife, or club.

Mr. SWEENEY. Maybe I can anticipate Mr. Winn's next question and indicate aggravated assaults have gone up 8.6 percent, and nonaggravated, up 40.3 percent.

Mr. HEAD. Out of the total of 500 aggravated assaults in 1971 for the study, 334, or 67 percent, were disturbance-aggravated assaults; 161 of the 334 were domestic disturbance.

To further establish contact between police officers and potential violent offenders, the arrest records of victims and suspects involved in domestic disturbance homicides and aggravated assaults were examined. The data shows that in about one-third of the homicides and aggravated assaults, either the victim or the suspect had an arrest for a disturbance in the 2 years prior to the actual commitment of the crime.

Even more impressive is that these figures pertain only to arrests. It is known that many disturbance situations——

Chairman PEPPER. What percentage did you say had an arrest in the previous 2-year period?

Mr. HEAD. In one-third of the homicides and aggravated assaults, either the victim or the suspect had a prior arrest.

Mr. WINN. In a 2-year period?

Mr. HEAD. In a 2-year period prior to the situation.

Chairman PEPPER. Did you go beyond the 2-year period to see how many others had had previous arrest records?

Mr. HEAD. No, sir. We were aiming mainly at the assault or the homicide and we were trying to consolidate the study.

Chairman PEPPER. We had a very interesting series of witnesses here yesterday afternoon from the Dallas Police Department. They made a thorough study of recidivism in Dallas and it is very interesting what they found. You found it with respect to these people for a 2-year period and they carried it back further, went into different age groups and the like. It would be of interest to you to see that Dallas report. They will be glad to send it to you.

Mr. HEAD. Even more impressive is that these figures pertain only to arrests, for it is known that many disturbance situations do not result in an arrest. Thus, it can be assumed that even a higher percentage of victims and suspects have actually been involved in a disturbance situation and have had contact with the police prior to their involvement in homicide or aggravated assault.

My figures for arrest rates on homicides for 1970 indicate that we had 34 disturbance-related homicides. Of these 34, 32 percent, or 11, of either the victims or the suspects, had a disturbance or an assault arrest within the previous 2 years.

In the 1971 study, for arrest rates, the domestic disturbance homicides, we had 45, and in 10 of these the suspect or the victims had had an arrest for disturbance within the prior 2 years.

In 1970 we had 155, disturbance-related aggravated assaults, 58 of which the victim or the suspect had an arrest for disturbance or assault within the previous 2 years.

In 1971 we had 161 disturbance-related aggravated assaults and in 59 of these, or 37 percent, the victim or suspect had been arrested in the previous 2 years.

We went a step further in Kansas City and tried to check the addresses where the violent crimes occurred. We found that contact between police officers and potential violent offenders, to a certain degree, has been established through the arrest records of victims and suspects of homicides and aggravated assaults. In order to determine the amount of contact, the addresses of the scenes of the domestic-disturbance homicides and aggravated assaults in 1970 and 1971 were checked by computer for service calls made to that address within the 2-year period prior to the homicide or aggravated assault in question.

Studies indicate that of the total of domestic disturbance homicides and aggravated assaults for the years 1970 and 1971, an average of 85 percent of the addresses had disturbance calls within a 2-year period prior to the homicide or assault in question. On an average, 53.8 percent had four or more disturbance calls during this period. These addresses include apartments and addresses of persons other than the victims or suspects. Since some of the homicides or assaults occurred while visiting at a friend's residence, it should be mentioned that although the probability exists, there is not a definite correlation between the disturbance calls at these addresses and the persons involved in the homicides and assaults due to a lack of disturbance name association in the computer. Since an apartment, due to multiple tenants, reduces the probability a person is involved in previous disturbance calls these addresses were eliminated from further analysis.

Mr. LYNCH. Mr. Head, I wonder if I could interrupt at this point. It seems you made a very important finding that in 85 percent of these cases the Kansas City Police Department, if I understand you correctly, responded to family disturbance or other disturbance calls in the same building or even in the same apartment unit which eventually became the scene of a serious aggravated assault or a homicide.

Do you, as a matter of course, fill out, even when an arrest is not made, any kind of field interrogation report or contact report naming the person involved in a family disturbance situation?

Mr. HEAD. No, sir.

Mr. SWEENEY. One of the things we are trying to do is get a profile. Very few police departments keep that kind of information. Disturbances are handled routinely. We keep crime reporting information but not disturbance data. We have a hunch we are going to get into that because we need further background.

Mr. Head's statistics, that he will present, control for multiple dwellings in which the individuals live and get even stronger. As they get further into the address of the victims and perpetrators the correlations are astounding.

Mr. LYNCH. Which suggest that additional law enforcement action of some kind may well be necessary. Is that the inference you draw?

Mr. SWEENEY. Yes.

Mr. LYNCH. Do you give members of your northeast task force special training in responding to family disturbance calls?

Mr. HEAD. Not at this time. We are still involved with defining the problem.

Mr. LYNCH. I would commend to your attention a family disturbance pilot program in the District of Columbia. The police administrator was brought from the New York City Police Department, a gentleman who gave specialized training in a controlled, year-long experiment, and there were no injuries or fatalities to policemen in more than 1,000 calls.

One of the highest causes of police fatalities in major urban areas is response to family disturbance calls. We just lost a young Washington, D.C. policeman who was shot in the stomach with a shotgun while trying to help a family out of their problems.

Mr. SWEENEY. I am aware of that study. Basically, the methodology was not tremendously strong because we don't know what the ratio of police officer assaults and disturbance calls is. We admit it is an area in which we get into trouble. It is interesting to note that that particular individual is now back doing an analysis of the problem and basically he wants to go back and take a very hard look at what is involved in disturbances. Getting back to where we are right now, we still have a long way to go. But I think you hit right on where we are heading in some way, shape, or form.

Mr. LYNCH. Thank you. Would you proceed, Mr. Head?

Mr. HEAD. To eliminate the possibility that apartments were the addresses of the calls, and the people involved in the disturbance calls were not those actually at the address where the assault or homicide took place, these addresses were eliminated. The results indicates that an average of 82.4 percent of the addresses had previous disturbance calls, with an average of 43.3 percent with five or more disturbance calls in the 2 years prior to the act.

Mr. WINN. What you are saying, then, if you don't keep the names on record, at least at the present time, then what this survey does is help you spot the trouble areas. Is that true?

Mr. HEAD. Yes, sir.

Mr. WINN. You mean general areas. I think I know what you are finding out in your statistics, but if you don't keep names then you can't go back and check on the same continuous troublemakers as far as names are concerned, so you must be checking on areas.

Mr. HEAD. We are checking on names and addresses, sir. At this time we are developing information and statistics to define the prob-

lem, to point out the fact that we do have contact with these people prior to their committing a serious crime, the crime of violence. There is going to be just a whale of a lot of research involved in this study.

The study, as we envision it, should cover some 16 months. At the present time, I think they have been on this for about 6 weeks.

Mr. WINN. I know you are in the early stages of this. Our advance information—and I should have brought that out in my introductory remarks—is that you are, at this early stage, seeing a pattern. I know the northeast area in general. In my opinion, it is a low-income area.

Mr. HEAD. The majority of the assaults and homicides, as nationally, do occur in the lower socioeconomic class. However, this study covers the entire city. It is not restricted to northeast.

Mr. WINN. I think we were of the opinion this part you were referring to was northeast; but this is the whole city?

Mr. HEAD. The northeast task force is doing the study, but the study itself covers the entire city.

Mr. WINN. And you include the southern area, that includes the higher income area?

Mr. HEAD. Yes. And the northern area.

Mr. LYNCH. Mr. Head, as you proceed collecting additional data, it seems to me what you are saying that the inference becomes stronger that persons finally involved in serious aggravated assaults and homicides have, in fact, been telegraphing that for quite a period of time.

Mr. HEAD. That is true. Yes, sir.

Mr. LYNCH. Would you proceed.

Mr. HEAD. At this point in time we have talked to different doctors and we really can't find two that will agree on certain points about people. So you can see the dilemma we are faced with. We are trying to develop a program to identify and possibly treat these potential suspects or participants in violent crimes.

At the present time we have difficulty finding two doctors who can identify or agree on a specific individual.

Chairman PEPPER. Excuse me. Have you gone into the matter enough to begin to identify certain general causes or general characteristics of those who are found to commit these crimes?

Mr. HEAD. No, sir; not at this point.

Chairman PEPPER. Have you made any determination as to the age groups, generally, of the ones who commit the crime?

Mr. HEAD. No.

Mr. SWEENEY. Sir, the task force has outlined a study program and they are right now entering the study phase that relates to going back and looking at the offender characteristics, going back and talking to both the victims and perpetrators. As Jim indicated, it will probably be several more months before they even complete that phase.

Basically, what we are presenting is more of a framework of how we are analyzing the problem; and we do find very definite correlations and we do have contact with these people.

Chairman PEPPER. When you do find the facts about these individuals who have been guilty of recidivism and the commission of crime you will naturally have to have the cooperation of other departments of Government in order to assist these people.

Mr. HEAD. Yes, sir.

Chairman PEPPER. Do you have access to such facilities and personnel in your city or State?

Mr. HEAD. We do have several referral agencies in Kansas City, Mo. However, at this time we don't have a program designed. We are still identifying the problem. We are still in the very basic stages. We may reach a point where we can have a profile to identify potential suspects or potential criminals. This would aid us in indicating treatment or referral to a doctor, and so forth.

However, at this point, it is still too early to define just what we are going to do, when we do end the study.

Mr. LYNCH. This kind of data will enable you to make concrete recommendations as to statistical inferences that will, hopefully, be inescapable and therefore you can make specific recommendations as to what can or what ought to be done. I take it that is the chief intent, not to let this study die as an academic document, but be an action kind of study so you may make recommendations for preventing these kinds of crimes.

Mr. HEAD. Yes. This is very true. We feel that while we are undertaking the study covering some 14 months, we realize at the end of the study we may decide indeed the police are doing the best thing they can right now and there is no better thing we could be doing. This is a possibility, and we haven't ruled this out, but it is too darned early at this point to make a determination or to try to say what we are going to do when we finish it.

Mr. LYNCH. But this kind of study could very well be referred to the social service and mental health agencies and other agencies in the city; is that right?

Mr. SWEENEY. Yes. Chief Kelley has a strong interest in this. The only reason we have not as yet involved the agencies to define the problem and some related solutions is it is pretty hard to identify the relevant ones.

Mr. WINN. In your studies, are you going back to see how many of these individuals were involved in juvenile delinquency crimes, too, or would that be a later part of your study?

Mr. HEAD. There are no plans at this time to go into that phase.

Mr. WINN. Won't some of that information show up if you are in contact with these people that have committed these crimes and you are interviewing these individuals; won't the fact they started and first got into trouble at the age of 15 or 16, whatever it might have been, show up in your interviews?

Mr. HEAD. This could be in the interviews. However, when you speak of juveniles, you speak of an entirely different problem. Our records on juveniles are restricted.

Mr. WINN. No, I am afraid you missed my point. I mean when you are interviewing the adults.

Mr. HEAD. Yes, sir. That is what I said.

Mr. WINN. Criminals now. I am sure some of the other police departments have already incorporated this information in their records. It shows these people have been committing crimes since they were juveniles, clear back to 13, 14, 15 years old. I am sure when you are interviewing these people that, even almost accidentally, a young man is going to say, "Yes, I first stole a bicycle when I was 13."

Mr. Head. I am certain these results may turn up in interviews, but as I say, just for the record, we don't have that capability.

Mr. Winn. Thank you.

Chairman Pepper. Following what Mr. Winn has said, I would strongly suggest that you do include in your inquiry the past history, particularly the youthful history, of that individual. We have considerable evidence that a large part of the adult criminal group started their criminal activities in their teens.

That constitutes a problem and a challenge to people who are trying to do something about crime.

Mr. Sweeney. We are faced with the problem of also identifying the whole myriad of disturbances we run into. It is quite possible researching disturbances may have some beneficial effects and keep homicides from occurring in certain situations. But looking down the road, we have projected in our new computer systems that we will maintain much more extensive information on disturbances; and they are likely to include the background characteristics and patterns of interactions and problems.

But exactly what the elements of that profile are, or what the significant aspects of looking at an individual are, we can't say at this time.

Mr. Head. As I said, we eliminated the apartment addresses. We also eliminated the addresses that were residences of persons other than the victims or suspects of the homicides and assaults in the study. This increased the probability that the disturbance calls at the remaining addresses would have involved the victims and suspects of those homicides and assaults. The results indicated an average of 88.2 percent of the remaining addresses had previous disturbance calls and an average of 45.9 percent had five or more disturbance calls.

This data indicates that the scenes of the domestically defined homicides and aggravated assaults, even though the addresses are not necessarily those of the victims and suspects, have a high probability as disturbance environments and those contain a high potential for violence.

By elimination of apartments and addresses of persons other than the victims and suspects, the data indicates a high probability that the victims and suspects have been involved in previous disturbances, thus demonstrating violence potential in previous police contact.

As I say, gentlemen, at this point, I can quote you figures on arrests, on addresses, and so forth, of victims and scenes of assaults and homicides in Kansas City, but at this point all I can say is we are defining the problem and we hope to come up with an answer to it.

Mr. Lynch. Mr. Head, do you have restrictions on the kinds of people who may purchase firearms in Kansas City?

Mr. Head. In order to purchase a firearm a person must first obtain a permit.

Mr. Lynch. And the criteria for that is what?

Mr. Head. They have to go to the sheriff's department.

Mr. Lynch. Are people with felony records, mental disturbances, disqualified?

Mr. Head. Yes, sir.

Mr. Lynch. I assume a number of these family disturbances resulting in homicides are handgun matters. It would seem to me if you

can develop an accurate profile based on police contacts, field interrogation reports, and history of violence potential, that that might be one additional source that your legislative body might wish to look into in restricting the ability to purchase handguns or other weapons designed to do great bodily harm. It certainly wouldn't hurt looking into that possibility after your study is concluded.

Mr. HEAD. Yes, this is true. However, a large portion of the homicides and aggravated assaults are committed with rifle and shotguns, because they are in the home.

Mr. LYNCH. It wouldn't hurt to look into that, either, I suppose.

Mr. WINN. If the gentleman would yield, I would like to point out—I don't want you to be misled by the fact that they have the registration and everything—we still have the same problems we do in most cities. The loan sharks, come over to the Kansas side and get guns, and go back and forth. We still have an element of the underworld there that supplies some of these weapons.

Mr. HEAD. Most of the weapons, the Saturday night specials, as so described, aren't purchased through legitimate means in the first place. That is part of the problem.

Mr. LYNCH. As you do this study, what would you indicate to the committee, in your judgment, is the study's prime area of short-term law enforcement payoff, police payoff? How will you use the results from the point of view, simply as a law enforcement agency?

Mr. HEAD. Hopefully, at the conclusion of the study, we will be able to identify potential participants in violent crimes and thus reduce, or have some effect on, the total number of violent crimes.

Mr. LYNCH. How? That is what I am interested in finding out. What implications would it have for you if you were a task force commander? What action will you take that you cannot now take? Would you put these people under surveillance, for instance?

Mr. HEAD. It is too early at this time to attempt to define it.

Mr. SWEENEY. We think there are too many people in this country who have jumped to the solution to that problem before they bothered to look at the problem. We find that is partly our reaction to disturbance intervention programs nationwide. We are in the process of looking at what has been proposed up to now that does relate to what seems to be the critical aspects of these disturbances. It is possible the officers may be trained to handle them.

It is also possible to use more intensive referral, and we even talked about the possibility of individuals professionally trained, working for the police department, but riding in areas of high disturbances and handling the calls themselves.

There are some possibilities, but it is very, very early and one of the feelings—as I said, is there are certain unique features of Kansas City—is that there is no necessity to impose a solution before we have defined the problem.

By the same token, if Jim is done, I would like to keep it moving. There are about 10 or 15 components we would like to cover.

Officer Brown is involved in a study of patrol activity at the present time. It is the first major patrol experiment of its kind in the country and it has attracted national attention. The national institute is presently planning to replicate it in two other cities. The amazing thing is that it was designed by patrolmen. It comes 43 years after the

first call for its implementation, and it is rather interesting to note, since Kansas City designed it, that San Diego, 6 months later, designed a parallel kind of study.

Statement of Charles Brown

Mr. Brown. Thank you, Tom.

The south patrol division task force was initiated in October of 1971. At that time, we began to identify the problems within our division, as well as conduct a search to determine what information was currently available on policing. As Tom mentioned, we soon discovered there was a lack of empirical data on the literature on police, particularly concerning preventive patrol. And by "preventive patrol," we mean the visibility of police, marked police cars, men in uniform.

In fact, we found that the contents of the majority of available police literature does involve theory, and theory only. Thus, prior to starting any new project, we felt we should first try to develop the basic knowledge on which to base our future patrol strategies.

We began by asking three very fundamental questions: What do patrolmen do: how much time do they spend on the various activities they perform; how effective is the time spent on preventive patrol, which amounts to approximately 35 percent of the patrol officer's time in Kansas City.

To answer these three questions we developed two research projects. The first is the activity analysis project. This project began in March of 1972. By using a specially designed activity sheet, which requires the officers to account for every minute of their tour of duty, we sought to identify all of the various activities performed by patrolmen and the amount of time they spent on them. This special activity sheet has been, and is being, used on a random basis.

The second project is known as the proactive-reactive patrol deployment experiment. It began on July 19, 1972. The purpose of this experiment is to determine the effectiveness of preventive patrol, using such indicators as crime statistics, citizen perception, satisfaction with police service, fear of victimization, and the police officer's perception of his job.

A 15-beat area encompassing the entire socioeconomic spectrum of the community was chosen as the experimental area. In this 15-beat area, 5 beats are proactive, which means a high level of aggressive preventive patrol; 5 beats are reactive, where the officers do not enter this beat except as a result of a call for service from a citizen; and 5 beats are controlled, where the same levels of patrol are provided as previous to the experiment.

I have here a mock deployment, which will give you an idea of how this may look and the way it is designed. These beats were interspersed amongst each other, where you would have "control" next to a "reactive" and "proactive."

The evaluation of the experiment consists of six key elements. I would like to make a comment about evaluation. This is what we at South felt perhaps was one of the reasons for the failure of many experiments throughout the country, or even the success of them—and when you go to other departments or other sources of information, and you are unable to find out what either caused the failure or made them

a success was the very lack of evaluation—and we felt in order to really determine effectiveness of our preventive patrol we should have a very extensive, and as it turned out, very complicated system of evaluation.

The first element is crime monitoring. Crime is being monitored, beat by beat, on a weekly basis. We can make comparisons to the previous week, previous month, and previous time period last year. Historically, data, also beat by beat, is being updated for the past 3 years. This is for the purpose of quantifying seasonality and transient crime.

At the end of the experiment, analytical comparisons for periods prior to and during the experiment will be made, as well as between the three experimental patrol strategies.

The second element is the community survey. A citizens' survey instrument was designed whereby we would be able to obtain and measure the citizen's satisfaction and perception of police, fear of victimization, actual victimization rate, prior contact with police, and various demographic factors.

Of these surveys, 1,200 were conducted in the experimental area prior to the start of the experiment. The survey will again be repeated at the end of the experiment, which is October of this year, for the development of comparative data.

The third element is the business survey of approximately 160 businesses in the experimental area. This survey was also conducted prior to the experiment, and addresses the same general questions as the community survey. It will be repeated at the end of the experiment and utilized for analytic comparisons.

The fourth element of the evaluation effort is called the observer program. This involves the use of three civilians and one police officer, who ride with the beat officers in the experimental area. At the end of each ride, they debrief, and dictate an extensive description of what occurred during that ride.

With this data, we will be able to document, as never before, what a police officer does, how he does it, why he does it, the range of police styles, and the effect of the different styles on the citizens in a wide variety of situations.

The fifth element of our evaluation is the police-citizen encounter survey, which also involves the use of four observers. This effort involves what we feel to be a rather unique concept. It is the gathering of information about police-citizen contacts in three perspectives. These are the views of the police officer, the view of the citizen, and the view of the observer. When certain types of contacts are made between the police and citizens the officer involved and the observer witnessing the encounter complete a questionnaire. Within a 48-hour period a professional interviewer from our survey research team makes contact with the citizens and asks them to complete a questionnaire.

The information obtained from the encounter survey includes a description of what was said and done by whom, attitude, satisfaction, and demographic data concerning the citizen. This portion of the experiment is still in pretest phases.

The sixth element of the experiment is a "response time" survey. From it we will determine levels of citizen satisfaction along with

police response times. The response times and citizen satisfaction will be quantified in three ways.

First, the four observers will note the various time components which make up response time. Second, police dispatcher, telephone and radio tapes will be monitored. Finally, a mail survey will be directed to citizens who have initiated calls for police service. This three-way comparison will provide the complete description of all time elements contained in total response time as it relates to citizen satisfaction.

The final element of our project consists of efforts to obtain supporting data for the previously mentioned elements. Data relating to traffic patterns, accident rates, citizen complaints against police officers, criminal arrests, and weather, will be obtained for their inclusion in an overall evaluation and analysis of the experiment.

Mr. LYNCH. Mr. Brown, all I can say is "wow." I wonder if and when you fellows finish the job at the police department you would like to turn your considerable talents to other criminal justice agencies. I wish there were 300 police administrators sitting in the audience this morning to hear that presentation. I think it is quite remarkable.

Thank you.

Mr. SWEENEY. Charlie just mentioned the analysis of response time as it relates to citizen satisfaction. We presently have on the drawing board a very detailed analysis of response time as it affects outcome in terms of apprehension, witness availability, victim injury, and we will again assess the issue of citizen satisfaction.

As I said, it is on the drawing board and we will be presenting that to a funding agency within a few weeks. Our analysis indicates we don't detect very much crime. We are doing a very detailed analysis of what we prevent and we now, fortunately, are going to take a very hard look at what portion of crime is even amenable to rapid response by police.

This is a very basic question which we talked about at the national institute.

Chairman PEPPER. What is the basic question?

Mr. SWEENEY. What portion of crime is reported to the police within close proximity to time of occurrence that makes police response a valid strategy? Yet that is one of the crime solutions people around the country are emphasizing, and we wonder if we may be putting a lot of eggs in the basket that has no payoff at all.

We know we have to respond rapidly to emergencies——

Mr. LYNCH. There are several programs around the country, are there not, which have spent considerable amounts of money, computer programs, very sophisticated communication systems, all geared to getting a policeman to the scene of a major crime within *x* number of seconds or minutes. I take it what you are saying is that that is the cart before the horse; that unless citizens, victims, or observers report those crimes within a certain period of time, the other issue of response time becomes a meaningless issue.

Mr. SWEENEY. Yes. It gets back to the issue of not having done a problem analysis before solutions were proposed.

Mr. LYNCH. Thank you.

Mr. Sweeney. We now would like to address some of our technological innovations. I would turn it over to Patrolman Post, who will discuss helicopter patrol, our computer, and its proposed uses.

Statement of James Post

Mr. Post. Mr. Chairman, the first strategy I will discuss is the helicopter patrol. This is entitled "Sky ALERT"—an acronym for Aerial Law Enforcement Response Team—and is one of Kansas City's newest crime fighting efforts. Sky ALERT utilizes six Hughes Model-300 helicopters.

Each helicopter is equipped with high intensity flood lights that generate up to 1.2 million candlepower in a beam that will light up the darkest street or alley. The helicopters are aloft, weather permitting, throughout the day or night, 7 days a week. Kansas City is a pioneer in the night use of helicopters for routine patrol.

Sky ALERT is a versatile support tool to ground officers. Yearly, helicopter officers respond to thousands of incidents, assist in arrests, detect and report fires, locate occupied stolen automobiles—resulting often in arrests—and make water rescues. The helicopter is unparalleled as an observation platform; roof tops, industrial grounds, railyards, and parks are exposed to aerial scrutiny—34,805 buildings searched in 1972 alone.

Sky ALERT provides district patrol an extra dimension and increased effectiveness—5,550 flight hours of crime prevention patrol flown during 1972. Helicopter officers cover far more territory, observe activity invisible to ground units, and easily overtake fleeing vehicles—74 times in 1 year. As a ground-aerial team, helicopters direct ground units to the exact location of activity.

Sky ALERT increases officer security. With a rapid response, the presence of a police helicopter overhead acts as a distinct and positive deterrent to the possible assault of ground officers by suspects—helicopters assisted in 1,738 pedestrian checks during 1972. As a support vehicle, the helicopter has greatly increased the dimension of effective police work.

The majority of funds for the Sky ALERT team of six helicopters and the newly erected 7,100-square-foot heliport have been provided for by Federal grants. The heliport stands on a 5-acre site of municipally owned land in eastern Kansas City. It provides hangar space for the six ships, office space for flight crews, an air-conditioned workshop for the aircraft mechanics, as well as parts storage area and a large locker room. The heliport also provides a unique venture for law enforcement agencies, as many agencies are required to utilize existing airport facilities.

Sky ALERT flight plan preparation and subsequent evaluation is conducted by Kansas City's crime and traffic analysis unit. The most recent evaluation was prepared January 25, 1973, and provides the following comments regarding Sky ALERT effectiveness:

First, directed helicopter patrol, that is, helicopter patrol which utilizes smaller patrol areas—DPA's—and specific time frames are more effective than random patrols. Further, helicopter patrol, when properly directed, is a valuable tool which may result in significant decreases in certain types of serious crime.

The following crimes were studied during the evaluation period and are believed to be the most preventable with the aid of helicopter patrol: Residence burglary, nonresidence burglary: auto theft, armed robbery, strong-arm robbery, and larceny—purse snatch. Decreases were noted in all but two of the selected crimes. The two exceptions were auto theft and larceny—purse snatch.

An important point to note is that while the total known—or reported—crimes in Kansas City decreased 10.6 percent during the last 6 months of 1972 as compared to the same period in 1971, the known crimes in the DPA's decreased 26.2 percent.

Again, it is important to stress the fact that much is to be learned about helicopter patrol and its effects on crime. It is felt with more time devoted to this study in the future, great strides can be made.

A second area of discussion I would like to present is our computer system. This is named "ALERT II."

Law and order in Kansas City is maintained by the Kansas City, Mo., Police Department, the 22d largest police force in the United States. Comprised of approximately 1,700 personnel, the force yearly processes 110,000 arrests, investigates 40,000 reported offenses, responds to and records 26,000 vehicle accidents, and answers 405,000 calls for services. The communications center, operating on seven radio frequencies, originates or responds to 11 million radio transmissions per year; an average of one transmission in every 2.7 seconds.

The urgent need to process information with precision and rapidity influenced the selection of the computer telecommunications system. The computer system commenced operations in 1968 to meet the information needs of the officer in the field.

The system was given the acronym "ALERT"—Automated Law Enforcement Response Team. The computer functions as an invaluable aid to the officer in the field, and computer technicians adjust their workload to the needs of the police operations system. The computer system, itself, is said to be a real time system because the information files reflect "real life" or constant, up-to-date status of wanted persons, stolen vehicles, and abstract criminal histories.

ALERT serves all regional area law enforcement agencies and those civil agencies involved in the criminal justice process. A total of 47 agencies are interfaced with ALERT, including 26 police departments, six county sheriffs, the Kansas and Missouri highway patrols, the Kansas City municipal court, the Jackson County prosecuting attorney, the Jackson County juvenile court, the Kansas City Parole Office, the Kansas City prosecutor's office, the FBI, the Federal Postal Inspector, the law enforcement branch of Internal Revenue and the Missouri State Parole Office. At present, 115 data communications terminals are interfaced into the police computer system.

The police computer is interfaced with MULES—Missouri uniform law enforcement system—and with the FBI computer—NCIC—in Washington. These interface systems provide law enforcement agencies in the Kansas City region relay services to the State and National files concerning all nationally known felonies of wanted persons, stolen vehicles, stolen property, stocks, and bonds. An average of 5,000 communications are exchanged between the Kansas City police computer and the FBI computer every 24 hours.

Utilizing the law enforcement manpower resource allocation system—LEMRAS—the department is improving the effectiveness of current police resources by concentrating the available forces throughout the 316 square miles of Kansas City. The LEMRAS has shown that the greatest need for responding to calls for service exists between 11 p.m., Friday night, and 1 a.m., Saturday morning. Therefore, approximately 65 police units are totally committed to responding to calls for service with an average of 24 minutes spent on each call. Studies of calls for service predicted by the LEMRAS compared with actual occurrences indicate a 95-percent accuracy rate by the computerized system.

Kansas City implemented a computerized police planning system with the designation of "Copps." The system is capable of projecting resource requirements for up to 10 years in advance. The system allows the department to take an in-depth view of future resource requirements measured against projected new or revised programs. Copps is modern-day management technique to meet expected change, produce desired change, and to prevent undesired change.

In January 1972, the computer system was renamed ALERT II to denote the involvement of the system into criminal justice operations. We have identified 48 specific areas where the computer is used in effective support of the criminal justice process.

I have these listed in the material we will present to you and I am happy to present them. These 48 areas include, of course, in-depth record information, moniker files, the preparation of traffic reports, court reports. We even have a 10-day warning notice that automatically goes out to the folks who haven't paid their parking tickets.

Invasion of privacy is a phrase often heard when people debate the issue of computers. It is a matter of grave concern; one that law enforcement is keenly aware of and which professional administrators have vowed would not be violated in the implementation of this new technology. All matters programed into the computer must be fully documented and all questions of legitimacy are resolved in favor of the individual, prior to entry.

Responsiveness to the public it serves has been the goal of police agencies and computer technology increases that possibility to a degree that challenges the imagination. Rapid response to calls for service is facilitated by resource allocation systems utilizing the vast capabilities of the computer for calculating variables in the environment. Service and responsiveness were the primary considerations in the design of ALERT, and it is to this end the system is dedicated.

We are now in the process of designing something we call ALERT III.

During the first 6 months of 1972, the department conducted extensive field tests of two brands of mobile field terminals. In an effort to extend the capabilities of the ALERT II computer system to the field officers, ALERT III is being designed. ALERT III consists of mobile computer terminals to be placed in each of the department's field units, providing each officer direct online entry and retrieval capabilities.

Following are the projected uses of the ALERT III mobile terminals as set forth in a funding proposal.

The first of those will be direct-entry reporting, including offense reports, field interrogations, disturbance history data, and activity reporting. It will eliminate the bulk of the paperwork our men are now faced with.

The second area would be criminal subject information available to the officer in the field, directly to his police car. The first area will be criminal records. The second area would be suspect generation system, to include description file, modus operandi file, a moniker file, field interrogation system, informant contacts, street crime intelligence—to include both suspect tracking and associate tracking; 10–31 backgrounds.

In Kansas City, 10–31 is the designation given to people that pose a threat to police officers, due to past experience and their past actions.

We also are including fluid prepositioning system, again due to projected calls-for-service data.

A referral system, available to the man in the police car, including the problem/resource query, referral qualifications—that is, the case type and income—contact persons, and service backlog. If the man has a problem, instead of going to a phone booth, digging out the yellow pages, for example, he can punch directly into the computer the problem he has, or the type of referral he desires. They will be told the nearest agency, individual, to contact, and even, hopefully, the backlog of that specific agency.

The next area will be neighborhood profile/activity planning model. This information will provide the officer with both cultural and demographic information, address listings, community resources within his beat, to include neighborhood organizations, public services—schools, welfare, referral agencies—and even community leaders and contacts.

Also, police activity in the past—crime patterns, calls-for-service patterns, field interrogation history, special police hazards and security systems, police characters and associates, informant contacts, and even objectives.

Also, floor plan layouts and blueprints of buildings on his beat, should he receive a call on a burglar alarm or something of this nature.

It will include a field reference system, to include legal reference, policy reference, procedure reference, and case status.

Mr. Lynch. When will that ALERT III be implemented?

Mr. Post. Tom can probably give you more exact dates as he has been actively engaged in the preparation of this grant proposal.

Mr. Sweeney. We would project we could have these car terminals operational approximately 6 months from the time they are funded, and it ties into the direct entry in criminal intelligence information. The other systems are projected to be developed over a 5-year period. Again consistent with the concerns that police departments nationwide are calling for the in-car terminals, their value would be carefully evaluated as they are very expensive pieces of merchandise.

Mr. Lynch. How expensive? What will it cost you to implement it on a departmentwide basis?

Mr. Sweeney. The figures would depend on the number of units. For the equipment and installation, approximately $1.9 million. You talk about $800,000 worth of programing to develop these various systems which we have outlined. And on top of that, about another

$500,000 if you want to get a competent evaluation. I think, because they are so expensive, competent evaluation is needed.

Mr. LYNCH. Something in the neighborhood of $3.2 million would sufficiently equip your department?

Mr. SWEENEY. That is correct.

Mr. POST. The units are $3,000 apiece.

Mr. SWEENEY. I guess my personal feeling is that the traditional uses of in-car terminals, if you will, are probably not cost effective. Our whole view recognizes the patrolman as the central resource in the department. Everything is geared to provide information to him directly.

Mr. LYNCH. Are there departments which have units which do provide them with the things you discussed; namely, checks, wanted-car checks?

Mr. SWEENEY. There are other things in here.

Mr. LYNCH. Are the departments presently using them for those purposes?

Mr. SWEENEY. Yes; I believe there is one in Florida.

Mr. LYNCH. There is another in California. Mr. Sweeney, are you aware of any police department which is planning the extensive use of an in-car terminal which would provide the kind of information that Mr. Post has just described?

Mr. SWEENEY. No.

Mr. LYNCH. Thank you.

Mr. POST. We have several other areas. Probably one of the more significant ones—both Mr. Lynch and the chairman asked questions earlier of Officer Head—we also would hope to include in the ALERT III package is a disturbance intervention profile, the first area being location histories, both prior disturbances by location and the police action taken at the previous calls for service or area disturbances, the probable disturbance cause in the past, and the probable participants.

The second area would be dealing with individuals and those disturbance-prone individuals, both by physical description, social history profile, and even to include trigger words and subject words. For example, if it was found in the past the police officers had been there, the individuals in question had reacted to certain terms or certain phrases, these would be entered and possibly a red light flash and say, "Don't use this word," et cetera.

Mr. LYNCH. Mr. Post, in essence what you are saying is, this would give a policeman on patrol virtual access to the department's entire file, at least on all of those situations you have been talking about. Isn't that accurate?

Mr. POST. Yes.

Mr. SWEENEY. There is certain information quite obviously not available—intelligence information of various sorts. Because we are also in the system with the juvenile court, their records are locked out to us.

Mr. LYNCH. But any kind of decisional information required to respond to an immediate situation. This, again, I would like to emphasize, is what you call the real time system. When you use that term, for those of us unfamiliar with computer terminology, what would that mean, Mr. Sweeney? When an officer punches a button on

that in-car terminal how long is he going to have to wait for a response?

Mr. SWEENEY. The response is almost instantaneous. We use one sort of version of that now. We get address calls. The computer will do a random search in a two-block area around that address and indicate if there are dangerous individuals living in that vicinity and the officer will be alerted when he arrives at the scene, and provided a description of the individual if he is there. The system precisely indicates the individuals known to live at that address.

This is the direct result of having an officer shot in 1969. He walked into a situation. Many other officers knew what the problem was at that location, but he did not. He was a new officer and, unfortunately, he was killed.

Mr. LYNCH. This system could have alerted him to that problem?

Mr. SWEENEY. Yes, this system is in existence right now. A random, two-block search is available to us.

Chairman PEPPER. Excuse me just a minute. Let me make sure I understand it. That system discloses who in that area has been guilty of disturbances?

Mr. POST. It is not restricted to disturbances. If we received a disturbance call, the dispatcher, prior to the time he places the call over the air, or simultaneously, will enter the address of the call in the computer. Then for an area surrounding that occurrence, the computer will provide incidents, past histories, or subjects that have assaulted officers in the past.

They will say, "There is no record at the address you are going; however, two doors to the west there is so-and-so, who assaulted police officers in 1969."

This is in existence now. All we are talking about in ALERT III is to move this one step closer to the man in the field, and that is put it in the car with them.

This will conclude my presentation on the computers. At this time, I would like to introduce Officer Darrel Stephens, from special operations, who will talk to you about the things and the projects they are involved in.

Statement of Darrel Stephens

Mr. STEPHENS. I am representing the special operations division task force and we have designed a three-part project entitled, "Apprehension-Oriented Patrol Deployment." This project is centered on the deployment of manpower available in the division's tactical unit. The tactical unit is a flexible unit designed to support other elements of the department, and has the responsibility for dignitary protection, crowd control in special events, and disorder suppression.

The three parts of the project are the criminal information center, perpetrator-oriented patrol, and location-oriented patrol.

The purpose of the criminal information center is to collect, correlate, analyze, and disseminate information relative to crime and criminal activities in the Kansas City area. The center was designed for use by the entire department and other agencies in the metropolitan area.

The center began by identifying the most active burglary and robbery subjects. These subjects were identified by each of the three patrol

divisions, the investigations division, and the tactical unit. A notebook was published that contained mug shots and the most current information available on the subjects. These notebooks were distributed within our department and other law enforcement agencies in the area.

The notebook introduction requested that officers contact the center when they stopped, observed, or arrested and of the subjects in the book. The introduction also requested that the officers forward any information they had in regard to criminal subjects or criminal activities.

The people that are in this book—this should be made clear—are the type of offender one would call the professional offender. They are individuals who survive on the fruits of their criminal efforts. The subjects in the book average 12.3 felony arrests per person and 1.15 felony convictions.

The center also solicited support of the community by publishing several articles in a local newspaper. These articles requested the citizens contact the center in the event they had information about criminals or criminal activities in their communities. We are of the opinion the center can serve as a valuable communications link between all of the law enforcement agencies in the metropolitan area, citizens in the community and the respective elements of our own department, in a common effort to make our city a safer place to live.

The perpetrator-oriented patrol is defined as the assignment of officers to high probability criminal suspects with a view toward apprehending such suspects in the commission of a crime or by gathering enough information about these subjects to convict them for crimes that they have committed in the past. This patrol tactic involves systematic spot surveillances of these subjects on a periodic basis. On this basis, suspects are not surveyed continuously, but rather in the term of an assigned officer's available patrol time and information relative to the suspect's probability of being criminally active.

Thus, where it is highly probable a suspect is active, he is the subject of greater surveillance. The surveillance tactics employed might be defined as flexible and open, rather than closed, visible, and provoking.

With respect to legal aspects of surveillance, the court in *Johnson* v. *Johnson*, U.S. district court, northern district, held that "within limits laws enforcement authorities could conduct a continuous surveillance." Specifically, the court held: "The Federal Bureau of Investigation can maintain one car within the block of the subject's residence for the purpose of surveillance and permit one car to follow the subject."

Location-oriented patrol is defined as the assignment to areas, as determined by crime information analysis, with a view toward maximizing apprehensions. The officers are assigned unmarked vehicles not commonly associated with police work, such as campers, taxicabs, sports cars, and the like.

The tactical unit squads receive their assignments from the crime analyst, who is a member of the task force staff. The analyst reviews burglary and robbery reports daily. Assignments are made in areas that show some type of pattern in the offenses committed, or where a large number of offenses are committed.

The analyst prepares an assignment folder that contains the offenses, a breakdown on how and when the crimes are occurring, and the type of property that the victim is losing. The analyst also reviews any information that he has available from citizen sources or sources within our department or other metropolitan agencies. He provides any suspect information on people that might be responsible for the crimes in the area.

The assignment folder is given to the squad, which is made up of six men and the supervisor; they review the assignment and discuss what type of strategy they will use to attack the problem. It may be a combination of using undercover-type tactics—where they can move in and observe what is happening without changing the environment—or they may utilize a more proactive-type policing with uniforms and visible patrol.

The special operations task force project will be evaluated in several ways. The criminal information center will be evaluated basically in terms of its use by officers in the department and those from outside agencies. The patrol strategies will be compared with each other and with other types of patrol that are being conducted within the department.

The location-oriented patrol will be measured with respect to the 24 experimental beats that we are operating as compared to eight control beats, matched in groups of four, one patrol beat to three experimental beats. We will compare the time that we spend in experimental beats with the same time period in the control beat and if there is any decrease or increase in crime, if we prove it, we say we have some type of effect.

Mr. Lynch. Mr. Sweeney, I wonder if at this time you could explain to the committee how your department has received funding for these various projects. I understand you indicated LEAA has provided some funds. It is also my understanding you are receiving a substantial amount of support for implementation and for evaluation from the police foundation.

Mr. Sweeney. Since 1969 we have received approximately $4.2 million from LEAA, and in the past year we have received $1.1 million from the police foundation.

Mr. Lynch. What is the foundation money being used for?

Mr. Sweeney. The police foundation money primarily goes to the support of patrol task force implementation. They did specify money to permit the developmental work, and its undefined outcomes. Since they have ended up supporting the projects that have emerged out of it. The Police Foundation has also provided support for some new task forces we started, one in the area of investigation and another in the area of personnel.

They are providing support for publication of a book just simply both readings and materials we have found useful in patrol in the last year. We expect that book will be published in about 2 weeks.

Mr. Lynch. Is there a separate, independent evaluation component for the patrol task force work?

Mr. Sweeney. I should indicate, approximately $2 out of every $3 awarded to us by the Police Foundation have gone into the evaluation. This is very uncharacteristic of most funding agencies and the foundation is as anxious as we are to find out basic information.

Mr. LYNCH. Who is doing that evaluation?

Mr. SWEENEY. We have an independent staff with members of the Police Foundation on it, and independent civilian consultants we have hired. And as Officer Brown indicated, we have some police officers involved in the observation and evaluation.

Mr. LYNCH. You said it was uncharacteristic, and you said that with a smile. I take it your view would be that while it may be uncharacteristic, it is a fundamental necessity in this kind of program?

Mr. SWEENEY. Given our basic knowledge in the field at the present time we believe it is a fundamental necessity; yes. We are talking with the national institute about some other studies they are anxious to do. They came to us and asked if we would be willing to undertake research. This is in both the areas of investigation and areas of response time.

Mr. LYNCH. It has been your testimony this morning that in development of all or in the major part of these programs, the street-level patrolman of the Kansas City Police Department has participated; is that correct?

Mr. SWEENEY. The computers and helicopters go back a couple of years, but the ALERT III design Jim read earlier is the product of the task force officers and myself.

Mr. LYNCH. Are you still a member of the staff of the Police Foundation, Mr. Sweeney?

Mr. SWEENEY. No, that is a point of confusion. I never was a member of the staff of the Police Foundation.

Mr. LYNCH. What was your association with them?

Mr. SWEENEY. I was the program director of the Massachusetts State Planning Agency back in the end of 1971 and beginning of 1972, when I served as a Police Foundation consultant to the south patrol division. In January of last year I was asked by both the foundation and Chief Kelley to come to Kansas City on a full-time basis. So I am paid out of the grant to Kansas City. But, basically, I am owned and disowned, as is appropriate, by the foundation and the department.

Mr. LYNCH. I see. Thank you.

Mr. Chairman, I have no further questions.

Chairman PEPPER. Before Mr. Winn begins, what is the source of funds of the Police Foundation, Mr. Sweeney?

Mr. SWEENEY. I believe it was in 1970, the Police Foundation was established as a subfoundation of the Ford Foundation and was given $30 million and a mandate to foster police improvements throughout the Nation. They have a board, totally independent of the Ford Foundation. It is comprised of prominent academicians in the field, as well as prominent members, such as Quinn Tamm of the IACP and several past police chiefs, such as Herbert Jenkins of Atlanta and Stan Schrotel of Cincinnati.

Chairman PEPPER. Mr. Winn.

Mr. WINN. I really don't have too many questions. I am very impressed with the businesslike and efficient approach that Mr. Sweeney and these young men are taking in trying to analyze the problems of crime. It is obvious that they have shown an inclination and a desire to solve these problems enough that they wanted outside financial help. It is badly needed in these fields.

I would like to point out to you, and I am sure none of these men know that I have a special interest in the Kansas City, Mo., Police Department since my father was formerly secretary to the board of police commissioners in the Kansas City area many years ago.

I would like to point out to the committee, too, that the community relationship that the police department in Kansas City now enjoys, I think is one of an outstanding response on the part of the community. This has not been easy for the Kansas City, Mo., Police Department to overcome, because down through the years, when Kansas City did not enjoy a very good reputation as far as crime-fighting was concerned—and none of these young men were involved in that—the police department for some period of time was frowned upon by the community.

I think Chief Kelley has done an outstanding job of allowing his young officers and the law enforcement officers on the police department to participate in many community activities. I think the community has faith in them.

I had written down some questions on exactly how all of these surveys and this statistical information, which to some people may seem kind of dull, will turn it around and be a part of preventative procedures of crime, but I think after hearing 2 hours of testimony, and the fact you pulled it all together, I think you have answered my questions just by your testimony.

Mr. SWEENEY. I would like to respond to one point you mentioned about the finances. Departments across the Nation are sorely in need of financial support, particularly in the equipment areas. Cities cannot cut back on their budgets for personnel generally, but we are hurting very badly in keeping pace with technology and also hurting badly because the cities have not in the past put up money for research and development.

I should indicate that we have several other projects going on in Kansas City. What we have outlined to you today is on the task forces. I should indicate that last week Chief Kelley gave us the go ahead on the new development program and we now consider our task forces somewhat obsolete. We are designing a sector development plan aimed at taking the information coming out of the task forces and feeding it back into our sectors to develop specific tailored strategies for each area of the city.

Mr. WINN. I wonder if you could, this would hold true of all of your testimony and any statistical information you would care to add, give it to the committee or send it to the committee for inclusion in the record.

I have a feeling, Mr. Chairman, that when we build the complete record of 3 weeks of hearings, every morning and every afternoon for 3 weeks with police departments from all over the country, that the record will be one that each police department will want to have in their hands so they can compare them. It is amazing to us that even though there are international police associations, and the police chiefs meet, there seems to be a fantastic lack of communication between the police departments as far as statistics are concerned.

They don't seem to share the things that should be shared with other police departments and still they are all facing the same basic problem with the continuous rise of crime in this country.

Would you agree to that?

Mr. SWEENEY. I fully agree. Another thing would be, as I indicated earlier, the absence of information. We should admit we are guilty of a certain amount of "departmental chauvanism." We are proud of our department. I think, at times, this is also a danger.

Many departments around the country will tell you that they are the best, and I think tune out listening to what the other departments have to offer. Chiefs of police cannot admit they may learn something from another chief of police.

Mr. WINN. We have found when we ask one city department and one chief, do you know about the program that is now in progress and has been for 2 years, or 6 years, in another city? That they say, "yes, we heard about it; but we don't know what it is all about." Still, they might be asking LEAA for additional funds to do exactly what somebody has been doing for 2 years.

Mr. SWEENEY. This is one thing we found the Police Foundation has been good to us on, in addition to providing research and development costs they have provided us with the ability to travel around the country and look at what is going on. We have tried wherever possible to avoid duplicating that which has already been developed. That is a bad problem of law enforcement today.

Mr. WINN. I thank you very much for your testimony today. As I said, anything you care to include in your new sector program that you say Chief Kelley has approved, if you would send us the background and outline on that for incorporation in the record, this would be very beneficial, I am sure, to other police departments somewhere in this country.

Mr. SWEENEY. Thank you.

Chairman PEPPER. Mr. Sweeney, I would appreciate it if you and your associates would give me what answers you can to these questions.

First, who are the people, generally, who commit crime?

Second, what have you learned to be the cause of crime, primarily?

And, third, commendable as your efforts have been in reducing crime in your area are, we still have in every city of America a lot of crime of a violent and serious character.

The third question is, What can be done, in your opinion and out of your experience and knowledge, to further reduce materially crimes of violence and serious character in this country?

The first is, who are the people who commit crimes? Second, what have you observed to be the cause; and, third, what more can be done to reduce crime in your city of Kansas City, Mo.?

Mr. SWEENEY. Mr. Chairman, I think they are all somwhat interrelated. I would put criminals in three categories by type of crime. The first is opportunistic, which may be pretty close to anyone, or at least a large number of persons in our society when the opportunity presents itself. It also takes in large categories of juveniles.

The professional who makes his living off crime. In this person we generally have been able to identify a social pattern, or lifestyle of crime. We are learning more about it, his associates and interactions. And the last is the emotional criminal.

What we have got to do is take each type of crime category and cut it up. I don't think it makes any sense to talk about crime, as rape, without breaking it into distinct categories and finding out if its victim precipitated rape, for example. There are other sick people out

there running around snatching women off the street. We really have to break crime apart. Other types of rapes involve just plain grudge reporting. I think we have to cut apart every single crime category. Jim mentioned for aggravated assault and homicide, we are now going back and beginning the study of rape.

I think we have to do the same with burglary: Take it apart and identify how it is committed; who it is committed by; the economic distribution of stolen goods; every possible way how we can get a handle on it.

We do not accept, as most other police departments, the assumption we can only deal with the opportunity to commit crime. We think we can deal with the motivating factor beforehand. I think what we are faced with is bankruptcy in knowledge in this country at the present time about crime problems in general and everyday police problems everybody seems to know go on in the street.

There are officers out there, we know, who understand those problems. They are close to them daily. They use very sophisticated techniques in addressing and handling emotionally disturbed people. Perhaps the finest applied psychologists in this country are in police departments. We have to find out what they know, what the problems are, and get it back in the form to help us select the best person to send on the streets, because there is no way we can supervise him very closely. He is out there exercising enormous discretion. We have to provide him with the best information we can and train him to exercise that discretion in the best way possible.

I cannot come up with any quick solutions. I am saying we are trying to move on a number of fronts. We are trying to use the best technology available to provide our officers with information and provide them with support. We are trying to move in the research areas to fill knowledge gaps which we have inherited. There is a lack of understanding of both the criminal and of deterrence prevention, and the problems we face. We are trying to professionalize and build our people.

I think we are at a very early stage in development in the United States and I think we seriously have to begin with the admission that we know very, very little.

Chairman PEPPER. Do you believe by persistent application of this sort of technique you have displayed here this morning that we can reduce crime in this country?

Mr. SWEENEY. Yes, sir. I will not accept the premise that several of the academicians have come out with and said, "There is nothing police can do about crime." I am not going to claim we can control crime. I think we can do certain things to bring it under control, reduce it, and cut down certain types of crime.

Chairman PEPPER. Are you handicapped in any way by lack of funds in doing what you would like to do and know how to do in curbing crime further in Kansas City, Mo.

Mr. SWEENEY. We are impaired somewhat by the fact that the cities generally are very bankrupt. They do not have the money. They have commitments to a certain number of police officers. We end up haggling over budgets. It is not a matter of bad faith, just an absence of money.

Last year one-fifteenth of 1 percent of our budget went into equipment and capital outlay. We need basic equipment. If we are going to

get to the point of providing officers in the street with information like a professional, we need further technological advancement. There needs to be a very conscious effort of advancement but I don't think we should reinvent the wheel.

There are many problems. There is no way the Kansas City, Mo., Police Department could take on all of the problems we would like to undertake at this time. We could sit down and between us list off to you about 400 problem areas we think we need information on. There is no way we can tackle all of those at this time.

I think we run head on into simplistic solutions that people propose and they propose them without sufficient knowledge of what the police have to do.

Chairman PEPPER. The LEAA funds that have been made available to you in the amount you told us about, do you think it would be better for whatever funds are made available to you to be usable at the discretion of your department, or should they be necessarily relegated to certain uses?

Mr. SWEENEY. I can respond for myself and not for Chief Kelley or the department. I guess my personal view is I would like to see Federal subsidies in basic areas of equipment and capital outlay, that would be basically at the discretion of the local community. Beyond that a substantial portion of money should be provided for research and development. This should not be absurd amounts of money, because we do not have a stable of people to conduct the kind of research and analysis or even equipment development we need.

The Government should selectively choose those people capable of helping the law enforcement people in the country and endorse them—and I mean very selectively.

Chairman PEPPER. If certain funds were made available to the Police Department of Kansas City, Mo., giving you the authority, the discretion, as to how they can best employ those funds, whether putting on additional police or hiring research teams that you do describe here today, purchasing certain critical equipment like these computers and the like, how would you employ those funds?

Mr. SWEENEY. I would almost in some ways put the research and development into a separate pool. I think I would provide subsidy to the departments for day-to-day operations because we are critically in need of that across the Nation.

But I would take the research and development area and, simply because we do lack a stable of people that could come in and help us, selectively farm that out and let the criminal justice undertake all of the rest of the work the system needs. And between police departments, we have to divide the work between us and replicate each other's work to find out if we are on the right track or not.

You have found from the survey Mr. Head told us about, one-third rate of recidivism in a period of 2 years in respect to people committing homicides and aggravated assaults. In dealing with those people, the repeaters, you, obviously, as I said a while ago, have to have the help of the courts, prosecuting attorneys, and other State and/or Federal agencies.

Chairman PEPPER. Otherwise, it is kind of like we have in a lot of areas, habitually arresting drunks, habitual drunkards, you are arresting them again and again and again. But the police department doesn't

have a means ordinarily for dealing with those people, except to arrest them and put them in jail.

Mr. SWEENEY. We are heavily dependent upon other people.

Chairman PEPPER. What would you say are the problems you have in respect to the prosecuting attorneys, the courts and the correctional institutions of your area? How do they relate to your problem?

Mr. SWEENEY. There are significant backlogs. I guess I would also add that I think, as I said, we are heavily dependent on the rest of the system. I think we have to get a lot of our own house in order. I think they have got to move.

We have to set priorities. Obviously, the backlogs are immovable.

Chairman PEPPER. How long does it take in Kansas City, Mo., ordinarily, for a person to be brought to trial after he has been apprehended?

Mr. STEPHENS. About 6 months.

Chairman PEPPER. During that 6 months, you have the problem of bond and that individual engaging in some other criminal activity, and by the knowledge you have displayed, a lot are repeaters anyway. The chances are those people are going to commit some more crimes during that 6 months that they are out on bail. And if you keep them in the prison, you have to pay for them, or the taxpayer does.

Mr. WINN. Excuse me. Mr. Stephens, isn't that 6 months an improvement over what it was before, with the appointment of a couple of new judges?

Mr. STEPHENS. From my experience, going through the system after the arrest, it has been averaging around 6 months for the past 4 years. Prior to that, it may have changed.

Mr. Chairman, in regard to the recidivism of some of these people and your discussion of the bonding procedures, some of the people that we are dealing with in the perpetrator-oriented patrol strategy fit the picture you described of getting out on bail and repeatedly committing crimes to pay their lawyers and bondsmen.

We had several individuals that were arrested as much as seven or eight times from the time of the first arrest until they went to trial for that first crime they were charged with committing like crimes.

Chairman PEPPER. I heard from a certain source this morning that in the District of Columbia a certain person was charged with committing a homicide and an armed robbery and has still been out for several weeks because the police department didn't consider it was its duty to serve a bench warrant and the Department of Justice, U.S. Marshal's Office, didn't have enough personnel to do it.

Now, that is certainly a tragic situation, if there are people out who have been charged with serious crimes and maybe whose bond should have been revoked and bench warrants issued, but nobody to serve the warrant. Could a condition like that exist in Kansas City, Mo.?

Mr. POST. I hope not.

Chairman PEPPER. I would hope it couldn't happen anywhere, but it shows the shortage of personnel in certain critical areas. This is a person charged with a murder and an armed robbery still hanging around, presumably on the street, because nobody is picking this person up.

Anyway, you have the court problem and, of course, the prosecuting problem. What about your correctional institutions? What do you do

with these people, these repeaters that you discovered? What do you think should be done with them?

Mr. Brown. Mr. Chairman, I might attempt to give an answer which might be prevalent among policemen today, particularly those policemen out on the streets in the police cars, and that is that frustration in regard to your correctional system and the court system, that they are a part of the system, but they have no input into the system, really no control over what the system does, and they are in fact facing, having to react to, the system instead of going forward and improving the system.

There is nothing they can really do.

Chairman Pepper. In other words, you are the people that have the responsibility of apprehending and incarcerating these people who commit crime, but you don't have anything to do with what is done with the people you incarcerate, or you arrest.

Mr. Brown. That is correct, sir. And because of the problems in the rest of the system, it instills, I think, a deep sense of frustration in the policeman, too.

Mr. Sweeney. I guess I am somewhat reminded of two studies I am aware of in the correctional area that a lot of people in the country in the correctional field seem to be avoiding. One was done in New York, a massive offender study, and the other in California.

They analyzed the custody and results of the correctional system and came out with the yield of zero to negative impact.

Chairman Pepper. President Nixon states our penal institutions were more colleges for crimes than correctional institutions, in so many instances.

Mr. Sweeney. They had zero to negative impact, and on top of this the California data indicated we were spending approximately $250 million a year warehousing or keeping people in the correctional institutions in the State and only paying about $150 million of police-related activities. Almost two times as much money being spent on warehousing people in the correctional system than being spent in the prevention area. That study is the "California Assembly Office Report on the Cost and Effectiveness of California Law Enforcement and Corrections."

Chairman Pepper. One other area, and that is the juvenile delinquency section. What are your experiences with that? What are your problems with the juveniles?

Mr. Post. We have very frustrating experiences there, also I suppose, due to existing juvenile codes, we are not really in a position to make any recommendations, other than there are problems there and it is frustrating.

Mr. Head. I would like to respond to that. It is very frustrating dealing with juveniles. It is a whole different ballgame for the police officer. As is the case in Kansas City, we can't interrogate a juvenile until he has gone before a juvenile court. We are awarded that authority by the juvenile court to interrogate a juvenile for a serious crime.

So you can see this is very frustrating for a police officer.

Mr. Lynch. That would be the case, Officer Head, whether this is homicide, rape, aggravated assault, or a child who has taken $2 worth of material from a store; is that right?

Mr. Head. Yes. Any stealing or any serious crime.

Chairman Pepper. Gentlemen, there was a case here in the District of Columbia a few years ago, where a 17-year-old youth robbed, raped, and killed an elderly lady; and all that was done to him was to incarcerate him until he was 21 years old and then turn him out.

That, to me, is shocking evidence of irresponsible handling of that kind of a case. Who knows but what that boy, if he is willing to commit all of those crimes, does not have a predilection toward crime and maybe for committing serious crimes upon other people when he gets out again. It would seem to me that that situation probably happens in a good many parts of the country, too.

Mr. Head. We have a very recent case in Kansas City where a 14-year-old was involved in a triple homicide, and the juvenile court said he could not be tried as an adult. Consequently, this will end up as one of these cases where he is a ward of the juvenile court and will be sentenced through them.

Chairman Pepper. The difficulty of it is, if they could do something about it, if they could treat him or do something. Probably some good strap on some of those would help a lot, if they were applied a number of times, to teach them a little respect for law and society.

Gentlemen, we want to thank you in the warmest way for the splendid testimony you have given us here this moning. It is encouraging to see your initiative. Will you please convey to Chief Kelley our deep gratitude for your coming here and our warm commendation of what he and his department are doing and showing the keen intelligence, initiative, and imagination to come to grips with the fundamental problems that are involved in the commission of crime.

Mr. Sweeney. Thank you, sir.

[The following material was received for the record:]

Crime Specific Disturbance Intervention: Program Development Phase

introduction to theory

Posing the question of preventing crimes of violence, particularly those surrounded by environments of closures, acquaintance, and emotion, usually elicits responses that such events are non-preventable. These responses appear to be predicated on the above situational elements which imply a spontaneity and privacy surrounding such acts thus precluding any external control mechanism such as the police from being present in a preventive capacity. In 1971, the Federal Bureau of Investigation alluded to this in their UCR by stating:

"As it has been pointed out in prior issues of this publication, police are powerless to prevent a large number of these crimes, which is made readily apparent from the circumstances or motives which surround criminal homicides. The significant fact emerges that most murders are committed by relatives of the victim or persons acquainted with the victim. It follows, therefore, that criminal homicide is, to a major extent, a national social problem beyond police prevention."

The inability of the police to be present in even a minority of such violent situations cannot be disputed. This agreement does not necessarily lead to the conclusion, however, that such crimes are non-preventable or that the police are powerless to deal with them before that fact. Such a conclusion might be logical if prevention is defined only as removing the opportunity for committing a violent act. Most preventive practices of police such as mobile patrol, technological monitoring systems, programs involving citizens alerts and target hardening are principally focused on opportunity removal. As measured by this framework, situation of private violence most certainly are non-preventable.

Skepticism invades non-preventability conclusions, however, when the scope of preventive definitions is broadened to consider factors other than an oppor-

tunity for the act itself. Any crime, including acts of violence, lends itself to consideration of at least two factors: (1) the opportunity (environment, situation) for the act to occur and (2) the willingness (desire, motivation) of the individual to act. It is the second of these factors that has been most neglected in considering the preventability of criminal acts.

Several psychological and sociological theories on the framework of this motivation have been advanced (see Preliminary Literary Research, Appendix 1). In this respect, it is believed that most of the factors, conscious or unconscious, contributing to a specific motivation exist prior to, during, and after a reaction to that motivation.

Aside, therefore, from the question of existence of such factors, are such questions as abilities to (1) recognize and identify these factors, (2) treat them, and (3) establish the contacts necessary to implement such recognitions and treatments. The question of ability to recognize certain factors lends itself to both historical research of actual violence situations as well as analysis of current situations having similar motivational frameworks. The question of treatments is amenable to experimental testing—even if recognition abilities are limited (recognition implies a selective or screening process for treatment entry and some form of randomization might be utilized barring an effective screening criteria). Both recognition and treatment, however, are dependent on the third question, i.e., establishing that contacts with individuals subsequently involved in violent acts do in fact occur. The lack of such contacts prior to the act would prohibit the application of any recognition and treatment systems developed. A preliminary examination of homicide and aggravated assaults had indicated that a high percentage of these violent acts have characteristics similar to those of disturbances, particularly those of a domestic variety. In this respect, the chances for the manifestation of recognizable violence indicators also appear to be maximized.

PRELIMINARY ANALYSIS

To delineate the contact theory, the Department collected data on homicides and aggravated assaults occurring during 1970 and 1971. Each offense was placed into one of three categories: (1) Non-Disturbance—homicides and assaults not directly evolving out of a disturbance situation, e.g., a homicide or assault occurring during the commission of a crime; (2) Non-Domestic Disturbance—homicides or assaults resulting from a disturbance outside of a domestic setting, e.g., in a tavern or on the street; and (3) Domestic Disturbance—homicides or assaults resulting from a disturbance in or within close proximity of a residence where the resident is directly involved in the disturbance, or is responsible for the presence of one or more of the persons who are involved.

Half of the homicides (48% in 1970 and 51% in 1971) occurred in a disturbance environment. From a randomly selected sample of 500 aggravated assaults for those years (confidence level of 99%) it was discovered that about two-thirds of the aggravated assaults (62% in 1970 and 67% in 1971) occurred in a disturbance environment. A narrowing process revealed that approximately one-third of the homicides (28% in 1970 and 40% in 1971) and aggravated assaults (31% in 1970 and 32% in 1971) involved a domestic disturbance. This appears to support the idea that the violent characteristics of a person are manifested in a disturbance situation.

In examining the arrests records of the participants in domestically related homicides and aggravated assaults, it has been found that a sizeable number have had previous contact with the police in disturbance and assault situations therein establishing the likelihood of a positive correlation between disturbances, homicides and aggravated assaults. The 1970 data revealed that in 32% of the homicides and 37% of the aggravated assaults, either the victim or the suspect had an arrest for disturbance or assault within 2 years prior to the homicide or aggravated assault in question. Similarly, the 1971 data revealed that in 22% of the homicides and 37% of the aggravated assaults, either the victim or the suspect had an arrest for disturbance or assault within 2 years prior to the homicide or aggravated assault in question.

These figures are impressive in that they pertain only to arrests. Most disturbance situations do not result in an arrest being made. Thus, it can be assumed that an even higher percentage of victims and suspects have actually been involved in disturbance situations and may have had contact with the police prior to their involvement in the homicide or aggravated assault. Supportive of this will hopefully be data now being extracted from existing computer systems con-

taining addresses where disturbances have been handled by police in an informal process. Matches with addresses where homicides and aggravated assaults have occurred may then show at least a probability of disturbance—violent crime participant synonymy (the address data does not contain name associations). The preliminary analysis points to a positive correlation between disturbances, homicides and aggravated assaults. It also reveals that the police have had contact with the victims and suspects prior to the homicide or assault.

Thus the police may have had at least the opportunity to intervene in the motivational process leading to a homicide or assault. Some attention, therefore, must be given to utilization of this opportunity.

It is questionable as to whether the present methods of handling a disturbance situation are effective in averting future violence, since the data reveals that about one-fourth of the aggravated assault victims with previous disturbance or assault arrests (25% in 1970 and 21% in 1971) and about one-third of the aggravated assault suspects with previous disturbance or assault arrests (37% in 1970 and 34% in 1971) have disturbance or assault arrests subsequent to the aggravated assault in question. If the present methods of dealing with disturbances are not satisfactory in averting future violence, then more effective methods must be found. This is the purpose of setting up an experimental environment to test the effectiveness of various methods in treating disturbances to reduce homicides and aggravated assaults.

CONSIDERATIONS IN EXPERIMENTAL DESIGN

It is anticipated that in the experimental framework it would be necessary to have a control group to serve as a baseline to measure the effect of the various experimental groups. The control group might encompass the conventional treatment of disturbances, with no changes in the present disturbance procedures. The officer either makes an arrest or handles the disturbance in such a manner as to temporarily restore peace, and then proceeds with his normal police duties. There would be very few referrals of the disturbance participants to agencies where they might reach aid in solving their specific problems, and what referrals are made would not be available to the officer in any systematic form. The experimental groups would then be set up in such a way that the effectiveness of the experimental variable could be measured against the control group, or against another experimental group. Various experimental groups have been contemplated, of which all or any combination could be used in the actual experiment.

For example, Experimental Group I might consist of the conventional treatment used in the control group, with the addition of providing the officers a referral system. With the referral system, the officer might have available to him a list of social agencies dealing with various kinds of problems. Using the referral system the officer would use his judgement in referring people to these various social agencies. In this experimental group the effect of referral based on the officer's judgment might also be assessed.

Experimental Group II might consist of officers specially trained to handle disturbance situations. The training would include a grounding in psychological and sociological theory to help the officer better diagnose and understand the factors involved in inter- and intra-personal conflicts. In addition, the officer could be provided with the referral system. In this experimental group, we might examine the diagnostic effect of special training and referral by comparing it with Experimental Group I. Experimental Group II might actually be divided into two experimental sub-groups. The first sub-group of trained officers could provide only surface referral services and then continue with their normal police duties, while the second grouping could provide the referral services and then devote their full time to following the progress of their referral cases. The officers would determine that the persons referred actually arrived at the agency and that the agency provided the proper service and attention to the referred person. By comparing these two sub-groups it would be possible to determine whether the trained referral service in and of itself, or the progress of the referral is the more important factor (the combination may also be shown as the key).

Experimental Group III might consist of professional social workers utilized full time by police officers to handle disturbance situations. From this group it can be determined whether a professional social worker is any more adept at diagnosing and handling personal conflicts than a police officer. As in Experimental Group II, this group could be divided into two experimental sub-groups. The first sub-group could make contact with the disturbance subjects making necessary referrals and end their contact with the subjects at this point. The

second sub-group could use referral and follow the progress of their subjects through the referral process. Once again this might help to determine if it is actually the referral that is effective or if the follow-up is equally important. By comparing Experimental Group II and III, a fair evaluation as to the effects of professional social workers as compared to specially trained officers can be made both in terms of diagnosis and ability to follow-up.

MEASUREMENT CONSIDERATIONS

To correctly evaluate the results of the experiment it is important that the correct measurements be made. Some of the measurements foreseen at this time include, the number of disturbances processed through the experimental and control groups: disturbance recidivism: referral rates: arrest rates: and the homicide and aggravated assault rates. The homicide and aggravated assault rates would be calculated for the domestic disturbance and non-domestic disturbance categories separately. This might enable the Department to determine if treating domestic disturbances has an effect on non-domestic homicides and aggravated assaults as well as those within the domestic categories.

There are also various attitudes that might be affected by the experimental processes that could be measured. One of these is the attitudes of disturbance participants towards the police and vice versa. Depending upon what type of treatment and service the disturbance participants receive, their perception and attitudes toward the police may vary. Likewise, the police officer's attitudes toward the disturbance participants may vary according to the type of approach he uses in handling the disturbance. Another attitude measurement would be those of the professional social workers towards the police and of the police toward the soical workers. These attitudes might be measured on a pre-test-post-test basis. Also measurable may be the attitudes of the various social agencies toward the police and vice-versa.

In effect, the above measures tend to address the values of particular treatments. A successful impact upon the principal crimes addressed without perhaps knowing the reason is certainly beneficial; however, this may also be an excellent opportunity to study the causative factors and relationships heretofore supported only within a theoretical framework. In this respect, considerable attention might and probably should be given to pattern identification within the experimental and control groups during the conduct and evaluation periods of the treatment processes.

ADDITIONAL PRELIMINARY PLANNING STEPS

Although considerable research has been done to date in preparation for an eventual test and evaluation period, the realization of such a period still requires a number of preliminary steps. Those to be considered include: (1) the better articulation of the theoretical framework, (2) the determination and design of an appropriate experimental framework to include the formulation of suitable programs, the identification of proper group entrance mechanisms, and/or test areas, the attempted identification of violence indicators through interview and otherwise, the determination of suitable time frames for testing, and the determination of appropriate methods for planning and implementing this framework—with attention to estimates of manpower requirements, resource integration and costs; and (3) the determination and design of an appropriate evaluation framework to include identification of suitable measurements, methods for data collection, and techniques for interpretation—with attention to manpower requirements, resource integration and costs.

There is little question that this phase of the planning process will necessitate the involvement of outside resources inasmuch as our experience in these areas is limited. The above steps to take a minimum of four months.

Appendix I

Preliminary Review of Literature

SELECTED STATEMENTS

1. Marvin E. Wolfgang, "Who Kills Whom", *Psychology Today*, Vol. 3, No. 5 (October 1969): "A subculture of violence is created in which both potential victims and potential offenders carry the culture values that tolerate or expect violence as well as the weapons to express it." p. 75

2. George D. Newton and Franklin E. Zimring, *Firearms and Violence in American Life* (A Staff Report to the National Commission on the Causes and Prevention of Violence, 1970, Vol. 7) : A 1967 study in Chicago indicated that "71 percent of the Chicago killings involved acquaintances, neighbors, lovers, and family members—people likely to have acted spontaneously in a moment of rage and not necessarily with a single determination to kill." p. 43

3. James S. Campbell, Joseph R. Sahid, and David P. Stang, *Law and Order Reconsidered* (A Staff Report to the National Commission on the Causes and Prevention of Violence, Vol. 10) : "How can outside agencies detect violence-breeding socialization processes? Conflict-ridden socialization leaves its scars on the personality of the child at a very early age, and it often manifests itself only in quite subtle modes of familial interaction. The aggressivity or violence may not erupt until years later. Moreover, assuming detection were possible, how would we intervene? p. 188

4. Donald J. Mulvihill and Melvin M. Tumin, *Crimes of Violence* (A Staff Report to the National Commission on the Causes and Prevention of Violence, 1969, Vol. 11) : "In violent crimes, too, the victim at times contributes to the commission of the offense. We might expect the victim to contribute to major violent offenses and facilitate their execution by provoking or initiating a hostile reaction to the offender. . . , by unconsciously inviting the offense through an emotional pathology, by direct invitation or incitation, or by omission of normal preventive measure." p. 225

Twenty-two percent of the homicides in a 1967 study of 17 American cities indicated victim precipitation "Thus, the conventional assumption that the homicide victim is a weak and passive individual attempting to avoid an assault by an offender who is brutal, strong, and overly aggressive would not always appear to be correct." p. 226

"Ostensible reasons for disagreements are usually trivial, indicating that many homicides are spontaneous acts of passion, not products of a single determination to kill." p. 230

"To the considerable extent that some forms of major violence—robbery in particular, are committed by strangers in outside or public locations, improved law enforcement patrol and surveillance techniques will continue to be required as instruments of deterrence. Yet we must recognize that violence among intimates, friends, and acquaintances, especially in criminal homicide and aggravated assault, often occurs in private and indoor locations. This requires a more imaginative preventive response than traditional law enforcement has provided. Technique for discovery and intervention are needed to defuse conflict situations that might otherwise lead to serious violence." p. 238

5. Warren S. Wille, M.D., "Citizens Who Commit Homicides," *Revista Interamericana de Psicologia*, Vol. 4, No. 2 (June, 1970) : (Paraphrase) "Out of a sample of 100 homicide offenders, 47 percent had previous records of law-breaking of major proportions, which indicates that almost half of the people who eventually commit murder have a prior history of excessive acting-out of aggressive impulses, and inadequate behavior control." p. 137

"Many times, the act of homicides finally occurs when there is a more violent argument than usually following a long period of building up of feelings of grievance . . ." p. 137

6. Donald J. Mulvihill and Melvin M. Tumin, *Crimes of Violence* (A Staff Report to the National Commission on the Causes and Prevention of Violence, 1969, Vol. 12) : "We have intensively studied the criminal histories of many offenders and conclude that by far the greatest proportion of all serious violence is committed by repeaters, not by one-time offenders." p. XXXI of Summary.

Frustration brings on an instigation, or an impetus to aggression. "The strength of the instigation to aggressiveness, that is, the degree of readiness to be aggressive, depends on : (1) the strength of the drive toward the intended goal ; (2) the degree of interference with the frustrated response, including, for instance, the presence or absence of alternative ways in which to achieve one's end ; and (3) the number of times the goal seeking activity has been frustrated. According to this theory then, frustration can be cumulative and can remain active over time. However, readiness for aggression can accumulate, even though it comes from different frustrating experiences." "This theory may help to explain excessively violent responses to apparently trivial incidents." p. 435

"Many violence-prone persons are deficient in verbal and other social skills. Such persons may fall into the category of the 'pressure remover', who resorts to violence as an expression of helplessness, or as a last minute effort to obliter-

ate situations to which he is unable to respond. Violence, for them, not only expresses frustration, but also represents a brusque summary of the argument the person cannot verbalize." p. 443

(Paraphrased) "One approach to violence is the use of violence to release accumulated emotions, having little to do with the behavior of the victim. This approach reveals that violence is not a unitary phenomenon." p. 443

". . . The 'Chronically violent criminal' can be understood as an individual in whom the violence inhibitors are either absent or so over-whelmed by the instigators that the regularity of violent behavior is predictable. Putting the matter in these terms also makes clear the crucial role of external stimuli to increasing or reducing instigations and inhibitions to violent behavior." p. 450

7. Mary Lorenz Dietz, Ph.D., "Violence and Control: A Study of Some Relationships of the Violent Subculture to the Control of Interpersonal Violence," *Dissertation Abstracts* Vol. 29. Part A (March–April, 1969): (Paraphrase)

"The assumptions are that those that engage in interpersonal violence are mentally unbalanced, criminally deviant, or both. Violent acts are conceived of as impulsive and uncontrollable."

"Violence is conceived in this study as learned conduct, occurring in a linguistic environment, taking into account the self and other, and resulting from conscious and deliberate evaluation of the situation and a decision to act."

(Paraphrase) "A violent subculture exists which provides persons with the opportunity to learn norms of conduct that approve and promote violence. Violence is conceived as a form of approved conduct; and is a recognized and sometimes preferred, means of goal-achievement."

"Interpersonal violence in this context can be studied as deliberate and chosen conduct, rather than as uncontrolled, impulsive, or reciprocal." "One value of this conception is that violent acts can logically be studied as conduct that is potentially predictable." Abstract #3675

8. David Abrahamsen, M.D., *Our Violent Society* (New York: Funk and Wagnalls, 1970): "But whatever the motivation, conflicts between individuals and between groups become violent when people feel threatened or frustrated and have lost faith in society's ability to protect them or to satisfy their grievances." p. 6

9. Hugh Davis Graham and Ted Robert Gurr, *Violence in America—Historical and Comparative Perspectives* (A Staff Report to the National Commission on the Causes and Prevention of Violence. 1969. Vol. 2): ". . . Lewis Coser writes that 'we may say that a conflict is more passionate and more radical when it arises out of close relationships.' 'The closer the relationship,' so the reasoning goes, 'the greater the effective investment, the greater also the tendency to suppress rather than express hostile feelings. . . . In such cases feelings of hostility tend to accumulate and hence to intensify.'" "But Coser himself states that, though conflicts within close relationships are likely to be intense when they occur, 'this does not necessarily point to the likelihood of more frequent conflict in closer relationships than in less close ones.'" p. 396

10. Donald R. Cressey, ed., *Crime and Criminal Justice* (New York Times Book, 1971): "According to the Federal Bureau of Investigation, one of every five policemen killed in the line of duty dies trying to breakup a family fight." "The President's Commission on Law Enforcement and the Administration of Criminal Justice reported last year that family disputes 'are probably the single greatest cause of homicides' in the United States." p. 178

(Paraphrase) "The New York City Police Department estimates that 40 percent of its men injured in the line of duty were hurt while responding to family disturbances."

"According to Dr. Bard, outmoded police organization is the silent factor underlying the growing tension between police and community, particularly in the urban ghettos." "Professor Bard emphasizes that only the police, of all social institutions, are present 24 hours a day, every day of the year, to answer the call when family violence threatens." p. 180

11. Jane Watson Duncan, M.D. and Glen M. Duncan, M.D., "Murder in the Family: A Study of Some Homicidal Adolescents," *American Journal of Psychiatry*, Vol. 127, No. 11 (May, 1971): Five case studies of homicidal adolescents indicated a sequence of circumstances progressively more unbearable and less amenable to the adolescent's control. "In the developing explosive circumstances, if alternatives to violence are not available or have been tried and have failed, the risk of tragic outcome is greater." p. 77

12. Morton Bard, Ph.D. and Bernard Berkowitz, Ph.D., "A Community Psychology Consultation Program in Police Family Crisis Intervention: Preliminary Impressions," *International Journal of Social Psychiatry*, Vol. 15, No. 3 (1969): (Paraphrase) "A crisis situation, in many instances, breaches typical personality defense patterns in the face of threat, and presents opportunities for radification of usual behavior by direct intervention. It is possible that greater therapeutic effect can be achieved at the time of crisis than after the crisis subsides and typical defensive patterns are reconstituted." p. 210

13. Morton Bard, Ph.D. and Bernard Berkowitz, Ph.D., "Family Disturbance As a Police Function." Paper delivered at the 2nd National Symposium on Law Enforcement Science and Technology in Chicago, Illinois, April 18, 1968: "Wolfgang has lamented that the relationship between murderer and victim can be adequately studied only after the fact. He also suggests that the murderer may lead up to his final crime by a series of increasingly destructive acts." p. 8

"Systematic study of hundreds of instances of family violence potential may reveal a pattern similar to the 'Cry for Help' of the suicide." p. 8

"Rasch has described 'homicide situations', i.e., relationships between victim and perpetrator that appear with some consistency." p. 8

"Encouraging beginnings have been made on the possibilities of predicting homicidal behavior and identifying homicide-prone individuals." p. 8

APPENDIX II

HOMICIDE AND AGGRAVATED ASSAULT RATES

	Homicide rates								
	Total	Nondisturbance		Disturbance		Domestic disturbance		Nondomestic disturbance	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent
1970	122	63	52	59	48	34	28	25	20
1971	113	55	49	58	51	45	40	13	11

	Aggravated assault rates								
	Total	Nondisturbance		Disturbance		Domestic disturbance		Nondomestic disturbance	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent
1970	[1] 500	188	38	312	62	155	31	157	31
1971	[1] 500	166	33	334	67	161	32	173	35

[1] Sample of 500 randomly selected from total aggravated assaults, providing confidence level of 99 percent.

ARREST RATES

DOMESTIC DISTURBANCE HOMICIDES

	Domestic disturbance homicides	Known victims	Known suspects	Homicides, either victim or suspect has disturbance or assault arrest within previous 2 years		Victims with disturbance or assault arrest within previous 2 years		Suspects with disturbance or assault arrest within previous 2 years	
				Number	Percent	Number	Percent	Number	Percent
1970	34	34	32	11	32	9	26	3	9
1971	45	45	45	10	22	6	13	5	11

DOMESTIC DISTURBANCE AGGRAVATED ASSAULTS

	Domestic disturbance aggravated assaults	Known victims	Known suspects	Aggravated assaults, either victim or suspect has disturbance or assault arrest within previous 2 years		Victims with disturbance or assault arrest within previous 2 years		Suspects with disturbance or assault arrest within previous 2 years		Victims having previous disturbance or assault arrest, with subsequent disturbance or assault arrest		Suspects having previous disturbance or assault arrest, with subsequent disturbance or assault arrest	
				Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
1970	155	155	154	58	37	24	15	41	27	6	25	15	34
1971	161	161	170	59	37	33	20	41	24	7	21	14	37

Appendix III

ASSOCIATED COSTS

Description	*Amount*

THE PROACTIVE-REACTIVE PATROL DEPLOYMENT PROJECT

By the South Patrol Division Task Force [1]

At the outset of their deliberations, the South Patrol Task Force established its primary aim as the prevention of crime. The task force identified five priority problems and began exploration of creative solutions directed toward their resolution. Immediately, the group was faced with the age old problem identified by police administrators, namely, the absence of adequate time to effectively attack their priority problems. Their non-incident time, the task force members figured, was of necessity directed toward preventive patrol. Preventive patrol, however, appeared to relate only two of their five priority problems. The necessity of maintaining preventive patrol next came under scrutiny and it was recognized that the need to test the assumptions underlying that concept logically preceded the development of patrol strategies. The Proactive-Reactive Patrol Deployment Project was therefore born.

One of the primary tasks of police departments in the United States is preventive patrol, namely, the random cruising of a police car in a given area. The assumption underlying preventive patrol, frequently stated as fact, is that the most effective deterrent to a potential criminal is the direct view of a patrolling policeman, and/or the knowledge that police officers are available to respond rapidly to the scene of a crime, thus increasing the risk of capture while decreasing the apparent opportunity for the successful commission of a crime. The belief in preventive patrol is widely shared by police administrators and is the general basis upon which police field forces are deployed nationwide.

In 1930, Bruce Smith wrote:

"Police are agreed that uniform patrols discourage the commission of certain types of criminal acts, but even this elementary proposition lacks scientific demonstration. So until we have a whole view of controlled experiments which show with some degree of conclusiveness the effect of uniform patrols upon crime rate, and the point where additional patrol strength results in diminishing returns, police service, not only in America but elsewhere throughout the world, will continue to hinge upon expert opinion, while governing bodies and the taxpaying public will be handicapped in appraising demands, for additional expenditures in the highly important field of police protection." [2]

Forty-two years later, our knowledge about the effectiveness of police patrol is not measurably improved. In 1967, in a discussion of preventive patrol, the President's Commission Task Force on Science and Technology noted, "There is little evidence on how much crime is thereby prevented or how much would be

[1] This selection is a current draft of a proposal submitted by the Kansas City, Missouri Police Department to the Police Foundation in May, 1972. Task Force membership at that time included: Major Guy Hines; Captain Clinton Kelly; Sgt. Billie Armstrong; Patrolmen Charles Brown, Donald Johnson, Donald Marcum, Michael Travis, Owen Williams and James Post. Design consultants: George Kelling and Thomas Sweeney.

[2] Bruce Smith, *Police Systems in the United States*. Harper, New York (1960) p. 121.

prevented by alternative patrol tactics."[3] Restating the position of the Commission somewhat more strongly, a recent report prepared by the Rand Corporation for the Department of Housing and Urban Development concluded:

"We believe that there are significant knowledge gaps which make it impossible to allocate, as rationally as should be the more than $1 billion dollars devoted annually to police patrol programs. Because of these knowledge gaps, police administrators currently must plan principally in terms of *input measures* (such as numbers of patrolmen on the street or number of patrol hours) although what they are trying to affect are *output measures* of police effectiveness (such as true crime rate, apprehension rate, and speed and quality of service in response to calls for service.) These knowledge gaps are one of the most important factors limiting the development of effective aids to police patrol decision making."[4]

The report called for research and experimentation to identify the relationship between police prevention patrol activities and crime prevention, deterrence, and on-scene criminal apprehension.

"In short, between one third and one half of all patrol time is devoted to preventive patrol and the police cannot specify with confidence what effect it has on crime and criminal apprehension. In such a situation, police administrators cannot know the resources are being allocated effectively. Analytical and experimental studies are needed and could result in very substantial changes and improvement in the use of police manpower."[5]

Incidental to the deterrent and detection functions, preventive patrol provides a means for police personnel to perform a wide range of governmental services, including traffic control, provision of information, and hazard identification. In addition, conspicuous presence of police on patrol is believed to increase citizen perceptions of security, while the opportunity provided for citizen contact improves police/community relations. Increased knowledge about the relative effectiveness of preventive patrol in meeting these objectives also appears vital to effective decision making about patrol techniques.

In a recent discussion of patrol, Reiss develops a set of dependent variables which are of interest and relevant to the proposed study. An analysis of patrol activity of the Chicago Police Department, found that only 2.55 percent of patrol time was spent handling criminal matters. Of those criminal matters processed by the patrol division, 93 percent were citizen initiated. It follows from this that only a minute portion of the time on preventive patrol results in the discovery of incidents which are processed in the system of criminal justice. Further he suggests that if the productivity of some of the most highly proactive units of the patrol division are analyzed, it will be found that that unit generates very few criminal or noncriminal incidences. Pre-test data gathered by personnel of the South Patrol Division through a self report activity analysis also appears to support these conclusions. In data relating solely to the personnel of that division it was determined that only 4.7 percent of patrol time was expended on self initiated, crime-related activities. This figure includes a significant percentage of time spent on nonproductive building and vehicle checks and on misdemeanors.[6]

Another indicator of operational effectiveness that Reiss suggests is the quality of the support that citizens provide to the police when the police are involved in criminal and non-criminal incidences. He thus suggests that since proactive policing alters citizen-police relations, proactive patrol results in qualitatively different support for police while they perform their duties than in reactive patrol. He suggests that in reactive patrol, citizens call for service in order to protect their vested interest and thus provide support for and legitimacy to the police intervention. In distinction, when the police, are the initiating unit, Reiss suggests that there is little support either for the officer who might have difficulty in the situation or for later processing—for example, testifying. Reiss further suggests that the aggressive patrol practices of proactive patrol results in an ever increasing residual, comprised of persons who have had negative encounters with police personnel.[7]

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[3] President's Commission on Law Enforcement and the Administration of Criminal Justice. *Task Force Report: Science and Technology*, p. 25.

[4] James S. Kakalik and Sorrel Wildhorn, *Aids to Decisionmaking in Police Patrol*. A report prepared for the Department of Housing and Urban Development. Rand Corporation, Santa Monica, California (1971) p. 72.

[5] Ibid. p. 73.

[6] Albert Reiss, *The Police and the Public*, Yale University Press, pp. 94–97.

[7] Ibid. p. 57–62.

PURPOSE OF THE EXPERIMENT

The proactive-reactive patrol deployment strategy is a rigorous and systematic attempt to test the outcomes of different patrol strategies. As such, it allows for a cost-benefit analysis of varied strategies to determine the most effective methods of undertaking patrol. Further, it allows the department to develop "mixes" of strategies dependent upon fluctuations in need. If, for example, it were determined that reactive strategies are most effective in addressing certain types of problems and proactive more effective in others, then, strategies could be developed consistent with the most effective approach to the problems to be attacked. If it is fact that reactive strategies are most effective in certain areas, then specific tasks would be developed for patrol personnel when not responding to calls for service.

Also included in this experiment is an attempt to establish the quantitative relationships between speed and type of police response and the crime rate, deterrence of crime, probability of an on-scene apprehension, and the availability of witnesses and citizen satisfaction.

This experiment seeks to meet the obligation of a professional organization to test its methods in the light of developing theory and new methodologies. Since the effectiveness of preventive patrol is not self evident and because the capacity of the department to deal with crime is a central function, the experiment fulfills a real professional need that has not been addressed by other police agencies. In addition, the proposed analysis of response time outcomes would, hopefully, lead to the development of an empirically based queuing system to guide the dispatch and deployment of patrol personnel. The implementation of this experiment would help to maintain a climate of innovative creativity and self evaluation, not only on the part of the department as a whole but also with individual officers. This experiment would develop the capacity of the Kansas City Police Department to organize and carry out rigorous valid experimentation with only a minimum need for outside expertise.

EXPERIMENTAL METHODOLOGY

Fifteen beats were designated as the experimental area. These beats were computer matched into similar triplets on the basis of crime, called for service, ethnicity, median income and transience of population. Each triplet was reviewed by task force personnel. Attempting to establish a geographic dispersion that permitted maintenance of acceptable response time, one beat in each triplet was designated as proactive, another reactive and still another as control. Three distinct subarea groupings of five beats each were, therefore, defined. (Figure #1 depicts a mock distribution in which R = reactive, P = proactive, C = control and numerals designate common triplet beats.)

$R_{(1)}$	$P_{(3)}$	$R_{(4)}$	$P_{(2)}$	$R_{(5)}$
$C_{(2)}$	$C_{(3)}$	$P_{(1)}$	$C_{(4)}$	$C_{(1)}$
$R_{(2)}$	$P_{(4)}$	$C_{(5)}$	$R_{(3)}$	$P_{(5)}$

FIGURE I.—Simulated deployment configuration

Different levels of patrol coverage were assigned to each sub-area. The deployment sought to maximize the range of potential coverage to measure differential impact between extremes of patrol intensity.[8] In the control beats, the standard

[8] Deployment modifications relate only to regular patrol units. The purpose of the experiment as seen by the task force was specifically to ascertain the effectiveness of their divisions' personnel. Specialized units such as the Traffic, Tactical, K–9 and Helicopter Units continued to work in the test area using the same allocation patterns as prior to the experiment.

departmental assignment of a single one man unit with sixty-five percent committed time would be maintained. In the reactive areas, patrol units would enter the area in response to calls for service. Uncommitted time would be directed toward preventive patrol on the beat perimeter or in an adjacent proactive beat. In addition to increased patrol coverage provided by the car assigned to reactive areas, the regular units assigned to the proactive beat would be supplemented by up to five support cars. The resulting effect would be a level in the proactive areas four to five times the regular level of patrol intensity. The experimental deployment pattern would be maintained for one year.

Crime trends would be monitored weekly to identify experimentally induced variations and to insure that the public is given the greatest possible protection. Monitoring activities will be conducted through the use of data provided by the Crime and Traffic Analysis Unit and by daily printouts from Data Systems. If trends emerged which gave early indication of results which jeopardized the public, steps would immediately be taken to return to standard patrol.

To provide baseline information concerning the activities of patrol personnel, task force personnel have developed and will conduct a task analysis. This self-reporting system will precisely identify services delivered in the experimental area. It will specify the actual amount of time committed to preventive patrol and other activities in each of the test subareas. In addition to its contribution to baseline data, this analysis will provide valuable input to the improvement of training and personnel programs.

Present patrol patterns will not be altered to change response time. Instead, the chance variation in response time will be analyzed for the full range of called for services. True response time will be determined by combining dispatch response time (elapsed time between receipt of call and dispatch) and field response time (elapsed time between dispatch and arrival of the patrol units). Incident analysis and follow-up surveys will be undertaken in a random sample of called for services. That sample of incidents, stratified by response time, will be drawn from cases recorded by the observers. Officer, citizen and observer perceptions of the same incident will be compared to identify elements of citizen satisfaction.

HYPOTHESES TO BE TESTED

The following hypotheses have been stated for the purpose of measurement through the experimental methodology outlined below:

A. Preventive patrol

1. Crime, as reflected by victimization survey and offenses known to the police, will not vary by type of patrol.
2. Citizen perception of service will not vary by type of patrol.
3. Citizen cooperation in processing of incidents will be greatest in the reactive sub-area.
4. Citizen complaints about police service will be greater in the proactive sub-area.
5. Citizen fear and behavior as a result of fear will not vary by type of patrol.
6. There will be no variation in the types of calls for service by type of patrol.
7. Traffic accidents will increase in the reactive areas.
8. Traffic violations will increase in the reactive areas.

B. Response time

1. As response time increases, on-scene apprehension of offenders will decline.
2. As response time increases, the extent and nature of injuries to victims will increase.
3. As response time increases, the availability of witnesses will decrease.
4. As response time decreases, citizen dissatisfaction with police service will increase.
5. As average response time in an area decreases, the incidents of predatory street crime will decrease.

MEASUREMENT OF OUTCOMES

Effort to measure the differential impact of the alternative levels of patrol coverage will employ analysis of departmental data, structured observation and survey research. Measurement techniques and dependent variables are depicted in Figure II.

The analysis of Kansas City Police Department data will compare dependent variables between the three subareas, as well as for the twelve months preceding the experiment. Pre and post-test observations will be conducted on traffic flow patterns in the three subareas. Observers would ride with police officers to assess the effects of differential patrol stances, proactive or reactive, on patrol personnel and the effects on those designations on encounters with citizens. The peacekeeping and order maintenance are elusive and difficult to quantify. Observation will be utilized to ascertain the effects of differential patrol strategies on such peacekeeping activities as order maintenance in tavern areas, school vicinities, crowd control, etc. Systematic observation of these kinds of activities would be maintained during the entire length of the experiment to note what changes might take place in such activities.

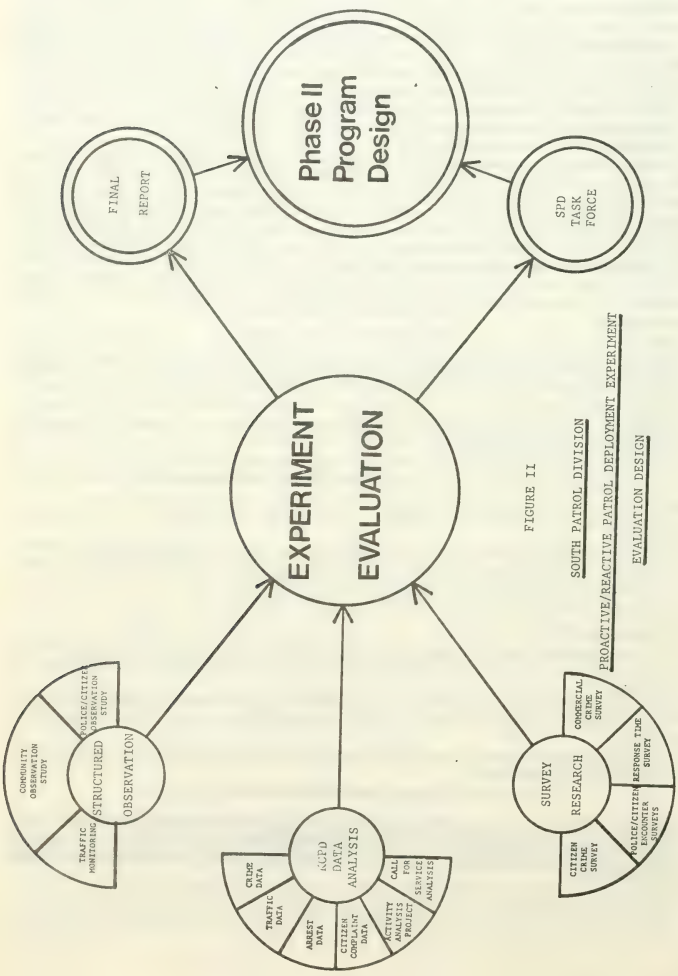


FIGURE II

SOUTH PATROL DIVISION

PROACTIVE/REACTIVE PATROL DEPLOYMENT EXPERIMENT

EVALUATION DESIGN

One of the great concerns the department has in developing the Proactive-Reactive Patrol Experiment is the response of community residents and businessmen to this experiment. One thousand two hundred households will be interviewed in the experimental area before the commencement and at the close of the project. The surveys will seek to determine whether the citizens' perceptions of the quality of police service vary in response to differential patrol strategies. These surveys will seek to measure change in terms of the citizens' fear of crime, the citizen awareness of the police presence, a change in the victimization rate, and generally what happens to citizen satisfaction as a result of the various strategies attempted.

DEPENDENT VARIABLES

1. Victimization

A victimization survey will be executed as a portion of the instrument delivered to 1200 households and 160 businesses before and at the close of the experiment. This component will be employed to compare crime variations in the alternative subareas. The survey will permit analysis of reporting variations resulting from the different patrol strategies.

2. Crime indices

A crime index will be developed using a model similar to the model developed by Peter Bloch. Qualifying incidents include murder, forcible rape, robbery, aggravated assault, burglary, larceny over $50 in value, and auto theft. Crime will be weighted according to seriousness and by deterability. These decisions will be made in terms of seriousness and deterability. Street crimes will be weighted heavily under the assumption that they are usually thought to be affected by preventive patrol. Armed robbery will be weighted especially heavily since many believe that it is the most single accurately reported crime and further that it may be susceptible to police preventive patrol.

3. Community satisfaction

As part of the community and business surveys, data will also be gathered on merchant, resident and consumer satisfaction with police services. A survey instrument has been developed which attempts to obtain other than stereotype responses toward the police. Wherever possible, questions about views of police officers will be directly related to actual experiences. (One of the reasons why citizen attitudes towards police seem to be independent of the police services is that questions about police services have tended to be global rather than tied to actual experiences.) In addition, consumer satisfaction will also serve as a critical measure for the response time component of this proposal.

4. Calls for services

A random sample of calls for service from the three areas will be analyzed to determine if there are significant differences both within and between the areas. Seasonal variations will have to be considered in the "within area" comparisons.

5. Fear

The community and commercial surveys will attempt to establish how fearful the community is and what behaviors have resulted from that fear. Subsequent analysis will attempt to see if this varies significantly within or between subareas as a result of the experiment.

6. Arrest and processing ratios

Police records will be analyzed to determine if there are significant variations in the proportion of arrests as to citizen initiated contacts versus police initiated contacts. Successful processing of a case including willingness of victims and bystanders to testify will also be related to type of patrol and response time.

7. Complaints about police service

Complaints will be analyzed to see if there are differences within and between areas. This analysis will include complaints as to police conduct as well as citizen satisfaction with the patterns of patrol activities in their area.

8. Traffic

Traffic will be monitored on a random time basis to see if violations vary as a result of different patrol strategies. An accident/pattern of patrol ratio will be developed.

Northeast Patrol Division: Action Review Panel

The approach utilized by the Northeast Patrol Division in addressing its task, the development of innovative patrol strategies, has brought that task force to the point it is prepared to implement a specific project design internal to the patrol division. The task force has also amassed, extended information from all division personnel on the nature of perceived internal and external patrol problems. This was accomplished by task force personnel meeting in small groups with all field personnel. The process appears to have strengthened both the quality of the problem identification and the involvement of field officers. The process, however, was extremely time consuming. As a result, the task force has just embarked upon the planning of a second project for which continued planning assistance is requested.

The first issue of concern focused upon by the task force was conflict emerging from police-citizen interactions in stress situations. That conflict manifests itself in several ways including physical assaults and verbal hostilities between police and citizens, resisting arrest, and complaints against police officers. Conflict between police and citizen is very complicated and often exaggerated. Half truths and irrational statements are often assumed as the truth. Allegations are made by all persons involved. At times, the citizen is clearly at fault. At times, the police officer is at fault. Many times, however, the fault cannot be clearly ascribed. It is possible, at times, that conditions of such that no blame or judgment should be made.

The problem is further aggravated when no attempt is made to resolve the conflict. When this occurs, some citizens question the integrity of the police department in dealing with its officers. On the other hand, field personnel may feel that they are being used as a "scapegoat" when a conflict situation occurs.

In an effort to establish a viable alternative for the resolution of this problem, it is proposed herein that an action review panel, modeled after the Oakland Violence Prevention Unit, be established in the Northeast Patrol Division. The proposal rests on several assumptions that are articulated below. It is unique not only because the interest and the desire to undertake such a program emerged at the field level, but also because it seeks to go beyond the confines of the Oakland project to consider a wider range of problem behavior and to consider the applicability of such a process to field supervision and recruit socialization.

BACKGROUND OF THE PROJECT

The action review project seeks to establish a non-punitive review process, totally apart from normal disciplinary channels and using a delicate balance of peer assistance and peer pressure. Task force personnel intensively reviewed the Oakland Violence Prevention program, and two Kansas City patrolmen were permitted to attend action review panels in that city.

The Oakland Violence Prevention Unit was initiated in 1969. It emerged from a joint research project into the problem of assaults upon police officers. The research data generated several interesting conclusions:

1. A small percentage of police officers account for the vast majority of complaints and resisting arrests.

2. There was no correlation between the "hard working officer" and the number of complaints that were likely to be registered against him.

3. Complaints against an officer, generally, reached their peak within the first two and a half years on the job.

The Oakland Violence Prevention program was initiated departmentwide. The structure and operations of the program were similar to those outlined below with the exception that the criteria for the identification of potential interviewees was restricted to the number of resisting arrests charged by the officer. Departmental personnel reported a universally favorable opinion of the program. That department is presently designing a more effective evaluation procedure to identify the unit's effectiveness.

Certain assumptions concerning the nature of the police-citizen conflict and behavior modification have been made prior to the task force proposal to initiate an action review panel. First, all policemen are not mean and brutal to the public; however, some policemen have greater difficulties in resolving stress situations. These difficulties may lie in the myths and expectations concerning police action, a lack of knowledge concerning better alternatives in a situation or the unconscious attitudes the officer may feel towards certain types of individuals.

Second, most policemen desire a peaceful and workable solution to a problem involving stress and conflict. However, much consideration is given to what one's fellow officers may think. Unfortunately, this consideration is often an error and is propagated by the myth "a good cop is a mean and tough cop."

Third, peer group influence is often more important to the patrolman than the attitudes of his supervisors or commanders.

Fourth, the punitive-orientation of traditional police disciplinary procedures, coupled with public hostility in performing police functions and an interdependence of field personnel in dangerous situations have developed walls of secrecy between field personnel, their command and civilian complaint agencies. In addition, field officers will not openly express their disapproval of actions by fellow policemen. The existence of these barriers preclude open identification and resolution of problems in the patrol force.

Fifth, it is extremely difficult, if not impossible, to change individual's attitudes. Behavior modification is a more appropriate goal for the project.

Sixth, behavior modification can only be achieved when the subject plays an active role in the problem analysis and accepts the legitimacy of the "treatment plan."

Seventh, if true professionalism is to develop in the police field, one of the things that must be accomplished is the establishment of a sense of duty to and for one's colleagues and an autonomous mechanism to review their performance.

OBJECTIVES OF THE PROJECT

The action review panel exists for one purpose, that is simply, to help the officer arrive at the best alternative of action in a stress situation. Officers will be asked to sit before a panel of his peers to jointly look at his records, reports and problems when it appears that his well-being is being threatened by his behavior. The program should benefit the officer in the street and his superiors. If behavior has been affected positively, the officer's actions and performance on the job will be improved, thus making his job more secure and less strenuous. Improved ability in resolving conflicts should decrease physical attacks on his person. Few complaints should be lodged against the officer. And the self-image of the police officer should be heightened.

It is anticipated therefore, that the project will:

1. reduce the number of complaints filed against police officers;
2. reduce the number of assaults on police personnel;
3. reduce the number of police-citizen encounters that require an officer to use physical force or that result in verbal confrontation;
4. increase an officer's knowledge of alternatives to be employed in stress situations, thereby resulting in more effective and appropriate problem resolution;
5. increase the patrolman's self-esteem and job satisfaction;
6. explore the feasibility of utilizing the action review process at supervisory levels;
7. explore the value of the action review process as a means of affecting improved recruit socialization by providing a better understanding of peer expectations, by establishing a forum in which the new officer can discuss personal problems encountered with police role conflicts and the working environment, and by exposure of the young recruit to a wider range of experienced officers.

PROJECT METHGDOLOGY

As mentioned above, officers will be requested to sit with the panels of their peers to discuss their records, reports and problems in an effort to seek alternative courses of action when it appears that a continuation of certain behavior poses a threat to the officer's well-being. That threat may appear in such forms as assaults on or complaints against the officer, resisting arrest, civil suits, criminal prosecution or civil rights action, suspension or termination of employment.

No fixed formula will be utilized to identify potential interviewees. Instead, a number of sources of information will be employed. An officer may be asked to meet with the action review panel:

1. if an officer has three resisting arrests (Form 100) on file in the Internal Affairs Unit within a one year period;
2. if an officer has three complaints lodged against him in a one year period;
3. if an officer's commanding officer, sergeant or co-worker has volunteered information to the project director that would indicate the officer is developing a

behavioral trend toward violent or aggressive attitudes in performing his duties, which if not corrected, could lead to formal complaints;

4. if the officer is involved in a situation which is considered severe or receives a great deal of notoriety involving violence or violation of the code of ethics. (In cases such as these, it is felt that the project director should review all information available, and then make a determination as to whether the action review program could be of possible benefit to the officer.);

5. if an officer requests the opportunity to meet with the panel, recognizing a need for self-improvement.

In the panel discussions, an attempt will be made to delve into the reports, records, or other information that reflects the nature of the behavior in question. The implications for continuation of that behavior will be considered, patterns, if present, will be identified and alternative responses in each case will be considered. The conclusions of the panel may not necessarily be critical. Where there is no doubt that the action taken by an officer was the best possible at that time, the officer will be supported and encouraged.

Attendance at the action review panels will be restricted to patrolmen. No written transcripts or recordings of the meetings will be made. The basis of the entire program is the knowledge that each officer will be able to discuss matters in a completely confidential surrounding. The most important single aspect of the success of the project is the security of the information gained in the panel. It is imperative, therefore, that the information obtained be available to the panel director only.

The project director will have access to all information including allegations filed with the office of Citizen Complaints and Internal Affairs Investigations, in order to prepare the information necessary to conduct a panel meeting. The project director will have the sole responsibility for information collection, the reproduction of information necessary for panel members and for securing the confidential information at the end of a review.

Due to the importance of the security of information obtained in the panel, the department will implement procedures and rules pertaining to solicitation and divulgence of confidential material. In any case where it is found that information has been divulged, it will be the function of the project director to bring the facts to the attention of the Chief of Police for consideration of disciplinary action.

In addition to securing the necessary information for the conduct of the panel and reporting to the Chief of Police any violation related to the divulgence of information, the project director, a patrolman, will maintain a profile of each officer in a division in an effort to identify emerging patterns. The project director will be notified immediately by the office of Citizen Complaints and the Internal Affairs Unit of any complaint lodged against a member of the Northeast Patrol Division. The action review process, however, will not be initiated until the Internal Affairs investigation has been completed. When the project director has determined that a panel is necessary, it will be his responsibility to schedule the sessions and notify all participants. In relation to the latter, he will also be responsible to appropriately match the panel members to the individual case.

The action review process is not a staff function of the staff unit. The program must maintain the integrity in the idea that it is for the benefit of street patrolmen and is conducted by patrolmen. For this reason, the panels will be conducted away from headquarters in the conference room of the Northeast Patrol Division Task Force office.

For the same reason, the selection of the project director is critical. The task force established the following qualifications for the project director:

1. Extensive and present field experience in patrol;
2. Credibility with other patrolmen;
3. Experienced in the complaint process as a result of past experience and behavior;
4. Familiar with the action review concept and process.

A project director has subsequently been chosen.

The initial action review panel has been selected. The members chosen for that panel were recognized opinion leaders of each of the shifts and met the first three criteria stated for the project director. For the first panel, it was also felt it was

necessary to have individuals who supported, in principle, the concept of the action review panel.

The initial panel will consist of seven members, the project director and two representatives of each shift. Each panel member will serve as an interviewee during the course of the training session in which Oakland police officers and psychologists consultant will serve as trainers. Intensive training of the panel will be conducted during the month of June. It is anticipated, that the panel will as a unit conduct approximately ten interviews. After that point, officers who have been interviewed will be used to fill some of the panel slots.

TENTATIVE PROJECT EVALUATION

Evaluation design assistance has not yet been made available to the Northeast Patrol Task Force. The paragraphs that follow, therefore, reflect tentative thoughts on project evaluation. The nature of the problem under focus and the process to be used by the action review panels set significant constraints on evaluation. It can be assumed that an extended period of time in excess of one year will probably be required to get measurable results back on the panel's affects. Also, because non-patrol personnel will not be permitted access to the panel sittings and because transcripts and recordings will not be maintained, any effort to analyze the patterns of interaction in the panels must remain the responsibility of patrol personnel, particularly the project director. This will mandate specialized training for that individual in small group process and transactional analysis.

Because the integrity of the project rests so heavily on confidentiality, the identity of the officers interviewed will not be made known to the evaluators. Any efforts to statistically track the subsequent behavior of officers interviewed must rely upon the project director for the data collection. As with the analysis of the panel interviews, the evaluator will be required to rely upon non-identifiable aggregate information provided by the project director.

It is presently thought that evaluation components might include the following:

1. The establishment of a comparable control group of officers in one of the other two field divisions, this would permit the separation of the precise impact of the panel sessions from the effects of the natural maturation process on the officer's behavior. The use of this approach, however, would require that significant consideration be given to the differences in background variables, such as command, demography, etc.

2. If the panel process is utilized for recruit socialization, a similar control group could be established in another division, or a random selection of subjects could be drawn from the substantial number of new recruits of the Northeast Patrol Division.

Measurement of changes to be utilized in conjunction with these control groups could include an analysis of citizen complaints, departmentally initiated complaints, an analysis of resisting arrests and hindering arrests, supervisory ratings, and perceived job satisfaction. A consumer satisfaction survey of individuals who had contact with police personnel as a result of called for services might be randomly drawn on a before and after, or an experimental and control group basis to identify citizen perceptions of the quality of service in such encounters.

An alternative technique that might be utilized in evaluation would be the delivery of a critical incident questionnaire to the Northeast Patrol Division personnel and the command staff of the department, a random sample of the two remaining patrol divisions. The critical incident analysis would serve the dual purpose of identifying incongruities between command and field perception with regard to actions and stress situations, and provide a mechanism to identify a wide range of alternatives in handling stress situations. In addition, the critical incident data would serve as a baseline against which increases in the knowledge of alternatives or changes in opinions as to how stress situations should be handled might be measured for Northeast Patrol Division personnel in general and panel subjects and participants, in particular. These shifts could be compared with personnel in the other two patrol divisions.

Northeast patrol division

Implementation project duration June 1, 1972 to June 30, 1973:	
Consultant and Control Services:	
Violence prevention consultants (2 Oakland, California police officers), 8 days at $75	$600
Process training and on-going consultation (psychologist/psychiatrist), 10 days at $150	1,500
Consultant travel and related expenses:	
Airfare 2 at $220	440
Lodging and meals (3 days at $45)	360
Local travel	100
Consultant total	3,000
Office and administrative expenses: [1]	
Office space (13 months at $200 per month)	2,600
Furniture	2,100
Telephone (13 months at $50)	650
Office supplies (tape recorder, tapes, publications, et cetera)	1,500
Office and administrative expense total	6,850
Implementation total	9,850
Evaluation (the evaluation design for this project has not been established. However, as presently conceived, the evaluation will rest heavily on the project director and already existent police data cost: therefore, should include evaluation design assistance, training of police personnel as evaluators and statistical analysis)	([2])
Project planning (June 1, 1972 to Aug. 31, 1972):	
Consultant and contract services:	
Problem Identification and Design (Larry Sherman), 20 days at $75	1,500
Travel and related expenses 10 airfares at $160	1,600
Food and lodging 20 days at $45	900
Consultant total	4,000
Task force travel:	
Field visits to other cities (airfares 4 at $150)	600
Food and lodging (16 days at $45)	720
	1,320
Project planning total	5,320
Budget totals:	
Action review project implementation	10,000
Action review project evaluation	[2] 25,000
Continued project planning	4,400

[1] Office and Administrative costs represent joint costs with continued task force project planning.
[2] To be determined (approximation, $25,000).

CENTRAL PATROL DIVISION: INTERACTIVE PATROL PROJECT

The Central Patrol Division encompasses Kansas City's central business district and low income residential areas containing a significant portion of the city's minority group population. The quality of the relationship between the Kansas City Police Department and community residents has remained the focal point of the division's task force efforts. Concern for that relationship stemmed from several observations. First, police personnel working in the field frequently encountered overt hostility even when performing police functions of a service nature. Second, citizens living in portions of the community appeared apprehensive about dealing with the police even though they lived in fear of criminal elements. Pervading fear affected the quality of life in the entire neighborhood. It

tended to disrupt patterns of communication and organization that would foster greater community cohesiveness and the subsequent resolution of many problems facing the neighborhood. That fear or reluctance to deal with the police affects both citizen's willingness to report suspicious events and to follow-up criminal occurrences with testimony or complaints.

To study this problem more fully, the Central Patrol Division Task Force focused its planning activities on a small area in the division. That area has had the third highest crime rate in the city and contained a myriad of social problems including housing, welfare, health and transportation. The residents were primarily young, black, low income and highly transient. An area with similar characteristics was identified and set aside as a control area in anticipation of the subsequent needs of program evaluation.

The first program design took on the form of a neighborhood-oriented police unit that sought to provide follow-up to called-for-services and assistance to community groups in resolving neighborhood problems. It was hoped that the follow-up would improve citizen satisfaction with police service as well as make more effective use of referrals, bring to bear community resources in meeting services needs and interrupt continuing patterns of conflict such as those between landlord and tenant or between husband and wife. Initially, it was envisioned that a sufficiently large number of men would be infused into a small area, thereby permitting sufficient time for patrol follow-up as well as unstructured contact with neighborhood residents. These contacts were to be made by patrol officers on walking beats and through their attendance at community meetings. These contacts, it was envisioned, would enable the officers to identify and assist community interests in resolving neighborhood concerns that could over time, develop into police problems. An example of such a problem in the test area is abandoned housing. Abandoned buildings are neighborhood eyesores as well as hazards for young children.They provide a base of operations for juvenile gangs planning crime, using drugs and fence stolen property. These buildings have been set on fire, and the responding police and firemen become the targets of rocks and assorted projectiles. By assisting the community in the rapid demolition of such buildings, for example, the Central Patrol Task Force hoped that the police might change their image in the community and also avert subsequent problems that might emerge at those locations. The nature of the assistance to be provided by the Interactive Patrol Unit, however, was not clearly defined.

Preliminary Program Development Activities

In pursuing design efforts, the task force sought to identify citizen attitudes toward the police. A random sample of citizens in the test area were interviewed. Their responses proved startling to task force personnel. A significant majority of the respondents in an area, that was viewed as hostile by the police, reported a high regard and respect for the Kansas City Police Department. At the same time, the majority expressed the opinion that they were living in what they regarded to be a relatively safe area.

Paralleling the survey work, task force members studied several other human service delivery service systems. They interviewed persons working in community service agencies and outlined a list of seventy-five social problems that the agency personnel regarded as significant in the target area. To become sensitized to community perspectives, one task force member lived with a group of black parolees for three days in the ghetto of another mid-western city. The survey results, the review of other service delivery systems, and the experience of the task force member in the ghetto led to several additional but significant conclusions. First, there was little congruence between the police and community perspectives about an area, its problems or potentially remedial solutions. This lack of congruence was the greatest obstacle to effective police-community relations. It is the primary cause of apprehensiveness on both sides when confronting one another. Second, the mood of the community was such that it was likely to reject any program in which it has not had a hand in planning or designing, regardless of its "rightness."

PHASE I PROGRAM ACTIVITIES

Subsequent task force deliberations resulted in an action program design that is an experiment in proactive planning. It proposes to take program planning from division headquarters to a task force office in the community. It seeks to significantly involve community residents in problem definitions and patrol strategy development. If successful, the program will yield a fully documented

process for designing and introducing neighborhood oriented policing programs into other areas.

As a first step in the project, the task force personnel will meet as a panel with line staff from service agencies working within the test area. These panels will serve the two-fold purpose of defining cultural characteristics of the test area and of narrowing down the list of social problems to those considered most pervasive and most critical. The former information on culture will be reviewed by task force members and a reference manual on community culture will be prepared.

The refined problem listing will be used to construct an open-ended survey instrument that will be delivered simultaneously to police personnel and to community residents. That instrument will focus on a limited number of problems, thereby permitting the respondent the opportunity for indepth responses. The responses will be analyzed to determine both the frequency and intensity with which specific concerns are expressed.

As noted above, the test area residents were surveyed concerning their attitudes toward the police. A modified version of the same survey instrument will be delivered to division personnel to identify both the police view of the community and their perceptions of the police image as held by the citizens.

Police and citizen respondents, who are both representative of the points of view expressed, will be asked to meet in small, focused group panels to discuss their replies in greater detail. Police and community residents will sit together in the panels. They will be chaired by a moderator who is experienced in focused group discussions. In all, it is anticipated that there will be a minimum of five such panels on the subject of police image in the community. On the neighborhood problem analysis, it is anticipated that there will be a minimum of ten such panels, each one focused on a specific topic problem.

Task force members will monitor all panel sessions. As the result of the discussions, they will prepare reports on the police image and neighborhood problems. These reports, coupled with crime and called-for-service statistics for the test area will become the basis upon which specific operational strategies will be developed. The task force will prepare a preliminary patrol design. Panels will be reconstituted from the individuals who had participated in the preceding sessions. Again, police and community residents will be mixed and the sessions will be chaired by the moderator. They will review the proposed patrol strategy. Aspects of the program will be revised or eliminated in accord with the panel responses. Subsequently, a detailed program evaluation design will be prepared.

Through this joint planning program implementation model, it is anticipated that the task force will have involved 50 police officers and 100 test area residents in the development of the new patrol strategy. If these collaborative efforts have been successful, the program should be embraced by the field personnel, and a base of community support should help pave the way for full-scale implementation. If community collaboration in planning proves viable, further community involvement will be sought for the training of the Interactive Patrol Unit personnel. In addition, the interactive planning process will hopefully sensitize the community to the complexity of the police function.

To date, consultant assistance to the task force has been provided by Bart Reiner with MRI assistance on evaluation issues. Reiner and Don Heiman, the MRI representative, have established close working relationships with task force personnel. Heiman has provided valuable structure to task force planning. Intensive short term technical assistance is required during the first phase of the project. MRI will, therefore, assume the role of implementation consultant in accord with the proposed budget.

SUMMARY

The Central Patrol Task Force proposes to undertake a proactive planning process that will actively involve neighborhood residents and a significant number of division personnel in patrol strategy development. The process, if successful, will generate a receptive environment for the introduction of a neighborhood-oriented policing program as well as a documented process for developing and introducing similar programs in other areas.

Central patrol division: interactive patrol (Nov. 15, 1972–June 30, 1973)

Personnel, Secretary:	
7 months at $600	$4,200
Fringe benefits 15 percent	630
Total personnel	4,830
Contract services, Midwest Research Institute (see attached breakdown)	25,600
Consultants:	
Program design consultants (Bart Reiner) 10 days at $175	1,750
Moderator (40 days at $100)	4,000
Consultant total	5,750
Travel, consultant travel and related expenses (10 days at $120)	1,200
Space, office space (7 months at $400)	2,800
Supplies	750
Equipment, office furniture	1,500
Other:	
Telephone	700
Reproduction	450
Graphics	200
Publications	220
Petty Cash	1,000
Total other	2,570
Project total	45,000

TABLE I.—PROPOSED CENTRAL TASK FORCE MRI BUDGET

Expense category	Explanation	Survey budget	Program budget	Total
Labor and overhead:				
Project coordinator	1,134 hr	$2,256.80	$13,738.24	$15,995.04
Research assistant	880 hr		8,964.50	8,964.50
Survey assistants	232 hr	2,363.36		2,363.36
Total direct labor	2,246 hr	4,620.16	22,702.74	27,322.90
Printing expenses:				
Secondary data report	50 pages; 25 copies		100.00	100.00
Primary data report	do		100.00	100.00
Preprogram report	do		100.00	100.00
Final program report	do		100.00	100.00
Total printing costs			400.00	400.00
Miscellaneous:				
Supplies		(1)	(1)	(1)
Xeroxing	10 cents per page	(1)	[2] 100.00	[2] 100.00
Graphics	$3 per hour	(1)	(1)	(1)
Travel	At cost		10,050.00	1,050.00
Computer time	$1,000 per hour	[2] 2,000.00		[2] 2,000.00
Weighted fee	5.8 percent	267.97	1,348.66	1,348.66
Contract surveyors	Estimate	[2] 3,000.00		[2] 3,000.00
Grant total		9,888.13	25,601.40	35,489.53

[1] Billed separately.
[2] Weighted fee percentage does not apply.

Kansas City, Missouri Police Department Sky Alert

SKY ALERT (Aerial Law Enforcement Response Team) is one of Kansas City's newest crime fighting efforts. SKY ALERT utilizes six Hughes Model 300 helicopters. Each helicopter is equipped with high intensity flood lights that generate up to 1.2 million candle power in a beam that will light up the darkest

street or alley. The helicopters are aloft, weather permitting, throughout the day or night, seven days a week. Kansas City is a pioneer in the night use of helicopters for routine patrol.

SKY ALERT is a versatile support tool to ground officers. Yearly helicopter officers respond to thousands of incidents, assists in arrests, detect and report fires, locate occupied stolen automobiles (resulting often in arrests) and make water rescues. The helicopter is unparalleled as an observation platform; rooftops, industrial grounds, railyards and parks are exposed to aerial scrutiny (34,805 buildings searched in 1972 alone).

SKY ALERT provides district patrol an extra dimension and increased effectiveness (5,550 flight hours of crime prevention patrol during 1972). Helicopter officers cover far more territory, observe activity invisible to ground units and easily overtake fleeing vehicles (74 times in one year). As a ground/aerial team, helicopters direct ground units to the exact location of activity.

SKY ALERT increases officer security. With rapid response, the presence of a police helicopter overhead acts as a distinct and positive deterrent to the possible assault of ground officers by suspects (helicopters assisted in 1,738 car checks and 539 pedestrian checks during 1972). As a support vehicle, the helicopter has greatly increased the dimension of effective police work.

The majority of funds for the SKY ALERT team of six helicopters and the newly erected 71000 square foot heliport have been provided for by Federal grants. The heliport stands on a five acre site of Municipally owned land in eastern Kansas City. It provides hanger space for the six ships, office space for flight crews, an air-conditioned workshop for the air craft mechanics, as well as a parts storage area and a large locker room. The heliport also provides a unique venture for law enforcement agencies, as many agencies are required to utilize existing airport facilities

SKY ALERT flight plan preparation and subsequent evaluation is conducted by Kansas City's Crime and Traffic Analysis Unit. The most recent evaluation was prepared January 25, 1973, and provides the following comments regarding SKY ALERT effectiveness:

First, directed helicopter patrol, i.e., helicopter patrol which utilizes smaller patrol areas (D.P.A.'s) and specific time frames is more effective than random patrol. Further, helicopter patrol, when properly directed, is a valuable tool which may result in significant decreases in certain types of serious crime.

The following crimes were studied during the evaluation period and are believed to be the most preventable with the aid of helicopter patrol: Residence Burglary, Non-Residence Burglary: Auto Theft, Armed Robbery, Strong-Arm Robbery; and Larceny (Purse Snatch). Decreases were noted in all but two categories of the selected crimes. The two exceptions were auto theft and larceny (purse snatch).

An important point to note is that while the *total* known (or reported) crimes in Kansas City *decreased 10.6%* during the last six months of 1972 as compared to the same period in 1971, the known crimes in the *D.P.A.'s decreased 26.2%*.

Again, it is important to stress the fact that much is to be learned about helicopter patrol and its effects on crime. It is felt with more time devoted to this study in the future, great strides can be made.

Kansas City, Missouri Police Department, Alert II

Law and order in Kansas City is maintained by the Kansas City, Missouri Police Department, the twenty-second largest police force in the United States. Comprised of approximately 1,700 personnel, the force yearly processes 110,000 arrests, investigates 40,000 reported offenses, responds to and records 26,000 vehicle accidents and answers 405,000 calls for services. The Communications Center, operating on seven radio frequencies, originates or responds to eleven million radio transmissions per year, an average of one transmission every 2.7 seconds.

The urgent need to process information with precision and rapidity influenced the selection of the computer telecommunications system. The computer system commenced operations in 1968 to meet the information needs of the officer in the field.

The system was given the acronym "ALERT" (Automated Law Enforcement Response Team). The computer functions as an invaluable aid to the officer in the field, and computer technicians adjust their work load to the needs of the

police operations system. The computer system itself is said to be a "Real Time" system because the information files reflect "real life" or constant, up-to-date status of wanted persons, stolen vehicles and abstract criminal histories.

ALERT serves all regional area law enforcement agencies and those civil agencies involved in the criminal justice process. A total of forty-seven agencies are interfaced with ALERT including: Twenty-six police departments, six county sheriffs, the Kansas and Missouri Highway Patrols, the Kansas City Municipal Court, the Jackson County Prosecuting Attorney, the Jackson County Juvenile Court, the Kansas City Parole Office, the Kansas City Prosecutor's Office, the FBI, the Federal Postal Inspector, the Law Enforcement branch of Internal Revenue and the Missouri State Patrol Office. At present, 115 data communications terminals are interfaced into the police computer system.

The police computer is interfaced with MULES (Missouri Uniform Law Enforcement System) and with FBI Computer in Washington. These interface systems provide law enforcement agencies in the Kansas City region with relay services to the state and national files concerning all nationally known felonies of wanted persons, stolen vehicles, stolen property, stocks and bonds. An average of 5,000 communications are exchanged between the Kansas City police computer and the FBI computer every twenty-four hours.

Utilizing the Law Enforcement Manpower Resource Allocation System (LEMRAS), the department is improving the effectiveness of current police resources by concentrating the available forces throughout the 316 square miles of Kansas City. The LEMRAS System has shown that the greatest need for responding to "call for services" exists between 11:00 p.m. Friday night and 1:00 a.m. Saturday morning. Therefore, approximately 65 police units are totally committed to responding to "call for services" with an average of twenty-four minutes spent on each call. Studies of calls for services predicted by the LEMRAS System compared with actual occurrences indicate a 95 percent accuracy rate by the computerized system.

Kansas City implemented a computerized Police Planning System with the acronym of "COPPS". The system is capable of projecting resource requirements for up to 10 years in advance. The system allows the department to take a "indepth view" of future resource requirements measured against projected new or revised programs. COPPS is modern day management technique to meet expected change, produce desired change and to prevent undesired change.

In January, 1972, the Computer System was renamed ALERT II to denote the involvement of the system into criminal justice operations. We have identified the following 48 specific areas where the computer is used in effective support of the criminal justice process:

1. Consolidation of all active area criminal warrants/wants into one regional criminal activity data bank with the capability of retrieving all facets of a case history.

2. Cross indexing the criminal data bank for access by: (a) subject's name, (b) alias, (c) moniker or nickname, (d) vehicle license number, (e) vehicle identification number (or arrest/criminal identification number).

3. Response within ten seconds of information needs of the officer in the field.

4. Provision of information to district officers and intelligence officers on movements of organized crime subjects.

5. Provision of follow-up information to the local parole officers on persons interviewed by the district officers and identified by the computer to be in parole status.

6. Production of reports which reflect the identity of selected suspects by fingerprint classification.

7. Provision of statistical data of high vehicle accident areas so that commanders may realign patrol forces to increase enforcement in high accident areas.

8. Preparation of a list of wanted persons by residence address within beat for the district officer.

9. Provision of automated abstract criminal records for the district officer's informational use and investigative purposes.

10. Provision of summaries of investigator's work by case, by category of work within cases, etc.

11. Development and provision of current payroll budgetary information and projected cost of specific projects to the police administrator.

12. Provision of the capability to search computerized files by "method of operation" or "method of commission of a crime incident" in an effort to identify likely suspects based on previously established criminal patterns.

13. The simulation of a new police programs and accurate determination of the cost factors and resource requirements far as ten years in advance through a Computerized Police Planning System (COPPS).

14. Daily recording of crime indicies and reporting of these indicies to each Patrol Division Commander.

15. Time reporting and analysis of specialists' work levels in the Crime Laboratory Center.

16. Prediction with 95 percent accuracy of police "call for services" workload within each of the 620 "police reporting areas."

17. Provision of computerized access to the civil index of all accidents, traffic/parking tickets and offenses.

18. Calculation of uniform crime statistics for transmission to the FBI.

19. Computation of statistical information related to the National Safety Council Accident System.

20. On-line access to vehicle license registration and drivers license history for the state of Missouri.

21. Transmission of messages to ALERT, MULES, and national LETS message switching systems.

22. Access to national wanted files maintained in the National Crime Information Center at FBI headquarters.

23. Retrieval of FBI rap sheet summaries from the FBI computer through the ALERT System.

24. Provision of a daily crime summary report and daily clearance summary report which allows patrol officers the opportunity to evaluate crime trends and police effectiveness on a daily basis.

25. On-line data entry of all offense, arrests, accident traffic and dispatch statistics as well as on-line payroll entry, handling, punching and tabulating of statistics.

26. Provision for storing of criminal identification number, FBI number and fingerprint classification as additional identifiers and capability to search based on fingerprint classification codes.

27. Traffic accident information which allows for designation of locations which need selective enforcement and the evaluation of selective enforcement patrol operations.

28. Calculation of crime information which allows for analysis of related problems within the city.

29. Production of robbery evaluation information which is utilized to prepare monthly reports for the Board of Police Commissioners.

30. Provision of answers to specialized requests for historical data related to specific crimes and offenses by location.

31. On-line entry of cases filed by the prosecutor in Magistrate and Circuit Court.

32. Preparation and printing of Magistrate Court dockets and witness notification cards.

33. On-line retrieval of prosecutor information by name, prosecutor's case number, Magistrate Court case number, and Circuit Court case number.

34. Printing a report of dispositions made by the county prosecutor.

35. Grading analysis of the Sergeants Examination.

36. Preparation of a court journal for Municipal Court. (This allows for the orderly handling of traffic cases docketed in the Municipal Court).

37. Automatic preparation of warrants for arrest of citizens when they fail to appear in court as a result of on-line entry of cases when failure to report in court is involved.

38. On-line recording of dispositions from cases tried in the Municipal Court.

39. Production of a daily report for the Alcoholic Safety Action Program (ASAP) cases in Municipal Court, the prosecutor's office and the probation department on cases involving drunk driving charges.

40. Production of a daily report on pre-sentence information usually given to the judges. (The report reflects information from police, probation, and Missouri Director of Revenue files.)

41. Production of a listing produced for Juvenile Court of all referrals from the Kansas City Missouri Police Department Juvenile Unit.

42. Printing of arraignments for Juvenile Court.

43. Preparation of a court docket for Juvenile Court.

44. Production of employee paychecks, payroll records to the city treasurer and withholding tax information to the State and Federal revenue offices.

45. Case report number accountability for the Kansas City Missouri Police Department.

46. Traffic ticket accountability to the police department and to the Municipal Court of Kansas City, Missouri.

47. Printing and dissemination of a report in license sequence of wanted vehicles for those police agencies who do not have access to computer terminals.

48. Production of "reminder notices to citizens on parking violations" after ten days of time have elapsed.

Invasion of privacy is a phrase often heard when people debate the issue of computers. It is a matter of grave concern. One that law enforcement is keenly aware of and which professional administrators have vowed would not be violated in the implementation of this new technology. All matters programmed into the computer must be fully documented and all questions of legitimacy are resolved in favor of the individual, prior to entry.

Responsiveness to the public it serves has been the goal of police agencies and computer technology increases that possibility to a degree that challenges the imagination. Rapid response to calls for service is facilitated by resource allocation systems utilizing the vast capabilities of the computer for calculating variables in the environment. Service and responsiveness were the primary considerations in the design of ALERT, and it is to this end the system is dedicated.

KANSAS CITY, MISSOURI, POLICE DEPARTMENT, ALERT III

During the first six months of 1972, the department conducted extensive field tests of two brands of mobile field terminals. In an effort to extend the capabilities of the ALERT II computer system to the field officers, ALERT III is being designed. ALERT III consists of mobile computer terminals to be placed in each of the department's field units, providing each officer direct on-line entry and retrieval capabilities.

Following are the projected uses of the ALERT III mobile terminals as set forth in a funding proposal:

I. Direct-Entry Reporting
   - A. Offense Reports
   - B. Field Interrogation
   - C. Disturbance History Data
   - D. Activity Reporting

II. Criminal Subject Information
   - A. Criminal Record
   - B. Suspect Generation System
     1. Description File
     2. M. O. File
     3. Moniker File
     4. Field Interrogation System
        - *a.* Name
        - *b.* Description
        - *c.* Vehicle
   - C. Informant Contacts
   - D. Street-Crime Intelligence
     1. Suspect Tracking
     2. Associate Tracking
   - E. 10–31 Backgrounds

III. Fluid Pre-Positioning System

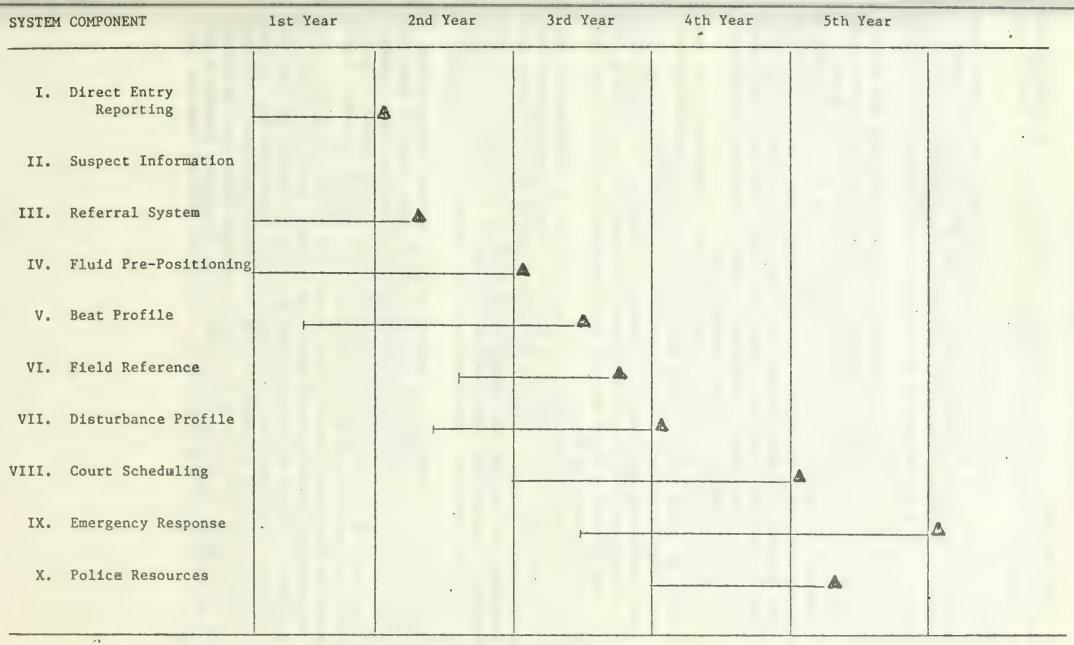
IV. Referral System
   - A. Problem/Resource Query
   - B. Referral Qualifications (Case Type, Income, etc.)
   - C. Contact Persons
   - D. Service Backlog

V. Neighborhood Profile/Activity Planning Model
   - A. Cultural Demographic Information
   - B. Address Listings
   - C. Community Resources
     1. Neighborhood Organizations
     2. Public Services (Schools, Welfare, etc.)
     3. Referral Agencies
     4. Community Leaders/Contacts

V. Neighborhood Profile/Activity Planning Model—Continued
  D. Police Activity
    1. Crime Patterns
    2. Called for Service Patterns
    3. Field Interrogation History
    4. Police Hazards/Special Security
    5. Special Police & Security Systems
    6. Police Characters/Associates
    7. Informant Contacts
    8. Area Objectives
  E. Floor Plan Layouts
VI. Field Reference System
  A. Legal Reference
  B. Policy Reference
  C. Procedure Reference
  D. Case Status
VII. Disturbance Intervention Profile
  A. Location Histories
    1. Prior Disturbances/Police Actions
    2. Probable Disturbance Cause
    3. Probable Participants
  B. Disturbance Prone Individuals
    1. Physical Description
    2. Social History Profile
    3. "Trigger" Words/Subject
    4. Prior Police Actions (Arrest/Referrals)
VIII. Court Scheduling System
  A. Docketing
  B. Continuances/Status Review
  C. Notification
IX. Emergency Response System
  A. Operation Barrier Assignments (By Elapsed Time)
  B. Special Operations Deployment Configurations
  C. Emergency Route Selection
    1. In-Routes (Crimes-in-Progress)
    2. Transport Routes
      a. Best Routes (Time of Day, Accidents)
      b. Dangerous Intersections
  D. Traffic Light Control
X. Police Resources System
  A. Equipment Location
  B. Vehicle Maintenance System
  C. Skills Inventory

SYSTEM SPINOFFS

I. Program Development.
  A. Crime Specific Planning
  B. Problem Specific Planning
  C. Area Planning
  D. Personnel Evaluation—Training and Development—Personnel Resource Identification
II. Interagency Transaction Data
  A. Criminal Justice System
  B. Governmental Services
  C. Private Agencies
III. Computerized Criminal Investigation
IV. Evaluation
  A. Reporting Data
  B. Survey Research Data
  C. Observation Data
V. Public Information/Education
VI. Resource Allocation
VII. Planning-Programming-Budgeting-System



ALERT III: DEVELOPMENT SCHEDULE

[Reprinted from Electronics, Dec. 6, 1971]

KANSAS CITY TO TEST DIGITAL PATROL-CAR LINKS—NEW IBM TELEPRINTER TO BE MATCHED AGAINST MOBILE TERMINAL IN COMPETITION FOR POLICE DATA CONTRACT

Looking to link its patrol cars with the giant National Crime Information Center (see p. 108), the Kansas City, Mo., police department will match a new and unannounced IBM teleprinter unit against a new digital mobile terminal built by tiny Kustom Electronics Inc., Chanute, Kansas, in tests beginning early next year. IBM will be paying its own way, while Kansas City is paying Kustom $90,000 for its system.

Waiting in the wings with its commercially available Digicomp 300 will be Sylvania Sociosystems division of Mountain View, Calif.—the third choice, principally because of the smallness of the Sylvania 32-character CRT display.

The size of the test hardware award to Kustom—a big one for law enforcement electronics—indicates not only that Kansas City is serious about becoming a leader in exploiting technology, but also that Kustom has a clear lead in the competition. Kansas City police officials won't confirm, as competitors will, that IBM makes the terminal slated for January 1972 trial. IBM won't talk either, citing the Justice Department's prohibition against discussing unannounced products under the company's antitrust consent decree.

Nevertheless, IBM's participation is a subject of open discussion in the marketplace and indicates the giant computer maker is seriously considering entry into the field of mobile terminals for law enforcement agencies.

No voice. "With capabilities of the device we're seeking, we'll probably stop using voice communications, except in emergency situations," a Kansas City police official explains. The department expects eventually to pay about $3,000 apiece for some 250 mobile units, and will have decided by July 1972 which company can do what needs to be done.

Kustom's synchronous phase-shift keyed system uses a 256-character Burroughs plasma display [*Electronics*, July 5, p. 36]. That avoids the potentially hazardous high-voltage and implosion problems plaguing CRT displays, says Charles E. Gillam, manager of the company's data communications division.

The purchase price includes six mobile terminals, and the computer interface and associated equipment that allows the officer in the car to access his data base directly; up to 200 additional mobile terminals can be added to the package for $3,200 per unit.

The system moves messages at 1,200-plus bits per second on top of the rf carrier, says Gillam, 224 characters at a time in a burst mode of less than one second. It also has a carrier sense that avoids breaking into voice transmissions, using a random retransmission technique. For security reasons, to avoid having hard copy in an unoccupied car, the system queues messages in the computer, to be retrieved when the patrolman returns, Gillam says.

Motorola, too. Meanwhile, Motorola Communications division in Schaumburg, Ill., is demonstrating its first system tied to the national data base. Patrolmen of Allen County, Ind., in 10 cars equipped with the company's VP–100 teleprinter unit speak their inquiries to the county's radio dispatcher, who punches the request into the IBM 360 regional data base, which can access state and Federal crime information centers. The system responds directly to the vehicle initiating the request, bypassing the dispatcher, via the central encoder of the printer system and a network operating on a frequency different from the voice system's.

SPECIAL OPERATIONS DIVISION TASK FORCE

Apprehension Oriented Patrol Deployment Project

Major Manfred Guenther
Captain William Ponessa
Ptl. Darrel Stephens
Ptl. Dan Dawson
Ptl. James Connor
Mr. Fred Newton
Mrs. Jan Nash
Mr. Ted Bogdanovich

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ILLUSTRATIONS

INTRODUCTION

The Special Operations Division Task Force began in the Fall of 1971. Each squad of the Tactical Unit was involved by researching areas that they felt could help in reducing crime. This research resulted in the Apprehension Oriented Patrol Deployment Project. The project has three parts: the Criminal Information Center, Location Oriented Patrol, and Perpetrator Oriented Patrol.

This report will give the reader a description of each part of the project. A section of the report is devoted to the evaluation of the project and it will explain what is being evaluated.

CRIMINAL INFORMATION CENTER

The purpose of the Criminal Information Center is to collect, correlate, analyze, and disseminate information relative to crime and criminal activities in the Kansas City area. The Center was designed for use by the entire department and other agencies in the metropolitan area.

The Center began by identifying the most active Burglary and Robbery subjects. These subjects were identified by each of the three patrol divisions, the Investigations Division, and the Tactical Unit. A notebook was published that contained mug shots and the most current information available on the subjects. These notebooks were distributed within our department and other law enforcement agencies in the area. The notebook introduction requested that officers contact the center when they stopped, observed, or arrested any of the subjects in the book. The introduction also requested that officers forward any information that they had in regards to criminal subjects or criminal activities.

The C.I.C. also searched for other sources of current information. We started receiving copies of the Field Interview Card and filed them in such a manner that the information on the cards could be retrieved. While this system worked fairly well and the information was available on a twenty-four hour basis, it still was somewhat cumbersome. The Task Force worked with

the Computer Systems Division and the Administrative Analysis Unit and through collective efforts, a computerized Field Interview Reporting System has been designed. This system is not on line as yet, but it is expected that it will be operational within the next two weeks.

The Center maintains other files that contain information that we feel would be of help to field and investigative officers.

The C.I.C. is attempting to gather and make use of the criminal intelligence information that is available in the minds and notebooks of officers in the entire metropolitan area. If this source can be successfully tapped, the usefulness of the C.I.C. will be unlimited.

Graphs and tables of the inputs and requests handled by the Criminal Information Center are attached.

LOCATION ORIENTED PATROL

Location Oriented Patrol is defined as the assignment of areas, as determined by crime information analysis, with a view toward maximizing apprehensions.

The Tactical Unit squads receive their assignments from the Crime Analyst, who is a part of the Task Force Staff. The analyst reviews burglary and robbery reports daily. Assignments are made in areas that show some type of pattern in the offenses committed or where a large number of offenses are committed. The analyst prepares an assignment folder that contains the offenses, a breakdown on how and when the crimes are occurring, and the type of property that the victim is losing. The analyst also reviews the C.I.C. files and includes any suspect information available in the assignment folder.

The Location Patrol model has been hampered somewhat due to the unavailability of the computer. We had planned to use the computer a great deal more for developing areas to work and suspects.

An alarm system has also been developed for use by the Location squads. The system is designed to be monitored by mobile units and it is portable so it can be moved with the crime trends. The alarm system has encountered numerous problems. The first set of alarms have been tested several times and have

not met with our standards. We are continuing to work with Burstein-Applebee in an effort to eliminate the problems in the system so they can be deployed. It is difficult to say when the alarms will be ready to go in the field. We have more tests scheduled and we should be able to determine when they can be deployed based on these tests.

PERPETRATOR ORIENTED PATROL

Perpetrator Oriented Patrol is defined as the assignment of officers to high probability criminal suspects with a view toward apprehending such suspects in the commission of a crime or by gathering enough information about these subjects to make a case on crimes that they have committed in the past. This involves spot surveillances on known criminal subjects and the development of informants that have knowledge of the subjects and their activities.

This has been our most difficult patrol strategy to implement. There have been several problems that were not anticipated when establishing the model. Changes have been made from time to time in an effort to improve the strategy. One of the most significant changes made was freezing two squads on the model. The original plan called for rotating the squads on the strategy every two months. After six months of the experiment, the decision was made to freeze the squads on this assignment for the remaining six months. This was done in an effort to increase productivity of the squads. It usually took a squad two or three weeks to become accustomed to this type of patrol, which was a waste of time. We also lost productive time when a squad was nearing the end of their perpetrator assignment. It was determined during the first six months of the project that some

officers did not particularly care for working the perpetrator model.

This particular strategy is also the most difficult to evaluate. The squads are able to gather intelligence information that has been used by other elements of the department. It is difficult to measure the significance of this information unless it directly leads to an arrest.

EVALUATION

The following pages contain the hypotheses that are being tested in the Apprehension Oriented Patrol Deployment Project. The project has experienced numerous difficulties with the evaluation during the six months. A full time evaluator joined the staff in February to work exclusively with the project. This has solved most of the evaluation problems. A six month evaluation report is being prepared. There will be a delay in this report because most of the data will come from the computer. The project programmer has not had the opportunity to retrieve the information because of the Field Interview System.

Hypothesis #1-INTERCEPTION RATE:

A) Interception rates for the crimes of R & B will be higher for POP and LOP than for other div. _____

B) Interception rate for POP will be higher than LOP. _____

C) Both POP and LOP will result in increased interception rates compared to earlier time periods for the Tact Unit and these increases will be greater than those for other divisions. _____

D) Increase in interception rate will be greater for POP than LOP. _____

Information:

1) R & B arrests at or near the scene of the crime

Statistic:

1) Analysis of variance

Source:

TAC	Others
LOP	PROACTIVE PATROL
POP	REACTIVE PATROL
T.U. (pre) 1970-1	CONTROL PATROL
1971-2	DIRECTED PATROL
1972-3	CENTRAL PATROL DIV.

Statistics:

1) Analysis of variance

Hypothesis #2-CLEARANCE RATE:

1) Clearance rate will be higher for POP and LOP than for other divisions. _____

2) Clearance rate will be higher for POP than LOP. _____

3) Both POP and LOP will result in increased clearance rates compared to earlier time periods for the T.U. and these increases will be greater than those for other divisions. _____

4) The increase in clearance rate will be greater for POP than for LOP. _____

Information:

Average number of crimes that are attributed to the suspect per arrest made (other than crime for which S is arrested).

Source:

TAC		OTHERS
LOP		PROACTIVE PATROL
POP		REACTIVE PATROL
T.U. (pre)	1970-1	CONTROL PATROL
	1971-2	DIRECTED PATROL
	1972-3	CENTRAL PATROL DIV.

Statistics:

1) Analysis of variance

Hypothesis #3-VIOLENCE:

1) The actual and potential violence involved in the crimes for which R & B arrests are made by POP and LOP will be higher than that involved in the crimes for which arrests are made by other divisions. _____

2) Violence level of POP arrested crimes will be higher than that of LOP arrested crimes. _____

3) Violence level of POP and LOP arrested crimes will increase as compared to earlier time periods for the T.U. and these increases will be greater than for those of other divisions. _____

4) Increase in violence level will be higher for POP than for LOP. _____

Information:

1) Proportion of crimes in which a gun is used.
2) Proportion of crimes in which a weapon other than a gun is used.
3) Proportion of crimes in which physical force is used.

Source:

TAC		OTHERS
LOP		PROACTIVE PATROL
POP		REACTIVE PATROL
T.U. (pre)	1970-1	CONTROL PATROL
	1971-2	DIRECTED PATROL
	1972-3	CENTRAL PATROL DIV.

Statistics:

Hypothesis #4-PRIOR ARRESTS:

1) Average number of prior arrests for R & B will be higher for those arrested by POP and LOP than by other divisions. _____

2) Average number of prior arrests will be higher for those arrested by POP than by LOP. _____

3) Average number of prior arrests of those arrested by POP and LOP will increase compared to earlier time periods and these increases will be greater than those for other divisions. _____

4) Increase in average number of prior arrests will be greater for POP arrested suspects than for LOP arrested suspects. _____

Information:

1) Average number of prior arrests for R & B gathered from KCPD files.

Source:

TAC		OTHERS
LOP		PROACTIVE PATROL
POP		REACTIVE PATROL
T.U. (pre)	1970-1	CONTROL PATROL
	1971-2	DIRECTED PATROL
	1972-3	CENTRAL PATROL DIV.

Statistics:

Hypothesis #5-COMPLAINTS

1) The POP and LOP stratagies will not produce an increase in citizen complaints against police officers compared to earlier time periods.

Information:

1) Average number of citizen complaints received by the personnel assigned to POP and LOP will be obtained from department sources. These will be compared to comparable data for the prior two years to ascertain the difference created by the institution of the two new programs.

Source:

1) TAC: LOP
POP

2) TAC: prior two years

Statistics:

Design #2-Perpetrator Oriented Patrol

Hypothesis #1-

Each form of surveillance will have an effect on the possibility of arrests but the effect of P.O.P. surveillance will be greater than that of patrol division observations.

Information:

Number of arrests of C.I.C. Subjects

Statistics:

Analysis of variance (on percentages)

Design #3

Hypothesis #1-

A lower average number of robberies and burglaries will be reported in the L.O.P. Beats than in the Control Beats.

Hypothesis #2-

As compared to 1970 and 1971, a greater decrease in the average number of robberies and burglaries reported will occur in the L.O.P. Beats than in the Control Beats.

Information:

Average number of robberies and burglaries in control and experimental areas.

Statistics:

Analysis of variance

Design #4-C.I.C.

Hypothesis #1-

The existence of the C.I.C. will result in an increase in arrests per crime reported.

Information:

1970-number of crimes for which an arrest is made.
1971-number of crimes for which an arrest is made.
1972-number of crimes for which an arrest is made.

Hypothesis #2-

The existence of the C.I.C. will result in an increase in "good" arrests.

Evaluation Procedure:

Good Arrest-

1) cases prosecuted/cases presented for prosecution.
2) convictions/cases prosecuted.

Supplemant to C.I.C. Evaluation:

1) Increase in usage over time measured by:

A) Number of inputs per month.
B) Number of requests per month.

2) Questionaire to those who make requests:

A) Was information helpful?
B) Would you use it again?

TOTAL NUMBER OF ARRESTS MADE OF C.I.C. SUBJECTS

August 72 thru January 73

	A	%	B	%	C	%	CONTROL	%	TOTAL	%
Tac Unit	6	(29)	10	(50)	5	(17)	6	(46)	27	(33)
Patrol Unit	9	(42)	2	(10)	15	(52)	1	(8)	27	(33)
Detective Unit	0	(0)	2	(10)	4	(14)	3	(23)	9	(10)
Others	6	(29)	6	(30)	5	(17)	3	(23)	20	(24)
Total	21		20		29		13		83	

Ss IN PATROL NOTEBOOK

SUBJECTS IN TAC NOTEBOOK	YES	NO
YES	A. 38.5	B. 29.6
NO	C. 55.5	D. 14.8

Percentage of subjects arrested one or more times.

A. Subjects in Patrol and Tac's notebooks.

B. Subjects in Tac's notebook only.

C. Subjects in Patrol notebook only.

D. Subjects in Neither set of notebooks.

CRIMINAL INFORMATION CENTER INPUTS AND REQUESTS

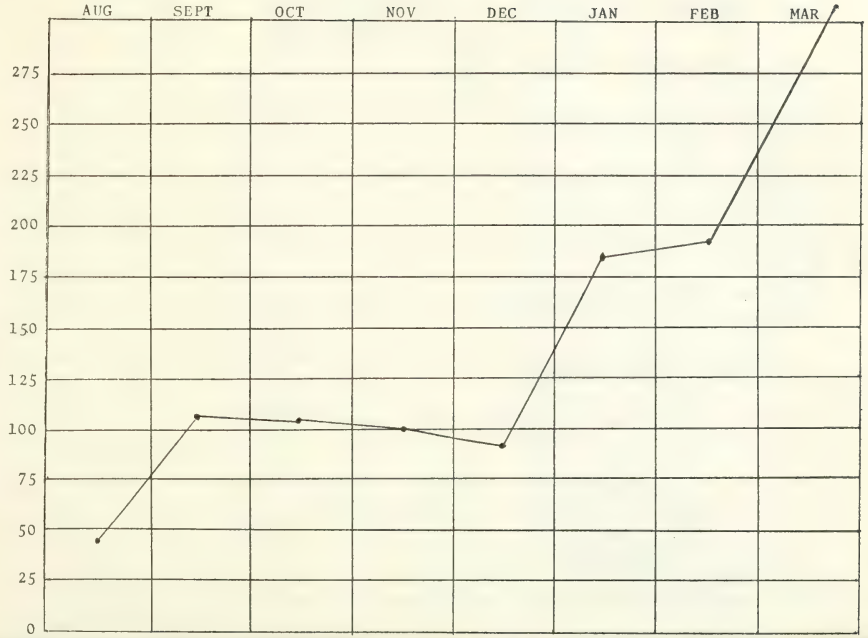
8 Month Period

August 1972 - March 1973

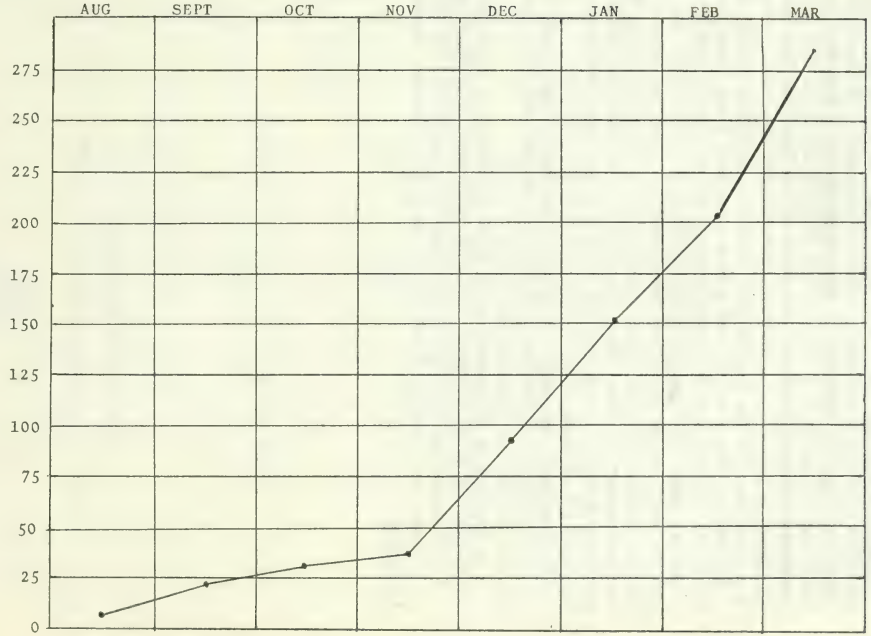
INPUTS:	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.
N.E.P.D.	11	23	16	13	13	9	26	128
S.P.D.	8	17	12	26	17	18	8	31
C.P.D.	12	11	6	9	7	9	31	38
Investigations	3	5	4	4	5	9	21	17
Tactical Unit	3	18	18	23	15	80	40	22
Traffic Division	0	1	0	3	0	0	1	1
L.E.I.U.	0	1	2	5	5	1	0	1
Reserve Unit	0	1	1	0	0	0	0	0
Citizens	0	7	20	3	0	1	1	3
A.T.F.	0	2	0	1	1	1	0	1
F.B.I.	0	2	0	3	0	0	0	0
Jackson Co. Sheriff	0	3	2	2	0	2	12	10
Johnson Co. Sheriff	0	1	1	0	3	24	20	22
Independence P.D.	0	9	7	0	0	0	6	1
B.N.D.D.	0	1	0	0	0	0	0	0
Pinpoint Patrol	0	2	0	0	0	0	0	0
Gladstone P.D.	0	1	0	0	2	0	0	0
Warrant Service	0	2	1	2	0	1	0	2
Dispatchers	0	1	0	1	2	0	2	0
Fairway P.D.	0	0	1	0	2	0	0	0
Lees Summit P.D.	0	0	1	0	2	0	1	0
Riverside P.D.	0	0	2	0	0	0	0	0
Leawood P.D.	0	0	0	1	0	0	0	1
Other Agencies & Units	5	0	1	5	16	30	23	34
TOTAL	46	108	105	100	88	185	192	312

REQUESTS:	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.
N.E.P.D.	3	1	5	6	11	12	26	78
S.P.D.	1	2	1	8	7	12	22	14
C.P.D.	3	3	5	4	5	14	28	58
Tactical Unit	2	6	2	3	31	68	76	51
Investigations	0	4	7	0	6	10	16	23
L.E.I.U.	0	1	2	3	6	5	1	7
Independence P.D.	0	3	1	2	0	4	3	1
Gladstone P.D.	0	2	0	0	0	0	1	0
Johnson Co. Sheriff	0	2	0	2	3	1	1	2
A.T.F.	0	0	1	1	3	0	1	0
Clay Co. Sheriff	0	0	1	1	0	0	0	0
B.N.D.D.	0	0	1	2	0	0	0	0
Other Agencies & Units	2	0	4	9	19	25	22	49
TOTAL	11	24	30	41	91	151	207	283

CRIMINAL INFORMATION CENTER INPUTS
8 Month Period
August 1972 - March 1973



CRIMINAL INFORMATION CENTER REQUESTS
8 Month Period
August 1972 - March 1973



Chairman PEPPER. We have been made aware of the increasing keenness of the police departments of this country. There was a time when some people referred to the policeman as a flat foot, and the word cop meant just a fellow that walked the beat. We have had presented splendid evidence this week of the keen intelligence being employed in many of the police departments of this country today. It is a good sign for the people who want to curb crime in this country.

My father was a sheriff and police chief and I am proud of what the police officers and law enforcement officers mean to this country.

As my able colleague indicated earlier, it is our hope we will be able to send copies of all of these hearings that we have on street crime, together with our recommendations, to every police department in the country, to every sheriff's office in the country, and to every attorney general in the country, in the hopes they will be of some value to all of those various law enforcement officials.

We thank all the people who appeared before the committee this week and hope—and believe—the contributions they have made will benefit us all in the fight against crime.

The hearing is adjourned until 10 a.m., Monday, April 16, 1973, when we will meet in room 311, Cannon House Office Building.

[Whereupon, at 12:25 p.m., the committee adjourned, to reconvene at 10 a.m., on Monday, April 16, in room 311, Cannon House Office Building.]

○

STREET CRIME IN AMERICA
(CORRECTIONS APPROACHES)

HEARINGS

BEFORE THE

SELECT COMMITTEE ON CRIME

HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

FIRST SESSION

APRIL 9–13, 16–19; MAY 1–3, 8, 9, 1973
WASHINGTON, D.C.

Part 2 of 3 Parts

Part 1.—THE POLICE RESPONSE
Part 3.—PROSECUTION AND COURT INNOVATIONS

Printed for the use of the Select Committee on Crime
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STREET CRIME IN AMERICA

(Corrections Approaches)

MONDAY, APRIL 16, 1973

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON CRIME,
Washington, D.C.

The committee met, pursuant to notice at 10:20 a.m., in room 311, Cannon House Office Building, the Honorable Claude Pepper [chairman] presiding.

Present: Representatives Pepper, Mann, Wiggins, Winn, and Sandman.

Also present: Chris Nolde, chief counsel; Richard Lynch, deputy chief counsel; James McDonald, assistant counsel; and Leroy Bedell, hearings officer.

Chairman PEPPER. The committee will come to order, please.

Today we are beginning 4 days of hearings on "Crime in the Streets—Reduction of Juvenile and Adult Recidivism Through the Use of New Correctional Approaches."

The history of correctional success in this country has been a dismal one. The President of the United States has recently characterized prisons as "colleges for crime." Certainly this is doubly true when we consider the history of juvenile correctional institutions.

Some of you may recall that we had some hearings on juvenile delinquency and correctional institutions for juveniles a year or two ago. We had, among others, Mr. James, who wrote a series of articles for the Christian Science Monitor. Later on this week, we will view a film prepared by Mr. James. In the course of his testimony, he stated that he wondered if it would not have been better for these young people who were sent to these State institutions for bad conduct not to have been incarcerated at all.

In other words, the effect of their being incarcerated in these institutions was more deleterious than it was advantageous.

These hearings will attempt to point out to the Congress and the country that there are correctional approaches which do offer promise and hope. We will have some outstanding and most imaginative authors of youth programs in the country appearing today and throughout this week.

We all know that a very substantial proportion of serious and violent crimes is committed by juveniles and young adults. We all know that without treatment, without correction, and without rehabilitation, these juveniles progress through careers of increasingly serious crime.

For the next 4 days we will be hearing from expert witnesses who will come to Washington, D.C., to describe programs which are working and which are demonstrating that juvenile recidivism can be decreased. For example, part of our hearing today will be devoted to testimony concerning the bold approach adopted by the State of Massachusetts to eliminate its traditional juvenile institutions. Massachusetts now places juvenile delinquents in small group homes and in community-based rehabilitation centers. A number of juveniles who have lived both in institutions and under the new system will offer firsthand testimony regarding this new approach.

We have the author of that very innovative and imaginative program here to be our first witness today.

During the remainder of the week, we will hear of other States which are attempting through innovative measures to stop crime careers before they can start. Finally, we will hear from the chairman and the executive director of the American Bar Association's Commission on Criminal Justice and Services. The chairman, former Gov. Richard J. Hughes of New Jersey, will describe the programs and policies of this commission in dealing with this most critical criminal justice problem.

We think these hearings will be extremely significant and that they will point out unequivocally that no progress can be made within the criminal justice system unless and until we solve the longstanding problem of reducing the number of offenses committed by repeat offenders and by those who have already been incarcerated in our Nation's prisons and jails.

We heard a very valuable presentation here from the police department of the city of Dallas last week, in which they submitted an in-depth study of the number of people responsible for the crimes that were committed in that city over a certain period of time, which emphasizes the impression, for anyone who studies the system, that crime in general, at least most crime, is committed by a relatively few people, and if we can find out what to do with those relatively few people, we can make a very significant step forward in the solution of the crime problem.

I am encouraged by the hearings we held last week into police and community crime prevention programs.

These hearings have revealed that a relatively few people commit most of the violent and serious crimes, many of them who start their criminal careers in their teens.

We were told by Chief of Police Wilson the other day that, in his opinion, about two-thirds of all of the violent and serious crime was committed by males under the age of 28 years.

To reduce crime further, the police departments must have more money for more personnel, better trained personnel, and more research programs into the causes of crime and the character of those who commit crime.

But it is very clear that the police cannot do an effective job curbing crime without the cooperation of the prosecuting attorneys, courts—trial and appellate—and the correctional system. Beginning May 1, we will have prosecuting attorneys, trial court, and appellate court representatives to tell about the most innovative programs in those areas to be found in the country.

The beginning of the pipeline for the commission of crime is in the teenage groups, and new and innovative procedures must be employed in dealing with juvenile crime. Those are the subjects we will deal with in the hearings beginning today.

We are delighted, indeed, to welcome today Dr. Jerome Miller as our opening witness, a man who has been the leader in this innovative program you are going to hear about today. We are very proud to have Dr. Miller here.

Would you be good enough, Dr. Miller, to come to the witness table.

Dr. Miller is one of the foremost authorities in the United States on juvenile corrections and has played a very instrumental role in changing the course of juvenile corrections in the State of Massachusetts. He is now, as you know, residing in the State of Illinois, where he recently took a job as director of family services for the State of Illinois.

Dr. Miller, if you have an opening statement, will you please deliver that to the committee at this time?

PANEL OF EXPERTS IN THE JUVENILE CORRECTIONS FIELD: PAUL DeMURO, ASSISTANT COMMISSIONER OF AFTER CARE, STATE DEPARTMENT OF YOUTH SERVICES, BOSTON, MASS.; DR. JEROME G. MILLER, DIRECTOR, STATE DEPARTMENT OF CHILDREN AND FAMILY SERVICES, SPRINGFIELD, MASS.; PROF. LLOYD E. OHLIN, DIRECTOR, INSTITUTE ON CRIMINAL JUSTICE, HARVARD UNIVERSITY, CAMBRIDGE, MASS.

Statement of Jerome G. Miller

Dr. MILLER. I appreciate the opportunity to testify before this committee and to share with the committee some of our experiences from Massachusetts, and perhaps some of the possibilities for our approach having some applicability in other States of the Union.

I thought before discussing some of the specifics of what we tried to do and are doing in Massachusetts, I would give a few of my own biases, if you will, with reference to corrections and correctional reform and try to put in context, the moves that we made in Massachusetts.

It was our feeling that it is the history of correctional reform, in juvenile correctional reform as well as adult correctional reform, it really never happens in any substantive sense. Every 5 or 10 years you have a series of incidents, riots, escapes, stabbings, fires, whatever, that overflow into the community from one or another correctional facility, and then there is usually a call for reform and there is an infusion of funds into the system. But it seems if you look at the system 5 or 10 years after that call for reform, you find there is little of substantive change or reform that stays or remains. The system tends to slip back to what it was previous to the reform. In the more liberal States, you may get some new buildings out of the reform, or you may get a few new programs, but if you watch them they tend to stagnate or go downhill after a period of time.

I don't mean by that that there hasn't been progress in correctional reform within institutions, because there has. But I don't think that the progress has kept up with that of the society which surrounds

these institutions. It hasn't kept pace, and is therefore in many ways not as responsive to reform as one hopes a large system like this would be.

It is my own feeling that the problem in reforming the correctional system, and particularly the juvenile correctional system, is that it is institutionally based, that the juvenile correction system for the most part is based in large on fairly large institutions. It seems to me that many of these institutions, if not most, are quite impervious to change. They can devour any reform and any amount of money you can put into them, and over a period of time they tend to sustain themselves regardless of whether or not they are effective.

I think that this problem is a political one, really, rather than a professional or clinical one, because we are dealing in corrections, with systems which of their nature are quite undemocratic. Therefore, there is very little feedback from the clientele within the system over how those systems are run.

That, I think, leads to a sort of political situation that makes them quite difficult to change.

It seems that in many ways the juvenile correctional systems that we have, were really designed for other purposes than rehabilitation. I think that, manifestly, as we speak of them, we say they are there to rehabilitate, but I think they fulfill many latent functions for the society, and they deal out a fair amount of moral retribution and punishment.

One could survive indefinitely as a career commissioner or head of youth corrections if he preaches rehabilitation and gives punishment, provided he doesn't allow the punishment to be too widely known, so that people feel too guilty about it, and provided that he hires enough professional consultants to give a face of rehabilitation to the system.

In many ways, therefore, one purpose of the system is really to reassure people rather than to be effective, because if there is one thing we do know, it is that most of these large institutions for juveniles have been quite ineffective. In fact, it is my impression that not only are they ineffective, but that often they are actively harmful and endangering public safety.

We found in a small research study in our State, for instance, that we could cut the return rate of boys to the department within a 1-year period from 72 to 42 percent by cutting the stay in the institution from 9 months to 3 months. The longer they received the treatment the more likely they were to come back. The earlier they got in the system the more likely they were to come back on a more serious offense.

In many ways we have been providing through these institutions some false reassurance. And it is kind of a paradox that institutions are admirably suited to give such reassurance. You can go along as an administrator of a system such as this if you meet about three criteria, none of them related to what you should be doing. None of them related, at least, to the primary goals of the juvenile correctional system.

No. 1, you must stay within your budget; No. 2, you must keep your staff reasonably happy; and No. 3, you must avoid incidents which overflow into the community. All of these are good goals, but none

related to the stated purposes of these agencies, which are really to cut recidivism, to lower the repeater rate, to cut back on crime in the streets.

It would seem to me if you ran a hospital on the basis that your staff was happy; you were staying within your budget and had very few people jumping out of windows, or causing incidents in the community; but 60 to 80 percent of your patients got worse, or more ill, or died while they were with you, people would begin to question what the system is all about.

So the pressures on you as an administrator are really not pressures related to what your task should be as an administrator of a system such as this. The pressures don't come to you, really, from inmates or clients. They are captives, and in a sense they have very little say over how you run the system. They really have very little say. The administrator is not accountable, really, to the public, either, because the institutional settings isolate these problems from the community and from direct influences by the public.

Corrections is a system which is accountable only to itself, and I don't think that is a healthy sort of situation. If you make a person more dangerous while you have him with you, the person can't hold you accountable and the public won't hold you accountable, provided you maintain a large set of institutions.

Let me give an example of what I mean: Shortly after I arrived in Massachusetts we had a boy who had been in one of our maximum security institutions for, I believe, about 3 years, who was in the community and shot a policeman in Boston. I thought we would get a number of calls from the press and others asking something about our part in that, being that the boy had been with the department for 3 years. In fact, we didn't get any calls and hardly any mention was made of our department in the press.

I think the reason for this is the boy had been 3 years in a maximum security facility and in many ways we had "done our job," so to speak, and I think the implication is, he must have been something of a psychopathic individual and, despite our best efforts, he still got in serious trouble and shot someone.

Now, it seems to me that that is putting the thing backward. If that same boy had been in a community program for 3 weeks, or 6 weeks, or 2 months, or even a year, without having been in a large closed institution, I know well that the agency would have been held responsible for whatever shooting had occurred and we would have been questioned as to why this youngster was on the streets and why he was in this or that program.

It seems to me if he came to us, as he did, on something far less serious than shooting someone, was with us 3 years during one of the most formative parts of his life, and then left us and shot someone, it seems to me that is precisely the point at which the public and legislature should ask of correctional administrators, "What happened? What did you do? What made this person, after he had your treatment, go out and do this sort of thing?"

I don't suggest that the individual involved doesn't have some responsibility of his own—he certainly does in such an act—but I do suggest we have to begin to hold the correctional system accountable. I think it is much too easy and facile a thing for correctional adminis-

trators to say that these individuals have been a lifetime in forming and we can't unform that in a year or 2 or 3, or 6 or 8 months. There may be some truth to that, but it is also an easy way out of the situation. Given the research in the field to show what happens in these institutions generally, I think it deceives the public with reference to what we are all about.

Institutions are at the heart of the problem, and it isn't because they are run by sadists or people who want to hurt others; it is really because they are large bureaucracies that are incapable of being completely responsive to the people they are serving, and more importantly, they cannot long sustain whatever responsiveness they develop.

Now, I think you can make an institution useful. I think you can make an institution responsive. That is not the problem. If one wants to put resources and money into them and swim up river a great deal of the time, one can make an institution responsive.

The problem, however, is that it is virtually impossible to sustain change in institutions. It is virtually impossible to ensure that the changes you set up which make an institution human and effective, will continue. What you generally see is a charismatic person running an institution who is running a very good institution, and when he leaves it tends to disintegrate.

I think this is part of the institutional process, really. It is related to institutions for the mentally ill, mentally retarded, delinquent, or the criminal. It is a whole problem around large institutions. Large institutions really, as a treatment modality, as a method of treatment, are uniquely American inventions and they have only been with us a bit more than 140 years or so. I would recommend to the staff of the committee a book by David Rothman, written last year, called "The Discovery of the Asylum," in which he outlines something of the history of these institutions.

Institutions fulfill their own prophecies. They offer themselves as solutions to the problems they have created, and the paradox is that they are that solution in the short run. Use of solitary, violence, and isolation certainly control violent prisoners, but very often that violence in itself is an effect of being treated the way institutions treat people. It can be greatly attributed to the lack of responsiveness of the institutional setting.

We decided in Massachusetts, on this basis, that we would be misusing our mandate to reform that system if we tried again simply to reform the institutions. We had to make a choice, with limited resources, as to whether we were going to make those institutions useful or effective, or develop alternative methods. Our institutions were among the worst, at that time, in the Nation.

The Children's Bureau of HEW listed Massachusetts institutions at that time as 48th of the 50 States in 1966. We had to make a decision as to whether we would put our resources into making those institutions good institutions—and that could be done—or whether we would try to make those institutions as human and good as we could, but simultaneously move, as quickly as we could, to find alternatives to the institutions. We took the latter stance.

It seems to me that if we had put all of our inner resources into reforming institutions they could have been made quite good and they could have helped cut our recidivism. They could have been human

places, they could have been effective places. It seemed as well, however, that with the history of these places, you can't sustain that change. So we decided we would seek alternatives.

Our first year we tried to make the institutions as decent and human as we could. I am sure that the research that will come out of that, and it is being developed—I believe Professor Ohlin of Harvard University will be testifying later—will show to a degree that as we improved the level of the institutions, and we made them more effective, things were better with those youngsters in those institutions.

At the same time we felt we had to move away from them into alternatives in the community.

When you think of alternatives in the community and in the average State in this Union, think of what you are spending to keep a youngster in these training schools. One has a wide variety of alternatives one can speak to, if one can think of the money spent in institutions as being possibly available for other uses. To keep a youngster in an institution in Massachusetts, the last year we were in them, ran anywhere from $10,000 to $15,000 per person per year.

At present, in New York State, it is $18,000 to $21,000. In Connecticut it is over $25,000; in Rhode Island it is around $22,000; in Illinois, in one institution I am acquainted with, it is over $18,000.

That is a great deal of money to have available to treat someone who has a problem of delinquency. I submit if anyone in this room had a youngster who was in trouble and was given by the State between $200 and $300 a week to solve that problem, he would come up with something more original than a large training school. For what it costs to keep a youngster in a training school you can send him to the Phillips Exeter Academy, you could have him in individual analytic psychotherapy, give him a weekly allowance of between $25 and $50, plus full clothing allowance. You could send him to Europe in the summer, and when you bring him back still have a fair amount of money left over. That is what we are spending in a present system which generally is a failure and generally makes things worse rather than better.

If one thinks of it in terms of cost one has a great deal of leeway for options. I think that if the correctional system were held as accountable to our own economic system as other systems are, that it would become quite productive. If, indeed, it were a competitive system, if we did have to show that we could cut recidivism a certain rate in this or that program, if it did have to put up or shut up, if it did have to survive in a free enterprise society, I think we should run a very successful system.

Unfortunately, the correctional system does not have to survive under any rules of competition or productivity. It is not at all held responsible and it does not have to be responsive.

It has long been known in the literature that anywhere from 60 to 80 percent of youngsters in institutions—some would say more—do not have to be in large closed institutions. We took that research as factual and we decided that we would not endanger public safety if we provided alternatives for these young people.

I do not mean by that we just turned them loose in the streets, but we would provide alternatives.

We began doing that and we set up a series of options. Initially under State auspices with the help of LEAA funding, but when as

we moved more toward the private sector, together with LEAA and State funding, purchasing care from the private sector.

I would like to stress that possibility here. I do not think that generally the State system delivers direct services well. They generally tend to stagnate and go downhill. I think that services are best delivered by the private sector in competition with one another to give services, provided that the State keeps the private sector accountable and provided we get from them certain guarantees.

Now, what options did we stimulate and use? We used a wide variety of options. We used halfway houses, group homes, specialized foster homes, private psychiatric inpatient care, private psychiatric outpatient facilities, prep schools, day schools, night schools. We used technical training schools and private vocational institutes.

We used about anything that seemed feasible and would treat a youngster decently and humanly, and hopefully guarantee a bit more of public safety.

As we began to move these ways, I think it has been our impression that it is working. We do not have full statistics yet on how the system is working, as opposed to the institutions, but I think that most of the research we have had shows it all going in the right direction.

There certainly is no increase in recidivism, there certainly is no increase in the amount of violence, there is no increase in the crime rate in Massachusetts. In fact, as it has nationally, it has gone down quite significantly there. It is our impression that the system runs much more smoothly and we had much less problem with it since we have been out of the large training schools and institutional settings.

I would hope that States could begin to rethink in some very basic ways what they are doing in the area of juvenile corrections. When we talk about bad situations in some States, we are not talking as though this was 20, or 50, or 75 years ago. These things are going on at present. I will be testifying in a suit in the Federal courts in the State of Texas, where at present, at least until 5 or 6 months ago, the institutions were still tear gassing youngsters for failure to go to work on time by putting them in a locked room and throwing in a cannister of tear gas and leaving them until they vomit. There are institutions in which you still have violence from morning until night, you still have people sitting on floors, not allowed to sit on beds; then, when on beds, not allowed to go to sleep until certain times, beatings, useless work projects, et cetera.

We still have, generally, a very repressive and brutal system, and these things I don't think are entirely unknown in the institutional system.

I don't point to these practices and say they are necessarily representative of the institutional system nationally, but I think they point up what can happen in these kinds of systems, and what can underlie the better systems.

It seems to me that the only way we will get out of that is to get out of large, isolated, unaccountable institutional settings and to get back to the community, not only because it works better—it does work better—but because it involves the community, because the community can know these problems and begin to help deal with them, and because it doesn't allow the kinds of false reassurance we have been giving to communities about what we can do, when in fact we have been quite ineffective and we really shouldn't be falsely reassuring the community.

I would hope as well that the Juvenile Justice and Delinquency Prevention Act of 1973, Senate bill 821, or H.R. 6265, will receive support nationally, since it will provide a Federal structure for massive resources necessary to develop alternatives to institutionalization.

The merit of Senator Bayh's legislation is that it will create and expand community-based facilities in homes and shelter care and will steer some of this funding away from the large institutional settings.

If one were to add up the millions and millions of dollars we have sent into these large institutional settings with virtually no return, in fact, negative return, I think it would be a national scandal. I would guess the average State has spent millions, if not hundreds of millions, of dollars over the last 50 years in these large institutional structures, every bit of research which shows that generally they do not work.

Now and then they work for awhile, but generally they do not work or sustain what good results they have been able to obtain. So that I would hope that the Massachusetts model, which we could discuss and I am sure will be discussed in much greater detail by people during the day, would in a sense at least be looked at by other States as a possible option.

The Massachusetts model may mean that States do not need to depend on large institutions to guarantee public safety, that States don't need to depend on this system which has been with us for over 100 years. I think it is very fitting that since Massachusetts invented the system—we had the first two training schools in the world—Massachusetts should be the first to get rid of them.

What Massachusetts invented every State in the Union eventually followed, as did some European countries. I hope that now we have gotten rid of them and seen the error of our ways, every State in the Union and other countries as well will look again and see what we are doing there and have done.

Thank you.

Mr. LYNCH. I wonder if you could tell the committee when you became the commissioner of youth services in Massachusetts?

Dr. MILLER. In 1969.

Mr. LYNCH. You indicated, Doctor, that you had a mandate for change in Massachusetts. From whence did that mandate come?

Dr. MILLER. It came from the legislature that created the new department of youth services to replace what was called the youth service board, very similar to the old Illinois Youth Commission, or California Youth Commission.

Mr. LYNCH. What was the jurisdiction of the department of youth services?

Dr. MILLER. We were responsible for all adjudicated and committed delinquent youngsters in the State of Massachusetts, plus detention—holding of them for court—and parole.

Mr. LYNCH. During your tenure as commissioner, how large a population of juveniles were you talking about, roughly?

Dr. MILLER. Well, it would depend. There is a large amount of turnover. In terms of detention we would run probably 6,000 to 8,000 a year. In terms of committed youngsters, probably about 1,000 per year.

Mr. LYNCH. Those youngsters were held in how many institutions?

Dr. MILLER. They were held in—I haven't counted them lately—I think about seven institutions?

Mr. LYNCH. You talked in terms of endangering the public safety. I wonder if you would be kind enough to indicate to the committee, during your years with that department, how many of the youngsters committed to your institutions committed additional crimes or delinquent acts subsequent to their release and had to be recommitted?

Dr. MILLER. The best of our knowledge would indicate that the average was from 60 to 80 percent were back within less than a year. We had one institution for 12-year-old boys, 75 to 100 12-year-old boys adjudicated delinquent, in which the recidivism rate ran somewhere around 95 to 99 percentile. Virtually every boy that came in the door came back.

Mr. LYNCH. These were especially young boys who were committed there for committing what kind of offenses?

Dr. MILLER. In this particular case of the youngsters, generally it would be something less than would be involved with older kids. Generally, they would be with us because they were poor. They would be committed to us for such things as truancy, running away, stubborn child. Now and then, something more serious. But generally these are status offenses only specific to children and, really they shouldn't be offenses.

The other youngsters in the State ran the gamut from truancy to murder, as they would in any State.

Mr. LYNCH. In a typical institution, when you became commissioner, what kind of treatment, what kind of program, if any, was available to the inmates?

Dr. MILLER. It would depend. Some were better than others. I think generally the youngsters were divided up in institutions according to age and sex. I think that is generally the case nationally. Now, one puts different handles on it at different times, with different semantics and different ideologies. But basically, when you get down to the nitty-gritty, the division of youngsters in these systems was usually on the basis of age, sex, and offense.

We had, for instance, Bridgewater, the so-called Institute for Juvenile Guidance, which was a maximum security walled facility for older boys supposedly for very serious offenses. What we found when we looked through the population was that the majority were not there for materially serious offenses in terms of violence toward persons, but they were there because they were management problems in one or another of the other institutions.

Institutions generally run in complexes in States. Generally they are held together by the "big stick" or the "big threat" and that usually is one institution that is worse than all of the rest. Just as any institution is held together by the threats of one "discipline" cottage over another or one "specialized" dormitory over another, that holds it together.

Words change in those dormitories. I guess in the old days they were just called "punishment dormitories." Now they might be called "intensive care" or "adjustment centers," "time-out rooms." I saw one institution which the lock-up was called the "freedom room." I asked why it was called the "freedom room" and was told you had freedom to yell and scream in there and beat on the walls.

The semantics change, but basically I think institutions, large institutions, are not the kinds of places that are viewed by the people

in them as very healthful and they have to be held together by a certain amount of threat.

Mr. LYNCH. In the typical institution of which you are speaking—anywhere in this country—could you describe for the committee what a typical day involves for, say, a 16-year-old young man who is in there for four or five housebreakings? What happens to him during a given day?

Dr. MILLER. It would depend, again, on the institution. Some institutions would be highly programed with every half hour or so programed; the youngster being at this or that class or this or that vocational training. In the majority of institutions, however, there would be a lack of program. There would be a lot of regimentation and a lot of movement around at times, a lot of counting, generally classes would be unaccredited if they did have classes.

You generally will see very little in terms of productivity. And I think what will characterize most large institutions is a certain feeling of apathy and uselessness of the system.

As I say, some are highly regimented. To give an example of the particular institution I referred to earlier, the boys in that particular cottage are up around 6:30, 7 o'clock in the morning. They are out working then, in silence. The work consists of doing two things: Either shoveling dirt from one pile to another, running with it from one pile back, dumping a shovelful, picking up another shovel and running back to the first pile, which is useless work, or picking at open ground with picks.

They do this from approximately 7 in the morning until 11:30 or noon, with 15-minute breaks during which they kind of huddle down in a circle, in silence, heads bowed. At about noon they are brought in and showered and go into individual isolation rooms where they sit on the floor in silence. Food is fed to them on trays that are slipped to them through a slit on the floor of the room.

They sit in there in silence until 9 at night, when they are told they can go to sleep.

I believe they are allowed to lay on the bed at 1 p.m. They dare not fall asleep or more time is added to their stay, which is a problem for many of the boys who are on tranquilizers, making it hard to stay awake.

Late in the day, 9 o'clock at night, the guard comes around and they are told they may go to sleep.

The next morning, at 6:30 or 7 they are let out to continue the day's affairs as outlined above.

That is an unusually repressive institution, and at Gatesville, Tex., the institution is called "Mountain View." What this describes is the discipline cottage of Mountain View.

In the average institution it wouldn't be this punitive. Generally, you would go to classes of one sort or another. As I say, most of them are unaccredited. There would be a number of counts during the day, dinner at noon. There might be some recreation in the early evening, and generally go to bed fairly early.

When I came to Massachusetts our institution for 16-year-olds was putting boys to bed at 7:30. I think the reason was that it presented staff problems after 7:30 and it was easier to lock them in dormitories.

Mr. LYNCH. You indicated, I believe, Doctor, that in Massachusetts it was costing $10,000 to $15,000 per annum to institutionalize delinquents. What does the alternative cost? What do community-based services cost?

Dr. MILLER. Community-based services, of course, are much cheaper. Some will be much more expensive. But if you can get away from the idea of institutionalizing everyone that comes in the door, as committed by the courts, then you have a great deal of leeway for alternatives in spending that money. If you don't pay $1,000 to $15,000 for 1,000 kids, then this gives you the leeway to pay $3,000 or $5,000 for some and $20,000 or $30,000 for others.

We actually had some youngsters with us on very serious sorts of crimes that involved psychoticlike behavior, involved in some kind of very bizarre murders, and that sort of thing, and I felt in those cases we should spend a great deal to insure public safety. In no way could we say, with those cases, they just come to us and after serving a bit of time or a number of years, go back to the community.

Mr. LYNCH. Well, Doctor, with a delinquent of that nature, a felon indeed, how do you insure public safety?

Dr. MILLER. I think for the most part, with felons, as well, really, the kind of case I was really referring to was really more of a sick individual—and I don't believe most of delinquents are sick—that with felons you can insure public safety in various supervised community programs, live-in programs, and non-live-in programs. It depends on what one means by security.

There is eyeball security, if you will. This is supervision that is much closer and can be given much more closely, often in small group homes, than it can in large institutions where you have 25 or 35 assigned to an individual. No institution can be made all that secure. No juvenile institution really can be made completely escapeproof and if you look at large training schools around the country you will generally find if anyone really cares to get out of them, that in the vast majority of them, it is not too difficult a thing.

What holds them together is the fear of punishment when they come back. We had one institution in Massachusetts in the late 1940's where they broke fingers for running away. When you came back they took your index finger and brought it back until it broke. That cut down on the number of runaways from that institution, even though it was comparatively easy to leave from that institution.

I think there is a kind of feeling that if you lock someone up you have guaranteed some public safety. There is no question that if it is a solid lockup you have guaranteed public safety while that person is locked up, but when you are talking about juveniles, as I am sure this committee has heard many times, those juveniles will be back in the community, and it is kind of a deception to think that lockup in itself is going to guarantee much public safety.

Our problem with runaways, escapees if you will, seemed to diminish appreciably once we were totally in the community. There was a problem of moving from the institutions to the community and a transition period where we had a lot of kids wandering around the State, if you will, who were so used to being institutionalized that they just didn't know how to take the community-based center. They weren't necessarily getting in a great deal of trouble, but for 2 or 3 months in that transition, we had problems.

I think the reason for that was that our youngsters were highly institutionalized. You had the kind of bizarre situation in which you put a boy in an institution for 2 or 3 years and then you put him in a home in the community where the front door is open and there is public transportation, and all, and it is not a locked situation, and he will go upstairs to the bathroom and sneak out the bathroom window and climb down the drain and run, not realizing that was kind of ridiculous; he could walk out the front door. They were reacting in a sense to the institutional process, as we built in a whole self-fulfilling prophecy in institutions.

Once we got through that transitional period we had much less problem with that and the whole thing calmed. However, I stress even during all of the transition, even during the first year—and we have been out of institutions now in Massachusetts for over a year now, a year on January 10 or 12 the last boys' training school closed—I would think that now the number of incidents has appreciably diminished from what it was a year ago in the old system.

Mr. LYNCH. Would you institutionalize any juvenile delinquent?

Dr. MILLER. No, I wouldn't. That does not mean I would not say that some juvenile delinquents should be in closed, locked settings, but by the term "institutionalized," I would not subscribe to that term. I do think there are dangerous individuals who need to be in locked settings. However, those settings should not be large training schools or large penal institutions because they do not work.

They should be small, individualized, secure, locked settings. You can make a small setting locked and you can provide individualized care for truly dangerous people in them.

I would like to see a time where we would have available to the average youngster in Massachusetts, and Illinois, who is truly dangerous in terms of violence toward persons, the same sort of options that have always been available to the upper middle class, or upper class dangerous persons, and that is a private, small psychiatric closed setting, where at worst we simply provide some human care and at best we provide some care that works, as well.

It just doesn't seem to me it makes any sense any more to talk about institutionalizing anyone in large institutions. It does no one any good. The only time the large, closed institution will make any sense is when we are ready in this country to say, "Let's lock someone up and throw away the key forever." I hope we never come to that point. Even though some people may be unsalvagable I think to make that great leap would have much more meaning to the rest of us than for those whom we incarcerate.

Mr. LYNCH. It is often said that juvenile institutions teach juveniles how to commit crimes, how to escalate, if you will, their crime careers. The President recently, as the chairman indicated this morning, called the prisons in general, "colleges for crime." From your point of view, as a youth corrections commissioner, is that statement provable? Do juvenile institutions in fact encourage and/or teach young people to commit additional crimes?

Dr. MILLER. I have no question that that is true. I don't know specific research studies with reference to that. I am sure there are many. Perhaps Professor Ohlin could point to some, but I have no question of that in my own mind. I have many youngsters in my department

and it is just a common thing. If you visit any adult facility and just ask at random who was in the juvenile system, it is "Old Home Week," everyone has met somewhere or other along the line.

There is no question at all that the juvenile system as it is presently constructed is a school for crime.

We run them at all levels. We ran our little grammar school for 12 and under, where it had a 95 to 99 percent recidivism rate. We moved them on as they got older, up the line in schooling for boys, the older training school in other words, for 13- and 15-year-olds. That was kind of junior high. Then on to high school, Shirley Industrial School for Boys at 16, and junior college, the Institution for Juvenile Guidance at Bridgewater, and then on from there to the University of Walpole, or maybe postgraduate work at one of the Federal penitentiaries.

But there is no question in my mind that is the system these people are caught up in. It seems to me that if at the early ages we made more options available, our chances of breaking out of high recidivism in this country would be greatly enhanced. There are European nations who have been able to move in this direction with some significant results. Albeit, they are simpler societies and less complex in many ways, more homogeneous, but even given all of that, I do think we could substantially improve our own system.

Mr. LYNCH. As you went about the task of converting the system in Massachusetts from institutions to community-based programs, what kind of public response did you receive?

Dr. MILLER. Well, I think that we expected many more upsets than we got. We received a great deal of public support. And I think that in many ways, legislators—how could I put it tactfully—are not as progressive as the public is when this issue is confronted openly. I think the public is very much in favor of substantial and substantive correctional reform. It was our impression that this was the case in Massachusetts.

It is now, I would think, in Massachusetts, something of a political liability to be in favor of large institutions for juveniles. We don't hear it any more.

Mr. LYNCH. Doctor, public opinion is a strange thing. I suppose if you take a poll of how many people are in favor of community-based treatment programs you might get an overwhelming favorable response, unless it is from a fellow who is having one put next to his house.

Dr. MILLER. That is right.

Mr. LYNCH. How did you handle that problem in Massachusetts?

Dr. MILLER. I think that is very true. That is one of the reasons I had a certain distrust of my greatest supporters in the liberal community, who were very much in favor of these places until we decided we might want to put one or two in one or another of the suburbs where the supporters lived.

What we found, and I think we made some mistakes along the way, initially we talked of setting up group homes and halfway houses under our own auspices for delinquent youngsters, specifically for delinquent youngsters. We did get some of these going. The majority we got into communities with no problems.

We had a few problems here and there. The Harvard study indicates, I think, why we had problems and why we didn't in various communities. But I think we learned as well that it is far preferable, if one can, not to set up specific halfway houses or group homes for delinquents alone, but to set up group homes and halfway houses and alternatives that have a heterogeneous population with one or two delinquents rather than the whole house identified that way.

What we moved toward in Massachusetts—and I am sure Mr. DeMuro will speak to this when he gets here—we found a whole series of alternatives that were able to observe delinquent youngsters and provide supervision and care that did not have to be identified in the community as a facility specifically for delinquents. So long as we didn't inundate these programs with delinquents they did quite well.

So it is my own feeling that with some exceptions, and certainly there are in terms of kids who are involved in crimes of physical violence, for the most part many of these youngsters can be absorbed into already existing programs. In many States there already are a lot of alternatives around that just have not had a tradition of handling delinquent kids.

One can find these, once one begins to let loose some of that money that previously had gone to sustain training schools.

Mr. LYNCH. Doctor, in Massachusetts, I believe, you dealt primarily with children and delinquents who were referred to you by the juvenile court system. Is that too late? Should we be referring people prior to the time that they are court identified? What are your views on that?

Dr. MILLER. It is a difficult dilemma for me. I think in the abstract it is true that we should be preventing these things earlier. There are certain ominous implications, however. I think it is awfully difficult to identify delinquents, and you hate to get in the business of sorting out youngsters in grade school or high school as predelinquents. I think it has other sorts of difficult implications.

I don't think there is any question, however, that the greatest service one can do when one wants to prevent delinquency is to divert kids from the present juvenile justice system. And if that is, in fact, true, then it does involve getting in on the case early. We try to do that in Massachusetts by allowing courts to send referrals as well as committed youngsters, allowing them to refer a youngster to us without establishing a record, and I think that is a step in the right direction.

There is no question the earlier in, the better off we are in terms of cutting recidivism. But I think we give up too easily on those who are deeply in the system, particularly youngsters.

It may be a more complex situation with adults, but it seems to me that it would be very difficult from any professional point of view to throw away hope with reference to anyone 16 or under.

Mr. LYNCH. You indicated earlier that one of the problems in altering the system is certainly a political problem, and I take it you were using that term in its broadest context.

Dr. MILLER. That is right.

Mr. LYNCH. In a bureaucracy what happens to the people working in it just has to be a central issue. What does a correctional commissioner do who wishes to close institutions? What, in effect, did you do in Massachusetts to use or retrain people who had been working in the old system?

Dr. MILLER. We gave to our staff a series of options to their present jobs in the institutions, and through union negotiations allowed them to choose. There were many administrative hitches in setting this up, and doing it another time around, I think it could be done much more smoothly than we were able to do it. But we were going into uncharted areas and we had to feel our way.

Initially, what we did was give them a series of options whereby they could work in the community, they could become parole aides or work in a group home, or where they could work with kids in street work. The problem that we ran into is that many of the institutions were clustered way out in the country and away from where we planned to put the youngsters and it involved moves by the staff.

After a period of time I think things settled quite well and the majority of the staff did get into these other sorts of positions.

I think if I were to do this again, however, I would prefer that we had made arrangements at a higher level in State government to provide staff options in a variety of State departments. I think such things as pools could have been set up and giving them preference with reference to other positions that were unfilled in other State departments, so that there would have been more possibility of people being absorbed through a number of departments and it would have involved less hardships in terms of moves.

It is very difficult for people working in institutions. Their lives become just as institutionalized as the kids there. It becomes a whole lifestyle. In one of the institutions we closed the staff kept reporting for weeks, if not months, every day, even though there were no kids there. You had the impression the institutions should run beautifully if there were no clients.

The cafeteria and everything went along quite well. It is a whole lifestyle. One has to break into that, and it is very difficult.

Mr. LYNCH. You indicated that some 104 years ago, Massachusetts created the first industrial school and the rest of the country rushed to replicate that school. Is it too early, in your judgment, for the rest of the country to rush into what Massachusetts has now done?

Dr. MILLER. I think it is not too early. I think they should rush; yes. I think that we have moved too slowly in this field. I know one of the criticisms of us in Massachusetts, when we first got going, was we moved too quickly. My own feeling is we did not move quickly enough. In those areas where we moved a bit more slowly than others we had problems.

It is not a terribly radical thing to do this; it is a very reasonable and rational thing, given the research we have on the old system. And it can be done, it seems to me, much more smoothly if done quickly.

There has been a great deal of concern the Massachusetts model will be followed by other States, by groups, and there has been a great deal of interest. I don't know how many would follow it or whether they would do it the same way, but it does seem to me that it is time we think in very basic ways about providing alternatives, and I think we will be able to show in our experience there that these alternatives do work as well as the old, but, at best, much better. And it is much cheaper and much less a betrayal of ourselves in the way we treat these kids.

Mr. LYNCH. No further questions.

Chairman PEPPER. Mr. McDonald, do you wish to ask any questions?

Mr. MCDONALD. No. sir.

Chairman PEPPER. Dr. Miller, we want to commend you on this innovative program that you have offered in Massachusetts. Would you just describe what the program is, how it works, and who runs it?

Dr. MILLER. When a youngster is sent to us by the court, Mr. Chairman, he is seen in one or another of the regional offices.

Chairman PEPPER. In the first place, if a youngster is committed by a court he is committed to the correctional system?

Dr. MILLER. To our department; yes. To the department of youth services. He is then seen in one or another of the regional offices. We set up a regional structure so it would be closer to the community. A decision is made there after short diagnostic study as to what sort of resources we have available in the State on a purchase-of-care arrangement, most often from private agencies, that would insure this kid will be less a danger to the community when he returns.

These options could range from hospitalization in a private, locked psychiatric hospital to a drug, self-help treatment program where he lives in; to a group home where he may have, for instance, a job during the day, or school during the day and be there in the evenings and weekends under supervision; to a group home where he may have intensive group work and therapy a number of times a day; to being sent to a regular private school or prep school somewhere in New England at our expense where he would just engage in the regular normal routine of a school such as that; to being sent to a foster home, a specialized foster home, for instance, where he might live with a graduate student and his wife who will devote a great deal of time to him in an individual way.

Or he might go to the University of Massachusetts where we have a 10-bed group home in one of the college dormitories, run initially by the students for credit, and with the department of education providing a specialized sort of care.

He might go back to his own home and, whereas the court didn't have the money, our department would pick up the tab for family services, or for intensive counseling with him and his family in the home. Or he might be assigned to a college student who spent 15, 20, 25 hours a week with him on an individual basis and we would pay that college student for his expenses, and some money for tutoring, or what-have-you, for the kid.

What we are trying to do is provide a whole range, a whole spectrum, so you are not caught with a kid sent away by the court, the only option is training school or home, with nothing in between. We are trying to make available all these options. Surprisingly, it can be made available with an existing budget, provided you can get out from under the old system. The old system is terribly expensive. So we are not talking about a great infusion of funds.

Initially, one needs funds to get out from under the old system. But we in Massachusetts are able to handle at present close to triple the number of youngsters for approximately the same budget.

Chairman PEPPER. Doesn't this take a great many supervisory personnel to carry out the system?

Dr. MILLER. It takes our own staff placement people and parole agents who will supervise and make sure that the services are being

delivered, but the actual services for the most part are given by private groups, by private staff, and they are accountable to us to make sure these services are hand delivered.

Chairman PEPPER. Were those staffs already in existence or did you stimulate their origin?

Dr. MILLER. Many were in existence and many we stimulated. It is surprising when the money becomes available, when you say we are going to make money available to you to purchase care for kids, how many alternatives will develop.

In Massachusetts, we actually had more alternatives develop than we had money to purchase. There is no dearth of alternatives and if there is, if one makes a firm commitment to move from institutions, the alternatives will begin to create themselves.

I am certain, for instance, the University of Massachusetts had never thought of taking a delinquent kid into a dormitory until we were out of training schools and said we would make some money available on a per diem cost for kids in other settings and they came to us with the proposal. As I say, in most cases you are talking of an average of $200-plus per week per kid. That is what most States are using now to treat these youngsters.

I caution the committee as they go over figures from the States to realize that most State agencies fudge their figures in this regard. I was given a figure of $5,500 a kid in Massachusetts. But, in fact, that wasn't an honest figure. In fact, what they do is keep out capital outlay and the central administrative cost to sustain the system. They have ways of breaking that budget up so it doesn't show.

But, in fact, the cost to keep the kid in the institution in most States in this Nation at present is in excess of $10,000 and in some States it exceeds $20,000.

Chairman PEPPER. You have personnel in practically every sizable city or community?

Dr. MILLER. That is correct. We have regional offices in eight different regions throughout the State. This would be in Boston, Worcester, Bridgefield, North Shore, South Shore, New Bedford, and the Fall River area, so that we have some representation throughout the State, and then we have people that work out of these offices in satellite situations and on the streets.

So that we are available to the courts and to the schools and that sort of thing.

Chairman PEPPER. You can move the students around any part of the State you wish to?

Dr. MILLER. That is right.

Chairman PEPPER. If you have a suitable place for them?

Dr. MILLER. That is correct. One program is based on movement, outward bound, based on the outward bound concept, the British survival training, where the youngsters, for instance will hike from Connecticut to Vermont, through the Berkshire Mountains, through Massachusetts, and then will go across the State and do quarry climbing.

Chairman PEPPER. Suppose you had a boy, a dropout, say he dropped out about the seventh or eighth grade, he has been into some trouble, been in the juvenile court system, and he was committed to you. You first have an interview with him?

Dr. MILLER. That is right. Somebody in the department would have an interview with him and they would decide what options do we have primarily in this region for this young person who is a dropout. And that would range through contracts that we would have with various private schools, with various group homes, halfway houses, treatment centers, that have been developed. Very often developed for other people, but are willing to take juvenile delinquent kids if we are willing to pay a fee per week.

Chairman PEPPER. How much would you pay? Suppose a couple undertook to take four or five boys in their home and look after them and try to carry out your program? About how much would you pay per student?

Dr. MILLER. The foster care fee in Massachusetts is about $25 a week. If we are talking about a very specialized foster case, say a very disturbed youngster who is going to take a great deal of time, then we have a special contract where we pay the people up to $75 a week to provide a lot of care, where they come to group meetings together. And it is almost a job for them, a full-time job for one or another of the couple. The majority would be in homes at about $25.

Chairman PEPPER. Would those custodians provide all of the facilities that young man would receive?

Dr. MILLER. No; they may or they may not. They would generally provide the advocacy for the youngster. They would provide something in place of parents. We might in some cases, for instance, as well make available to that foster parent some money for special schooling or special tutoring.

All of this, incidentally, all together, is substantially cheaper than the training school.

Chairman PEPPER. And on the whole you find that the new system is now less expensive than the old?

Dr. MILLER. It is much cheaper. There is no question, it is much cheaper. The problem you get into is when you have to carry the old system along with the new system, because you still have to carry the staff and the institutional budget. Then it costs more because you have to add on the new. If you can get something to absorb the old system there is no question the new system can be done much more cheaply.

Chairman PEPPER. Thank you very much.

Mr. Wiggins?

Mr. WIGGINS. Doctor, when the juvenile court system in Massachusetts refers a delinquent to the department of youth services is that referral for a fixed term or for the minority of the youth?

Dr. MILLER. It is just a commitment to the department with no fixed term and then it is up to the department to decide what happens at that point.

Mr. WIGGINS. Your authority then would be to keep the youngster in the system during the full term of his minority?

Dr. MILLER. It could be. We generally kind of frown on that. We would like to return the youngster as quickly as possible to the community, as quickly as it seems feasible. It is possible, however, we can keep him until 21.

Mr. WIGGINS. And for this purpose, age 21 is deemed to be the minority-majority breaking point?

Dr. MILLER. That is correct; although you are tried as an adult in Massachusetts at age 17. We can keep the youngster in our department, provided he doesn't commit a subsequent crime, as an adult until age 21.

Mr. WIGGINS. Does the court have any discretion at all concerning the types of treatment modality that will be employed?

Dr. MILLER. What we have tried to do in this case is build up a court liaison project where we have a representative who visits the courts regularly, and larger courts, it is there full time, and we try to develop a coordinated plan with the court previous to the commitment, so we do have some agreement regarding the possibilities for the youngster.

Mr. WIGGINS. Does the court have discretion or not in terms of what you do with the youngster after?

Dr. MILLER. No. When the youngster is sent to us it is up to the department to determine disposition. What we have tried to do administratively, is to build in an arrangement with the court whereby we work these things out together ahead of time to avoid problems in that regard. But within the law, the court does not; no.

Mr. WIGGINS. It is something in the nature of an indeterminate sentence; isn't it?

Dr. MILLER. That is correct.

Mr. WIGGINS. You, being in corrections, are mindful I am sure of the criticisms and warnings of the indeterminate sentence procedure. Is that criticism justified?

Dr. MILLER. It certainly is. And it was a dilemma for me along the way. I think the indeterminate sentence and the kind of arrangement we have in Massachusetts gave us a great deal of flexibility, initially, to bring about the reforms we wanted. It gave me the flexibility to send all of the youngsters home from the training school, so we could close them on a certain date.

However, it also gives the same sort of flexibility to someone who wants to keep someone locked up for umpteen years.

So there are built-in problems to it. I would hope eventually in Massachusetts they would develop some sort of middle-ground whereby we could set some maximums, at least, on how long the youngster would be in the care of the department. We would have to rejustify the care in court after that time.

Mr. WIGGINS. Do you have sufficient flexibility to take care of the truly dangerous youngster who may be committed at age 16, for example? Must you release him at age 21, regardless of your judgment as to his danger to the community?

Dr. MILLER. I think in that case—and I don't recall that has been an issue in any specific case as of yet—we probably would go for a commitment in terms of mental health. I think one could go that route. The youngsters that were in the department while I was there would not have reached 21 yet. They all would have been 16 in late 1969 and 1970. So that hasn't been an issue.

There were two or three that came to us that first year who are still in mental hospitals, private mental hospitals.

Mr. WIGGINS. One final question. If this committee were inclined to make recommendations in this field, would it be a valuable recommendation or not that the court have more direct input concerning the disposition of the youngsters?

Dr. MILLER. I think, given the problems in the courts and the great disparity between the courts and the way they are set up and the training of the judges, that it could present many problems unless there were some very firm guarantees. I think the idea of indeterminate sentences, for instance, particularly where sentences are to a specific institution or a specific kind of place, militates against any kind of rehabilitation, ultimately. So I think it is a double-edged sword.

It is a difficult one, but I would think it could present a lot of problems.

Mr. WIGGINS. I do, too. Thank you, Doctor.

Chairman PEPPER. Mr. Winn?

Mr. WINN. Thank you, Mr. Chairman.

Dr. Miller, you mentioned just briefly a minute ago about hiking trips and I just wondered how much of your program, percentagewise, would incorporate variations of recreation.

Dr. MILLER. This particular program I referred to is the "homeward bound" program, and I believe we ran between 350 and 400 youngsters through it last year. It is a classic "outward bound" program. We hired an instructor trained in outward bound from Australia. I am a convert, incidentally, to this sort of thing. I didn't know, really, and I didn't believe this sort of approach had any relevance particularly to inner city delinquency. I no longer believe that. I think it has a great deal of relevance. Of what, I am not sure. The only thing I know is it seems to work well. I think it probably has to do with the self-concept and the fact the youngsters have some success at some things, where they have not had an opportunity to have these successes previously.

They will do such things as hiking, rock climbing, and quarries, sailing, swimming, all sorts of obstacle courses they run. They do it in brigades or groups of six or eight, in which everyone is responsible for everyone else. No one will fail the course if they try, because their buddies will carry them through it. They do a 3-day solo in which they survive alone on an island or mountain somewhere out by themselves, with a sleeping bag, a canteen of water, a piece of string and a match, and they make it on their own that way.

At the end of all of this they come together and return. It has been a very successful program. I think recreation in that sense is a very useful thing.

Mr. WINN. Now, the facilities that you closed, are none of those facilities in good enough condition they can be rehabilitated for uses as gymnasiums?

Dr. MILLER. That is right.

Mr. WINN. They are all bad?

Dr. MILLER. No, no. I am suggesting just what you are suggesting. Some of them were in pretty bad physical shape. Some were very old buildings. But a lot of these places would make very fine community colleges, very fine resources to the community. One of our institutions, I don't know if the negotiations are still on, but when I left, there were negotiations with the town to use it as an elementary school.

I would suggest that many of these institutions in many States would make phenomenal places for "noncaptive" groups. The problem is that when you have a captive group there, that is when one gets into the problem.

Mr. WINN. Have you tried using any of the old military bases that have been closed? Because a great many of those we found have pretty good recreational facilities, including Olympic-size swimming pools.

Dr. MILLER. That is right. I would say if there was a caveat any State ought to take in this regard, it is to beware of building. We don't need any more buildings. We don't need any more of these places. There are plenty of possibilities existing, if one can think creatively, in the community. There are plenty of existing unused facilities there.

Mr. WINN. What you are saying then is this recreational-type program really—and the expression is not true, because of the way we look at the word "day care," we think of that for little kids—is a day-care type of program?

Dr. MILLER. Exactly.

Mr. WINN. For the older juveniles, where they would be established in either their homes or community nighttime, but they would have recreational facilities, schooling——

Dr. MILLER. That is right.

Mr. LYNCH. Job training, whatever their situation might be.

Dr. MILLER. That is right. Because the average delinquent, you know, isn't delinquent all of the time. He is only delinquent at certain times in certain conditions with given people at given times. Generally, we know when those times and all are, and recreation, for instance, can be a major part of prevention.

Mr. WINN. Is nighttime higher?

Dr. MILLER. Yes.

Mr. WINN. As it is in normal crime?

Dr. MILLER. Yes. I think that is one of the reasons our program with the college students has been quite successful, is they have spent time with youngsters when they would be most likely to get in trouble, the evenings and weekends.

Mr. WINN. Do you use any of the programs we hear about nowadays, using professional athletes or well-known athletic heroes?

Dr. MILLER. Yes.

Mr. WINN. You have a hard time getting those fellows to give the time unless they are paid?

Dr. MILLER. We have a few around. We had Joe Scibelli from the Los Angeles Rams, and a few like that with us; yes.

Mr. WINN. But percentagewise, fellows making $100,000, $200,000, $300,000, it is pretty hard to get them to give up a couple of hours a week?

Dr. MILLER. That is right. It is.

Mr. WINN. What has been the court reaction to your general program? Has it been basically pretty much in agreement or are there all variations of opinion?

Dr. MILLER. I wouldn't want to say it has all been an agreement. My own bias is the better courts have been in agreement. I think there was some upset along the way. Many judges were used to banging the gavel and not seeing the youngster for quite awhile. They were upset when he was back in the community that quickly. They were in many ways using the training school and had to be reeducated to the new programs.

However, many of the judges, particularly, I think, the chief justice of the lower courts who hear most of our cases, Judge Flashner, were in agreement with what we were doing and saw it as a useful thing. I

think the judges have come along, particularly through our court liaison project.

Judge Linihan from south Boston, who has been the judge there for many years and certainly is quite a conservative judge by most measures, told us this fall he was extremely happy with the program for youngsters in south Boston and this was one of the better programs he had seen in his 15 or 20 years on the bench.

Mr. WINN. Did you have any kind of liaison meetings or community meetings with the courts as a group, or did you have to do this individually?

Dr. MILLER. We did both, Mr. Winn. We met both individually and in groups. I think both were useful, although ultimately I think the individual meeting turned out to be the best, the court liaison project where we could meet individually around specific cases.

I went around through a number of courts myself and met with judges as we made these moves and tried to allay fears about them. But I would say most courts now would be in agreement with what we are doing. There would be some exceptions.

Mr. WINN. Did you have meetings with the communities?

Dr. MILLER. Yes.

Mr. WINN. And with the community leaders so you could get the community support and acceptance?

Dr. MILLER. Right. Meetings with the community were crucial to this. I would guess in my 3½ years in Massachusetts. I made at least three to four speeches to community groups a week regularly, and our staff was out regularly. This was crucial to it. There is no way one can bring about that sort of move we made in Massachusetts without community support. When we got into some crises around the moves, the community was there to support us. We met, for instance, with the League of Women Voters everywhere in the State, the Council of Churches, and different sorts of groups.

Mr. WINN. To make another arm of it, because we found, in the last week particularly, that those who had good records as far as prevention of crime, had good relations with the police departments, had not only good relations with the community, but with the press. And how did you set up your relationship with the press and what was their reaction to your program?

Dr. MILLER. I feel we did very well with the press. I think that the reason we did is that we were completely open and honest with the press. We didn't hide problems at any time. In fact, we tended to share them in advance, so we could at least get a chance to explain what we were talking about. At all times, we had a very open policy to the press. We made it clear at the beginning, for instance, in changing the institutions, there would be no institution or no room in an institution or no building in an institution that would not be accessible to the press at any time, at any hour of the day or night.

I think that helped. It helped us to expose some of our own problems and showed the need for change. But I think the amount of press support we had for the reform was very encouraging and very helpful.

Mr. WINN. Did they support editorially?

Dr. MILLER. Yes; particularly the Boston Globe was very, very helpful. We got a great deal of editorial support around the State for the moves we made.

Mr. WINN. Thank you very much.

Thank you, Mr. Chairman.

Chairman PEPPER. Mr. Sandman.

Mr. SANDMAN. What do you do with a boy who doesn't work out in your program?

Dr. MILLER. Well, Mr. Sandman, what we do, we try again and again, but we have more options to try him in this time. There is no question a large percentage will not work out. It is just that we feel more will work out than in the old system.

Mr. SANDMAN. Let me isolate this.

Dr. MILLER. OK.

Mr. SANDMAN. As I understand what you said—and I hope it works—you said you have done away with all of the institutions for juveniles in Massachusetts. My question to you is this: For the boy I am talking about, a big boy, between 16 and 20, let's say, you have gone the full gamut of trying to help him. He does something bad while somebody is trying to do something nice for him. OK. What do you do for the boy the day he does that? What happens to him?

Dr. MILLER. When I say we closed all institutions, we closed all of our large training schools. We do have the capacity for a couple of small locked settings for youngsters such as this that might need controls for a period of time until we get hold of the situation.

We also have contractual arrangements with private psychiatric hospitals which have the same capacity. Every private psychiatric hospital I am aware of—Chestnut Lodge, McClean, Menninger's, you name them—all have the capacity on the grounds for a quite secure, locked facility, with good control. So for that sort of youngster we would have that capacity.

It is just that we wouldn't necessarily mean we would keep him in a long time.

Mr. SANDMAN. But my thinking is that you have to have some kind of institution for that kind of an individual.

Dr. MILLER. I think we need some sort of locked facility. But I don't think this necessarily needs to be a large institution.

Mr. SANDMAN. Regardless of the size. I was only talking of just following through your theory. Having had some extensive experience with these kinds of boys it seems to me that you always have to have some sort of threat of what can happen to you if you are not a good boy. Don't you agree with that?

Dr. MILLER. Not exactly. I think you may have to have the possibility of a locked setting. I am not at all sure the threat in these cases motivates much. One of the groups, for instance, that objected, when we closed training schools, was the private treatment facilities which were used to motivating kids to stay in them, to say, "If you don't make it here, you are going off to the training school," and they were concerned they wouldn't keep their population. In fact, that didn't occur when we got out of the training school.

I think one does have to have the capacity to lock someone up. There is no question of that. It is a matter of devising a system that allows one to choose these options, and I think you find that the vast bulk of kids that are presently institutionalized don't need to be in that sort of facility.

There are some dangerous youngsters, but even those could be in small, closed facilities that are not institutional.

Mr. SANDMAN. I have never known a judge that felt like this kid ought to go away; have you?

Dr. MILLER. No; but I think when they say, "the last resort," they don't realize there are many options before that last resort, because the judges have not had the funding available to their courts to provide the options. What it has been is a matter of a series of warnings, the possibility of some probation, maybe voluntary counseling through a local social agency that the judge might have a relationship with. But they have very few options available.

The last resort is the option they use when the other options don't work, and as a last resort the kid goes to the training school.

We like to say to the judges that we could spend some of the moneys we are spending on training schools to provide you with other options as well. So the last resort thing won't have to come into play quite so early.

Mr. SANDMAN. How about the boy who commits a common law crime, a crime other than violence? Does he come under your system?

Dr. MILLER. Yes, he does.

Mr. SANDMAN. One other question: The boy who has had a long string of scrapes with the law. In our State, for example, it is almost a rule of thumb that a juvenile comes before the court at least three times before anything happens like sending him to any school.

Dr. MILLER. That is true.

Mr. SANDMAN. And he is always—it is a matter I have always heard in private—given every break you can give him. Finally, when they are so discouraged, the parents can't do anything with them, and he has committed a common law crime, then for that reason he doesn't get this kind of treatment any more and he is then in the institutional system you refer to.

Mr. SANDMAN. OK. Then let's assume we are talking about that kind of boy. I am in accord with your thinking; I am not disagreeing with you just because I am asking the question. I think you can handle them better the way you are talking about. But let's assume this boy, in addition to doing this also, has a long record of narcotics use.

Now, under your system, do you segregate that boy from the other boys?

Dr. MILLER. Under our system we have much more capacity to do that if we wish to, in a specific case, because we are using probably 200 or 300 different settings in the State. So we do have much more option than just six or seven training schools.

So that we would have that capacity, yes; if that seemed indicated and it would depend on the specifics of the case. We do have arrangements with a lot of self-help concept housing drug treatment programs. We could use those options. We have a lot of other options that would be available. So what I am suggesting is that our system, as we are developing it and I hope it will continue to develop, legally provides a wider spectrum of options so that you have much more flexibility to work these problems through before one talks of long-term institutionalization.

I think even for those who have to be locked up it need not be in an institution, a large institution. I think you can talk about small, closed facilities for less than 25 people.

Mr. SANDMAN. Is it fair to say you believe those that are narcotics users should be placed in with other youngsters who are not?

Dr. MILLER. I couldn't say that as a rule. It would depend on the person.

Mr. SANDMAN. Don't you believe they would be highly dangerous among the youngsters who never used narcotic drugs?

Dr. MILLER. They could be; yes. It would really depend on the individual case. I would say as a general rule I would tend to agree with you, but I would hate to get held hard and fast to it with a 15- or 16-year-old. It would depend on how much a user; whether he is truly an addict or not; what he is using; that sort of thing.

Chairman PEPPER. What Federal aid is now available to the States to carry out programs as you have in Massachusetts, and what Federal aid would be desirable for that purpose?

Dr. MILLER. Our program in Massachusetts really got off the ground through the use of Federal aid; primarily, the Law Enforcement Assistance Administration.

Chairman PEPPER. How much?

Dr. MILLER. Our first year, I believe it was around $2 million. I am just not sure now. We use that as a flexibility. When I came in we had very little money to buy care with. All of our money was tied up in staff and institutions, and we used those Federal funds to break out of the system. I note the report by the urban coalition, that was fairly negative of LEAA, pointed to our program in Massachusetts as one of the few positive uses they saw of the money and we were flattered they found it that way.

However, I think there were other sources of money. Florida, I understand, has used a great deal of title IV–A funding in the program Oliver Keller has developed down there. Massachusetts was late in getting into title IV–A, and I think Mr. DeMuro will speak to that. I believe we will be receiving some title IV–A funding in addition to some more LEAA funding. Ultimately, I would hope, there would be some move in the direction of Senator Bayh's bill, which would provide funding to develop alternatives to institutions, or other similar legislation.

Because, ultimately, it will be a great deal cheaper. I realize that Congress must get tired of people coming in and saying, if we had prevention programs, or if we could have this or that treatment program, it is going to cost less, and they find 10 years later it is costing triple as much.

Chairman PEPPER. You would need Federal aid to break out of the old system into the new?

Dr. MILLER. That is correct. But I think, therefore, whatever legislation is written should include in it some firm guarantees that the States ensure they get out of the old system. Otherwise, what they will do is develop a so-called preventive program in the community, but let the old system stand and then it has precisely the opposite effect one would intend.

They will throw a wider net out and bring in more delinquents, if you will.

Chairman PEPPER. Would it be desirable or necessary, in your opinion, because of maintenance of those programs, for the Federal Government to contribute to their operation?

Dr. MILLER. I think it would be helpful; yes, sir.

Chairman PEPPER. What percentage of the cost of a State program should the Federal Government, in your opinion, pay?

Dr. MILLER. Well, it would depend on what kind of commitment the Federal Government wants to make. If you are talking about commitments through revenue sharing, I think a department such as ours should get some of that. If you are talking about continuing title IV–A funding, for instance, at the present ceiling put in by the Congress, I think that would be adequate to help most States, if they made a commitment in the area subsequently to move out of these institutions. I do not think in the long run the Federal Government would have to sustain these programs. I think the States have enough money to sustain them if they can get out from under their present programs, which are very, very expensive, and it would seem to me the best use of Federal funds would be to help the States move from their present programs to new programs.

Chairman PEPPER. We are running a little late. Mr. Lynch, would you ask the next two witnesses to come up. We will hear them together.

Mr. SANDMAN. Mr. Chairman, one other question.

Under your program, do you have any kind of work program involved?

Dr. MILLER. Yes. We have arrangements with the Urban—I don't remember—the Urban Corps. We have work programs that way. We hire a number of our youngsters, have a relationship with the division of employment.

Mr. SANDMAN. If the kid comes from a bad environment, for example, under your program in the summertime, let's assume, do you place him on a farm somewhere, where they would have to pay him?

Dr. MILLER. We might.We do have, as one of our options, helping a youngster to find a job, or helping an arrangement through jobs.

Mr. SANDMAN. Do you have any objection toward that?

Dr. MILLER. No. For a time, for instance, with our purchase-of-care money, we funded our own job corps slot. We paid an employer to hire youngsters and paid part of his salary out of State funds. It was still cheaper than institutionalizing.

Mr. SANDMAN. Have any of the other States followed your pattern in Massachusetts?

Dr. MILLER. I think most States would say they want to move in that direction, but maybe not in the same way.

Mr. SANDMAN. They haven't, though?

Dr. MILLER. No one has done it that way; no. We would like to commend ourselves to them and hope they do it that way.

Chairman PEPPER. Dr. Miller, we thank you very much. It was a very splendid presentation. We certainly hope that your imitators will be numerous in pursuit.

Mr. LYNCH. Dr. Miller, if you don't have other plans, I wonder if you could stay seated at the witness table.

Mr. Chairman, I think Dr. Miller has given us a good foundation in understanding what Massachusetts has done. We are fortunate this morning to also have with us Mr. Paul DeMuro, who is the assistant commissioner of after care of the Massachusetts Department of Family Services. Mr. DeMuro will comment on the most recent developments in the Massachusetts' system, as described by Dr. Miller.

We also have Prof. Lloyd Ohlin, who is currently director of Harvard University's Institute on Criminal Justice. Professor Ohlin was associate director of the President's Commission on Law Enforcement and Administration of Justice. He also served as a special assistant for juvenile delinquency to the Secretary of the Department of Health, Education, and Welfare, and he was the supervising research sociologist of the Illinois Parole Board.

Mr. DeMuro, I wonder if you could give us your opening remarks and that perhaps could be followed by Professor Ohlin's summary of his rather extensive prepared statement.

Statement of Paul DeMuro

Mr. DeMuro. Thank you. I think there is no need to go into a lot of detail because Dr. Miller hit the major points. There were a couple of commentaries I had. Dr. Miller generally stimulates my thinking.

One of the things we have to be aware in developing these alternatives is that we not only hook into the professional bag in the community. I know we had a great success with the YMCA, the boys' club, street programs, churches, the institute of contemporary art, people who are involved in activity they see as meaningful.

We catch up a youngster in the same kind of activity. I think frequently social workers tend to look at the community and think we have to go to more traditionally established agencies. There is nothing wrong with the established agency or the professional itself. I think we have to look to where the client is, where his interest is, who best represents that interest in the community, and what are those resources worth developing.

Particularly, I think this is the case with such federally funded programs as the neighborhood youth corps and OEO and CAP agencies that seem threatened now.

Dr. Miller mentioned at the end of his statement that we buy into the neighborhood youth corps. We have over 500 youths working with community groups, subsidized through State and Federal funds. If the Federal moneys aren't there to maintain those programs, an awful lot of what we have already done will go down the drain.

Some statistics as of last month. We had 683 kids in group care, the kind of group homes Dr. Miller described; 241 in foster care; and over 800 nonresidential service slots, being jobs, counseling, alternative schools, et cetera. This total caseload of the department is close to 3,000, which represents three times what was normally held before Dr. Miller came to Massachusetts.

Such a delivery system, as Dr. Miller says, costs less per youth than institutional settings. However, I must say that like most agencies we are in a tight fiscal squeeze. We have had difficulty transferring institutional accounts into the purchase of service accounts, and I think this is a key when other States look at what we have done. They have to have the flexibility of getting out of operating boiler rooms and large cafeterias and 1,000-acre plants and get that money into a service account, which can buy counseling and buy job training.

Moreover, as we developed better and more community-oriented programs, our image began to change from the State's youth authority to a service agency. And this is the key. The kid comes to us for a

service, be it counseling or vocational training. We become, then, a referral agency for a larger group of kids, not kids just necessarily labeled delinquents.

I would stress that there should be some mechanism, hopefully, if the Federal cuts do come to OEO, that our kind of clients, and that is generally the poor, neglected urban kid, gets tapped into revenue sharing. I have some doubt when revenue sharing comes to the large city that the cities will use it; it will go to lower the cost of real estate or traditional education. Our client, the street kid, poor kid, unemployed family, will not be able to tap in directly to revenue sharing.

I think it is encumbent upon all of us in Government to make sure revenue sharing works for the people on the outside.

I don't think we can look at Massachusetts and suggest we have all of the answers. We have, and we will continue to have, difficulties, and I think some of your questions hit on some of those difficulties. Just because a person works for a private agency, let's say the YMCA, doesn't necessarily make him a better youth worker.

There are as many untalented, fake, and corrupt people outside of State government as there are within. However, with the private sector—and this is the real key issue—one can cancel a contract or change the program to reflect the client's need or redirect moneys and programs to those most in need without fighting the frustrating bureaucracy of State government, replete with civil service protection and patronage.

There is no doubt that is the key, the ability to move money to kids and programs to that kid's need without having to close down 1,000 State employees.

Also, we need to develop more intensive-care-based smaller units which have the capability of locking the youngster up, 8 to 10 youth, staffed by the best medical and psychiatric talent available. Such programs will be costly for the damaged kid, and I am convinced, after 3 years in the field, the percentage of such kids is small. They deserve no less.

When we began changing the system in Massachusetts close to 80 percent of our youth graduated to adult corrections. Recent statistical studies on particular programs, our forestry program, suggest some dramatic results, but I will leave the studies to academia.

Chairman PEPPER. Will you go back to that figure of 80 percent you used. What was that?

Mr. DEMURO. When we first got into it in Massachusetts, 75 to 80 percent of the kids coming out of our system wound up in adult corrections.

Chairman PEPPER. The reason I was interested to get that is I have heard from various juvenile court judges the figure of 50 percent, but you said 75 to 80 percent.

Mr. DEMURO. In our State; that is correct.

Chairman PEPPER. Very good.

Mr. DEMURO. Recent studies on particular programs suggest some dramatic results, but I will leave the study to academia, and also this afternoon invite you to question five youngsters we brought along with us. We all felt the old system was a failure.

The system we are developing in Massachusetts has to be more successful than that for it is based on meeting a youth's needs on an

individual basis, seeing him as a unique personality with his own strength as well as weaknesses, and working with him to develop an appropriate treatment plan that is designed for him and not considering him a candidate for a wooden, numbered bench in a detention cottage.

And I think that is the key to it. The youth service agency sees itself as a defender or advocate for the kid, sees justice must be served, what are you looking at when the kid comes to the system, and I think that is why Dr. Miller was really successful more than anything else.

We saw a kid and what his needs were and tried to meet them.

Thank you.

[Mr. DeMuro's prepared statement will appear at the end of the testimony of this panel of witnesses.]

Mr. LYNCH. Mr. Chairman, Professor Ohlin will describe what his institution is doing to study the program, then we can direct questions to all three witnesses.

Chairman PEPPER. Professor Ohlin.

Statement of Lloyd Ohlin

Mr. OHLIN. Mr. Chairman, I appreciate the opportunity to appear before the committee to talk about the research and evaluation studies we have been undertaking with the Department of Youth Services in Massachusetts.

I am research director of the Center for Criminal Justice, Harvard Law School, and we have been following the development of the reform program for youth in Massachusetts since Dr. Miller's arrival in November 1969, and, in fact, even prior to that, following the passage of the legislation creating the new department and the mandate for reform, which he has implemented in Massachusetts.

At the outset I would like to say that I think Massachusetts is ahead of most States, but many other States are moving in the same direction. The basic theme in youth services in the United States is diversion of youth from institutions to other kinds of treatment settings, deinstitutionalization; that is, winding down the large institutions or closing them, as is happening in Massachusetts.

I think I can be quite brief. Since you do have my prepared statement, I would like to summarize it and add a couple of things that are not in there.

Chairman PEPPER. We are anxious to hear it.

Mr. OHLIN. The second major trend is the enrichment of service alternatives. One of the problems with our juvenile justice system is the lack of adequate alternatives and options for youth dealt with by the courts probation services, yet this is one thing a State system of corrections can provide with its broader jurisdiction, greater and more flexible resources.

Most States are now emphasizing community-based services rather than services far removed from the community, mostly in rural areas. As Dr. Miller indicated, he came into Massachusetts with the idea of trying to organize within the institutions a more therapeutic climate; that is, treatment cottages that could be more effective than they were before.

His first steps were to create decentralized cottage units in all of the institutions, and our studies indicate he was quite successful in this.

We studied 10 cottages to compare the old custodial system of running those cottages with the newer therapeutic cottages. Our results indicate they are really successful. The response of youth to those cottages, and the staff as well, created a very different kind of climate even within the old institutional settings.

However, it was also clear these new cottages could not be created fast enough. Older staff locked in by the civil service system were not equipped to run these types of cottages effectively and the budget was too restrictive to permit the hiring of new staff to do it.

Dr. Miller then evolved the policy of moving these cottages out into the community as group homes.

As he indicated, we did a study of the group home problem. We studied three group homes that succeeded and three that failed in an effort to identify what forms of resistance developed to community group homes, and how these might be successfully overcome. Though I will not go into this now, we did identify a number of basic conditions which either have to be created or must exist for group homes to be successful in local neighborhoods.

At the present time, there still are a number of problems that have to be solved in order to consolidate the gains in reforms which have been undertaken in Massachusetts. It was necessary to set up a regional structure, which did not exist when Dr. Miller came to that department, in order to supervise and develop community-based treatment alternatives. This regionalization structure is still being developed to make it more effective.

There is a need to provide some type of facilities for dangerous and disturbed offenders. Dr. Miller has just spoken about that at some length. There exists one institutional facility at the present time and there are plans to develop two other small public facilities housing less than 20 youths each.

The detention program has also been changed. No mention has been made of that here as yet. The policy has been to create shelter homes in place of the large detention centers which existed when Dr. Miller came. That program is going ahead rather rapidly, and I think well. The small shelter care arrangement seems to work much better than the large detention centers.

Chairman Pepper. What sort of facility is that, Professor?

Mr. Ohlin. The shelter center is similar to a small group home, housing 8 to 10 boys or girls. It is used to service the court, to hold youngsters until they are disposed of by the court.

The department has also developed an effective court liaison operation. This involves allocating part of their staff to work in the court with the probation personnel and judges, identifying cases that are likely to come to the department, working out referral arrangements, if possible, or diverting them to other alternatives so they don't have to go through the entire juvenile justice process.

There are two other points I would like to make.

Chairman Pepper. Excuse me just a minute. You mean before, when a lad was engaged in some sort of delinquency, before he was formally brought before the court some system of referral was worked out?

Mr. Ohlin. Yes. The department has been working out arrangements with the court where, prior to adjudication, the court and de-

partment agree on a voluntary referral to some type of treatment service.

Chairman PEPPER. But after the court had obtained jurisdiction?

Mr. OHLIN. Yes. The court has jurisdiction, but the case has not yet been adjudicated.

Chairman PEPPER. But there had been some sort of complaint; the youngster had in some way been formally brought before the court?

Mr. OHLIN. That is true; yes.

The department in recent months has accepted quite a large number of these referrals. It creates a situation where a youngster doesn't get a delinquency record, but yet gets the treatment that the court and the department feel would be useful for him.

It is obvious that if used too much it would be harmful. It could sweep into the department's jurisdiction many youths that are now simply warned and referred back home, or to other services in the community.

With the new purchase of service program generating competitive arrangements among private agencies, the big need now is for quality control. The department has to develop some means to insure that high quality services are being given to youths. It must decide what types of services should be continued and whether alternative services should be tried. This type of quality control program is now being developed and is essential where widely dispersed services of this kind are under contract to private agencies.

Finally, the department is wrestling with the problem of personnel development and training. Massachusetts, I guess, is not unlike many other States, since its civil service system is very strong. It provides a great deal of security and most of the staff have been there for many years. They are used to the old system and find it hard to fit into the new services which are being developed.

This is one of the major stumbling blocks to consolidation of the new programs.

So, as Dr. Miller says, we really have in Massachusetts now both systems to some extent. The old institutional system exists as an empty facade of the past, but staff are still assigned there. There is still the danger some of those institutions might be reopened. They are now beginning to be used by other departments in the State. But that danger still exists.

In conclusion, I think the Massachusetts experience clearly documents we overincarcerate kids in the United States. We rely too much on formal institutional treatment for youth. This has been a destructive policy in the past. Dr. Miller became thoroughly convinced that it was only by closing these institutions and forcing the development of new community alternatives that real progress could be achieved.

In some cases, I gather, the pace of the reform was so quick that the needs developed before the funds were there. Part of the problem in Massachusetts is to have the funding catch up with where the programs are.

That is one major strain which still exists in the program and it is a serious problem, particularly where new private agencies arise to meet this demand without adequate funding reserves to carry them over the transition period. This is where Federal funds were so enormously helpful to Massachusetts. They were flexible funds, that could

be adapted to build up the new services and take the department through a transition period during which the old services could be completely closed down and the money diverted to the new ones.

Perhaps that is all I should say in the way of opening remarks.

[Professor Ohlin's prepared statement appears following the testimony of this panel.]

Chairman PEPPER. Professor Ohlin, I suppose that we as a society in this country never have quite made up our minds just why we incarcerate people. I suspect that we do so as a carryover of the old concept of retribution, punishment.

A young man here in the city of Washington, a few years ago, 17 years old, robbed, raped, and killed an elderly lady. What do you do with a boy like that? He is of an age where he is supposed to know the difference between right and wrong. He had committed a horrible crime. What do you do with him?

One or more teenagers were responsible for shooting Senator Stennis here in front of his home recently. Senator Stennis told me that the fellow who shot him was just as cool and calm when he shot him as if he did that every day. A man's life was almost taken, a man has been confined in a hospital for many months, suffering great pain and anguish. What do you do with a young man who does something like that?

It is hard to get out of our minds that people ought not to suffer for committing a heinous crime. On the other hand, that crime has already been committed by the time it comes to public attention. I suppose the primary consideration for society after that is to keep him from committing another crime, and what we should do is probably try to use the techniques that are most likely to prevent the repetition of that crime, in which case we should put the emphasis on rehabilitation rather than punishment.

What should we do with juveniles or adults, who commit crimes?

Mr. OHLIN. The feeling you refer to that simple justice requires the meting out of punishment for especially heinous crimes is widespread. It is fundamental to the whole system of justice. That system is designed to mete out sanctions in the form of punishment, and is necessary to give people a sense of security in the laws and their administration and to encourage respect for them.

I don't think we will ever get away from that concept. The law is designed to administer punishments, and we can set up a correctional system that will handle difficult cases appropriately. Confinement, in either adult or juvenile institutions, is clearly punishment in itself. It has high visibility and I think serves the ends of justice.

But punishment by itself will not provide the public safety that we are after. We must back it up with intensive services, supervision, and treatment. In the end we will be safer if we lend our support and resources to building that kind of a system.

I don't think that we are yet in a position, as a country, to make a choice between punishment and treatment alternatives. We have to live with a system that tries to administer them both. But we would like to make the rehabilitation or treatment side far more effective than it has been in the past.

Chairman PEPPER. Would you apply to the adult correctional system the same general principles that govern this program we have been talking about here today?

Mr. Ohlin. Yes, I would. We are actually trying to move in that direction in Massachusetts with the adult system. I think that that system will probably not move as fast. We can't close down the adult institutions with as much speed as was done in the juvenile system, in part because we have the graduates of the former juvenile system. There are some very dangerous offenders in the adult system who will require secure facilities.

However, we also tend to overconfine adult offenders. We too often use confinement where other measures would work better. Partly because we haven't, again, developed other alternatives for the adults, any more than we have for juvenile delinquents.

The history of correctional reform has shown that changes tend to come first in the juvenile system and then are passed on to the adult system. I suspect that will be true of these newer policies which are now being tested in Massachusetts and elsewhere in the country.

Chairman Pepper. Thank you, Mr. Ohlin.

Mr. Lynch. Professor Ohlin, you have very substantial, to say the least, credentials in the juvenile field and also a reputation as a scholar. As a scholar and student of this field would you feel comfortable in recommending to other States that they at this time replicate the Massachusetts correction experience insofar as it applies to juveniles?

Mr. Ohlin. Yes, I would. I feel that all of the States in the country go much further in the direction of the Massachusetts experiment than they have. It may be true that in some other States there exists a higher proportion of dangerous and disturbed youngsters that one may have to keep in small institutional facilities, of the type Dr. Miller has described, than is true in Massachusetts. But I think our results show that the Massachusetts experiment has been a successful one, that it does offer a new pattern of correctional services for youth that is more effective and less costly than the alternatives we have now.

Mr. Lynch. How long will we have to track people who are graduates of the new system before a firm judgment can be made as to its efficacy?

Mr. Ohlin. We have that tracking program underway now. The big question we would like to be able to answer is, Has Massachusetts succeeded in cutting out a generation of recruits to the adult system?

If that turns out to be true it seems to me that that evidence will be compelling for other States.

Now, the time needed to determine whether or not that happens and in what measure it happens will require another 2 or 3 years. We have to allow enough time for the youngsters who have been through the new juvenile system to reach adult age and then see to what extent their criminality continues or whether instead they turn into law-abiding pursuits.

It takes a followup period of roughly 3 years to get a firm answer to that question. We will, of course, get some results sooner than that. For example, we already have some preliminary results on recidivism 11 months after treatment which show that the new system for the small group we followed is working about twice as well as the old one. But these results are still fragmentary and for an unrepresentative small group of cases, so that I would not now offer them to you as firm evidence of either success or failure.

However, the observations of DYS staff and our own research people, have given us a feeling, let's say a sound hunch, that the final figures will, in fact, show substantial improvements over the recidivism rates—as measured by new court appearances—of the old institutions.

Mr. LYNCH. Mr. DeMuro, in operating a program of this nature, whether using private or civil servants, it would seem to me, because of the things you are trying to do, you would really need more committed, more highly skilled, and better trained people. How do you recruit? What do you look for?

Mr. DEMURO. In staffing?

Mr. LYNCH. Yes.

Mr. DEMURO. I take issue with your question on one point. That is, simply, the number of people who worked in the institutions would have very good reasons to help kids. The motivation to work with juveniles, regardless of age or training, I think is the key. A number of people in the institutional settings have moved into the communities, albeit there was trauma at the beginning, some fear, but I think the department can insist, in terms of training, support, as they move from really secluded institutional models for themselves to models in the community.

Regardless of age or professional training, what I look for is this rapport and feeling for youngsters caught in the system, the ability to see that youngster as an individual rather than a category. For them, certainly, we need better and more trained people, say, psychologists ——

Mr. LYNCH. What kind of training programs do you have now?

Mr. DEMURO. Right now we attempt to get as many of our staff as possible hooked up in universities in the area. We have a rather substantial arrangement with the University of Massachusetts where students who are in professional degree programs there are truly volunteers or part-time workers for our department, and our department has people going toward advanced degrees at the University of Massachusetts.

We are attempting to develop other kinds of hookups with traditional universities throughout the Commonwealth.

Dr. Ohlin talked about the evaluations. This monitoring of delivery systems: I would like to see this really thrown to the universities, as well as evaluating of our programs and upgrading of our staff in those programs. It would be kind of a cooperative venture in each of our regions of the major university to take on the training of our staff as well as evaluating the ongoing programs. The university serves as a nice focus for a lot of committed professionals, pool of manpower, to get involved in things like this.

But we too often think because someone worked at the institution that he then can't work in the community.

Mr. LYNCH. I did not mean to imply that. I am pleased at your response. I wonder if you could tell us if Professor Ohlin's charge includes an evaluation of staff performance?

Mr. DEMURO. I will let Professor Ohlin speak to that.

Mr. OHLIN. We have tried to distinguish two types of evaluation problems here. One is an operational everyday need, since an administrator needs to know where his kids are, what types of programs they are in, how those programs are working, and how effective his staff

is in relating to youth. We have been working with the department to try to get that built into the department as an ongoing responsibility of the commissioner and his aides; that is, a special unit for that purpose.

We have our own resources committed more to the long-range evaluation problem. We have studied some immediate problems of the department to suggest policy alternatives. But, basically, we see our long-range evaluation as feeding back data into the evaluation of general policies rather than the specific performance of particular offenders, staff members, or individual programs.

Mr. LYNCH. Mr. DeMuro, Dr. Miller indicated earlier that he experienced less public antipathy toward this changeover than he had originally thought would take place. What is the situation in that regard now? What kind of public support do you have?

Mr. DEMURO. I think under Acting Commissioner Levey, we built on that initial support, particularly as we moved to answer the need for the more disturbed youngster to help him in small intensive-care units that had to be opened in the up-coming months. Mr. Levey is out continually talking to groups. We have maintained the same open access to both the press and the community. We welcome that.

With Secretary Goldmak we are developing regional area councils of private citizens who actually sit with the professional social workers and social service agencies developing a formula and policy for the expanding of funds. I think we see more of this in Massachusetts.

Mr. LYNCH. Dr. Miller also indicated, I think, in an anecdote over the recital of a crime that had been committed by someone who had been in jail for 3 years for killing a police officer and Dr. Miller said that he received no inquiries regarding that incident. Have you, since this program has been operating, had juveniles in group homes or community-based services who have gone out and committed relative heinous crimes?

Mr. DEMURO. We recently had an incident.

Mr. LYNCH. How have you handled those? Has there been a public outcry?

Mr. DEMURO. There has been no outcry. It has been honest inquiry. We had a young fellow run from a camp, shelter camp, stolen car. Unfortunately, he had an accident. There was an explosion, the gas tank exploded. There were a number of inquiries about that particular incident and we were glad to talk to people about why that particular 13-year-old boy was not held in jail; why he was at the camp.

Mr. LYNCH. For what offense had he been committed to you?

Mr. DEMURO. Driving without a license. A motor vehicle offense initially got him into trouble. But he just turned 13. It was quite workable in the eyes of our counselors at our intake procedure and that is why he was being detained at a shelter-care facility, this YMCA camp.

You can never replace that particular life or get back to that family what was taken from them in that awful accident, or whether the right decision was made in holding that particular youngster at a YMCA camp rather than locked in jail.

Mr. LYNCH. There was a fatality involved?

Mr. DEMURO. Yes, there was.

Mr. LYNCH. Not to the boy driving?

Mr. DEMURO. He was seriously hurt and was in the hospital.

Mr. LYNCH. Has he been released from the hospital yet?

Mr. DEMURO. Not to my knowledge.

Mr. LYNCH. What will you do with him when he is released?

Mr. DEMURO. I would see this youngster being a candidate really, not for a locked intensive-care thing—he has a behavior problem of running—I would see him in a small group home, intensive psychiatric work, like the Liberty House Associates, a number of intense group home experiences up in Maine, where you are talking about professional staff with him 24 hours a day, 7 days a week trying to work on his impulsiveness.

Mr. LYNCH. Some kind of control that will reasonably assure he doesn't run out and get his hands on another automobile?

Mr. DEMURO. That is it.

Mr. LYNCH. Mr. Chairman, I have no further questions. I believe Mr. McDonald has several.

Chairman PEPPER. Mr. McDonald, will you proceed.

Mr. MCDONALD. Thank you, Mr. Chairman.

I would like to direct this to Mr. DeMuro, and perhaps Professor Ohlin can answer it also. The critics of the Massachusetts experiment have said, in effect, that the system was fine under Dr. Miller, and under Acting Commissioner Levey, it works fine for the youth that it deals with, but there is at least a portion bound over to adult courts, kids that just are too difficult for youth services to handle. They are being taken away from youth services and bound over to adult court; children under 17 are being sent to the adult prisons. Can you comment on this?

Mr. DEMURO. Yes. There are two important issues here. One is we tend to think about this experiment as before and after. We had 1,000 kids trapped in a system. Dr. Miller recalls at Bridgewater that 75 kids went into alternatives. There are some heavy offenders, tougher kids, trapped in the system whom we haven't been as successful with as perhaps we might; or the alternatives haven't been successful.

However, I think the whole issue is really a smoke issue. Last week we had 14 youths in the State of Massachusetts being held currently. We did a study about a month ago to find out how many kids were in the adult correction vis-a-vis 5 years ago, and we found it was two kids more; 27 to 25, 1965 to 1972.

This doesn't seem to be an alarming increase. No one likes to see a juvenile go adult. There is, however, another side of the coin. When a juvenile does go adult he generally gets a much better trial than in our district courts. We have 69 district courts in our State and there is a tremendous variety of talents and degree of differences. So I think that although it is true some kids are being bound over: One, they are still in the process of change, particularly the older delinquent who perhaps was 14 three years ago and is now 17, can we count him as part of that population to judge the system; and, second, according to my statistics and the research my staff is doing, there aren't that many more, really.

Mr. OHLIN. We have tried to check into that because it is a very important issue. When judges feel they have been denied institutions to hold youth they believe should be confined and away from the community, the obvious option is to turn to the adult system. I agree with

Mr. DeMuro, that resort to such an alternative has been greatly exaggerated.

To the extent we can follow boundover cases, which is very difficult in Massachusetts because of inadequate records, they were coming largely from two courts where some increase has occurred. However, for the State as a whole, the increase in the last couple of years has simply brought the figure on boundover cases back to where it was 5 or 6 years ago.

Mr. McDONALD. Mr. DeMuro, there has been a lot of talk this morning about maximum detention centers. I understand you have the Andros project in Boston?

Mr. DEMURO. That is right.

Mr. McDONALD. Your main security facility in Boston.

Mr. DEMURO. That is right.

Mr. McDONALD. Again, criticisms I have heard of Andros have been it is nothing more than just like an old institution, the kids being locked up there without too much psychiatric care. Is there any difference between Andros today and the old detention centers?

Mr. DEMURO. I think one of the reasons for this criticism is Andros happens to be, unfortunately I believe, located in our old facilities. It is tremendously expensive to build small intensive-care units and we therefore had to remodel or rebuild some of our older places. Andros is very much different than anything we have had in the past, for a number of reasons.

One, it is on purchase of service contract, namely, with the Boston Mental Hospital Associates, a number of qualified psychiatric talents who actually run the program. There are certain contractual obligations we have built into their contract: A limited number of kids in programs, the number of hours of treatment, reports.

Second, Andros, as a major staff component, has tapped in a number of former graduates of the adult systems, exconvicts, who are under a constant training program by the Boston Mental Health, who have brought to that program an advocacy for the individual client that I really find refreshing, and an ability to relate to a client in the sense, "Hey, we know where you are going because we came from there."

The fellows involved there, it grew out of a peaceful movement committee, were incarcerated during the Attica riots, pulled themselves together in the peaceful movement committee and, subsequent to their release, came to our department looking to get involved. Although perhaps some of them lack professional training, not many degrees, there is an awareness on an actual level where our kids are coming from, coupled with the Boston Mental Health Associates professionalism, makes that program something unique. I haven't seen it duplicated.

For those two reasons, granted, I would like to see Andros taken apart and a small, 6-bed Andros for each one of those regions I sit on, and not 35 kids together. That doesn't make sense. There is the issue.

Mr. McDONALD. Can you comment on Roslindale? Is that still primarily a detention center?

Mr. DEMURO. The facility on the second floor is where Andros itself is housed. The third floor of Roslindale is detention awaiting adjudication in the court. Although we have been successful in opening up

camps and shelter-care programs it still serves as a secure detention site for close to 50 courts, the Cape area, through route 128, the geography of it, and because of that, the influx on a given weekend of numbers of youths coming in and out. It is not community based.

It is not one police department, it is over 30.

I would like for Massachusetts to close it and get back to the potential for that kind of youngster. I don't say we have to have potential for that kid. Certainly, we get back to where he is controlled by folks in those communities who can enrich intensive care, secure programs for our center.

Mr. McDonald. I have no further questions. Thank you.

Chairman Pepper. Mr. Nolde?

Mr. Nolde. Professor Ohlin, you mentioned the tendency to overconfine. Dr. Miller, of course, has also spoken to that issue. I take it the key there would be classification of offenders. How can you identify these dangerous offenders? Do we have adequate tools available today for identifying the dangerous offenders and separating them out, with some degree of competence?

Mr. Ohlin. I have been very much concerned with that question. My colleague at the Harvard Law School, Alan Dershowitz, has devoted the past few years to the intensive study of our ability to predict dangerousness, because the whole concept of preventive detention is tied to that capability.

I am convinced that our means for making accurate predictions of dangerousness are very crude, very inadequate, and they involve a high degree of error.

Our best predictors of dangerousness are still past conduct and confinement in juvenile institutions. Research indicates that the further youngsters penetrate into the juvenile justice system, and especially its correctional institutions, the longer they stay there, the greater the likelihood they will be adult offenders and will commit serious adult crimes.

So the best predictors we have now of dangerousness are what we have done to offenders in the past and what kind of past behavior they have exhibited. Some of the behavior that upsets us most, some of the most disturbing and worst crimes we know of, are actually rare events which seldom occur again with the same individual. It is not only because such offenders are usually confined as punishment, it is because these tend to be rare offenses and therefore very hard to predict.

But I think we still have the obligation to try. We make predictions of dangerousness now; the courts do it all of the time. We do it in the correctional systems, both juvenile and adult, and we have to continue to perfect that capability based upon our analysis of past experience.

Mr. DeMuro. Mr. Chairman, I would make one comment on that. We have had a study of our Judge Baker Clinic, which does workups on the most dangerous, labeled the most dangerous, by the court largely because of the nature of the offense. I stress the fact the Judge Baker Clinic has nothing to do with our department. In a rather complete and also competent diagnosis of 100 referral youngsters it was that clinic's finding that only 14 needed to be remanded to a locked facility. I think this stresses the point that we overshoot this.

Dr. Miller. This 100, it is a very fine study done by the Judge Baker Clinic, which is a very eminent clinic. It showed of this 100—we are talking about the 100 adjudged most dangerous youngsters seen—this particular doctor who did this study saw virtually every juvenile murderer, every youngster who has done any serious crime of violence. So we are talking of 100 youngsters sent to us on very serious crimes, or for very serious behavior, and it was their impression that of that 100 only 14 really required a locked setting.

Mr. Nolde. Do you have confidence, Dr. Miller, in the conclusions on that score? Also, as the correctional administrator who has to make those decisions, do you feel you have the tools now to make that kind of determination with some degree of accuracy?

Dr. Miller. I don't feel we have enough tools, but I think we do know the way we were doing it was quite harmful, and I think that what we were doing was very harmful and what we can do and are doing now is less harmful. We will make some mistakes. Although I must say, very candidly, I expected many more incidents than happened. I really didn't believe our own rhetoric quite enough, I guess, because I expected many more problems in the community.

Mr. Nolde. Speaking of the community, how do you go about dealing with the reluctance, on the part of the people in the community, to have facilities located in their own neighborhoods?

Dr. Miller. I think one of the points mentioned earlier is we tried to avoid setting up specific facilities for delinquents totally. I think it is much easier that the majority of youngsters, if you can absorb them into other community programs or develop new programs and take a more heterogeneous population in so you have less problems.

I am sure Professor Ohlin's study could be made available to the committee, in which they studied three group homes that met a great deal of community resistance versus those that didn't, and the kinds of techniques and things that occurred in each case.

Mr. Nolde. Professor Ohlin, I think you referred at some time to more effective measures of social control outside of the criminal justice system; specifically: Should drunks, vagrants, truants, and runaways be subjected to the criminal justice system? Would you comment on that?

Mr. Ohlin. I think this is a very important subject. We are overburdening the criminal justice system with problems that it is really not equipped to handle and shouldn't be handling. This is true of both the adult and juvenile institutions. The status offenses for children constitute a rather large part of the population that we now keep locked up in children's institutions. That really doesn't make much sense.

There really are many more alternatives and less costly alternatives out there in the community that can be developed if we are willing to put the resources and the energy into finding them. I think the Massachusetts experience has clearly demonstrated that is the case.

There are so many histories of adult offenders who started out as truants, went to training schools, escaped, returned, escaped again, maybe stole a car the next time to get away, and eventually ended up in adult institutions after having spent most of their youthful years in some kind of institutional environment. This occurs so often simply

through an escalation of what was originally a very minor and insignificant behavioral problem.

This is what we mean when we say that we very often create adult criminals rather than cut off their careers as youthful offenders with the juvenile systems we now have.

Mr. Nolde. One final question for you, Professor Ohlin, and also Dr. Miller. Can a system of punishment ever be truly compatible with individual treatment and rehabilitation?

Mr. Ohlin. I think, as I indicated earlier, we have to live with that reality. We have a system of criminal sanctions that has other functions to serve for society in reinforcing respect or regard for law and obedience to it. The prevailing opinion, which I subscribe to, is that a short sentence for the purpose of serving the ends of punishment as a sanction is in highly visible cases probably the best way to handle the problem.

There is a growing concern that the indeterminate sentence system is not working right; it tends to keep people confined for too long a period and serves effectively neither the ends of punishment nor rehabilitation. We need to change that.

Mr. Nolde. Dr. Miller?

Dr. Miller. I would tend to agree with Professor Ohlin with reference to adults. I wouldn't agree with reference to the youngsters. I think it is a very difficult problem because of the implications it has for the law. Roscoe Pound made the comment that the founding of the juvenile court was as great an act as the signing of the Magna Charta. He wasn't speaking lightly, because I think he knew the implications, if the juvenile court had really fulfilled its promise it would have had to move away from punishment and it would have struck at the underpinning of the criminal justice system, particularly with reference to juveniles.

I think it is very difficult to hunt down, convict, and send through the court system and into the training school someone, and then at one point turn around and say we are going to rehabilitate you. I think for juveniles it is a very difficult dilemma they are caught in.

I agree perhaps it is too soon to confront that, but I think these dilemmas are best confronted through successful programs and, hopefully, people will say that if the Massachusetts experiment works, we don't need to have a punitive system to cut recidivism and guarantee public safety.

Mr. Nolde. Thank you for your excellent testimony, and for the outstanding work you gentlemen are doing as leaders in your field. I have no further questions, Mr. Chairman.

Chairman Pepper. Will the judge have the knowledge, when he sentences a man to incarceration as to how long it was going to take to rehabilitate him.

Dr. Miller. That is right.

Chairman Pepper. Unless you go on the theory that you have to have a certain amount of punitive influence in the dispensation of the sentences.

At one time I happened to hit upon the figure of 5 years as good a maximum sentence as any other figure. Some knowledgeable person in the area said that's the figure he would have used. If you are going to keep anybody in prison 5 years, that probably would do just about

as much good as keeping them in 20 years. What do you think about that, Professor?

Mr. Ohlin. I think I agree in general with the thrust of your remarks. I think that if we are going to do anything successfully in the way of treatment, it can clearly be done within that time. If it is not done then, it isn't going to happen.

In the United States we confine people longer than any of the Western European countries, for example. I am not quite sure how that has happened. There is also enormous variation among the States in the length of sentence and length of average time served in the institutions.

I think a lot of this is historical accident. It developed that way and the systems become hard to change. Instead, accommodations develop as in the parole policies, to alleviate some of the injustice or burden of long sentences.

Chairman Pepper. Historically, incarceration, for that matter, is very severe treatment of people. Historically, have those things actually served as any deterrent to the commission of crime and, if so, to what extent?

Mr. Ohlin. I know from my own experience with prisons, offenders reach a point where they are described by other offenders as "burnt out." There is such a thing as confining a person long enough so that, in effect, his whole life and life prospects have changed. And the fear of any risk of further confinement is so great that they don't get in trouble when they go out. There are other offenders that I have known and studied that deliberately get caught again once they get out because they become so institutionalized that the outside scares them. They are really not able to take initiative and make decisions on their own any more.

They wind up committing inept crimes that result in their being sent back to the institution, where they usually find their old job waiting for them.

The kind of system that produces such a result is obviously bad, too.

Chairman Pepper. On the other hand, we have the problem of people who seem to be incorrigible, who, after being allowed two of three releases from prison, go right out and commit a series of violent crimes again, and upon whom all efforts of rehabilitation have seemed to be a failure. Personally, I don't think you necessarily have to resort to infliction of the death sentence upon that individual, but may develop certain individuals who are a danger to society by their own experience, society's experience, who do need to be required to forfeit their right to live in a free society the remainder of their lives? What can you say about that?

Mr. Ohlin. I suppose that may be. The problem always is in deciding which persons those are. In the prison world, they say each prisoner has a time when he is ready for release, when the motivation to stay law abiding is at a peak. Keeping him longer doesn't help; it harms.

The problem is to find that peak with these different individuals. It may be that there are some individuals that constitute such a terrible threat we simply don't want to let them out, and we have in our correctional systems many who have been there for 20, 30, or even 40 years.

Chairman Pepper. Several members of the committee and I were at Attica on Friday of the tragic week there and we spent 2 days interviewing officials and the inmates. I remember asking one of the inmates: "Look here, when you get out of a place like this, with these high walls and thick bars, with the restrictions upon your life, and the activities you experience here, why in the world would you ever want to come back here?"

"Well," he said, "it does look that way, but it is not as easy to stay out as you people think it would be. In the first place, if you have been here for a good long while, you have lost contact with your family and your friends; sometimes your family has become estranged from you. Most of us in here don't have much education or skill, we don't have much capacity to earn a livelihood when we get out. We get out with a few dollars and a cheap suit of clothes and we are on our own. The first time we apply for a job they want to know if we have ever been convicted of an offense or incarcerated in prison. We have to say "yes." If we don't tell them the truth they will find out later, or we live under the fear of it.

"Most people don't want to hire you if you are an ex-convict, and in a little while the money you got is gone and most of us don't have anything else. You get lonesome. Then you may look up some old crony you got in trouble with the first time and before you know it, you are involved again."

I thought it was a rather interesting story that he told.

Mr. Ohlin. That is a very common experience, I think, particularly among those who have been confined for any length of time. They really do lose touch with the outside world and the only persons they know with whom they can really share their experiences fully are other offenders, ex-cons.

Chairman Pepper. The superintendent at Attica told us that all of the men spent a great majority of their time in cells because they didn't have money enough for adequate training programs, educational programs; they didn't have money enough for jobs for the people that were there. The legislatures just don't provide enough money to do in the system what knowledgeable people would like to do. This man was the head of Attica. If he had the money I think he would have gotten them out of Attica and in other places, scattered around the country.

The old tendency was to build the warehouses in the rural areas as they did in my State at Raiford. But one of the things that we want to emphasize in these hearings is that knowledgeable people know a lot more to do than they have the means to do it with. That is the reason I brought up the matter of Federal participation. You got started with a Federal grant from LEAA of about $2 million. We are entertaining very seriously the idea of recommending the Federal Government to aid the States, maybe as much as 50 percent.

Do you think the States would undertake these transitions if they got as much as half of the cost from the Federal Government? Would that be a reasonable figure to consider?

Dr. Miller. I think it would be a very good motivation.

Chairman Pepper. Very good.

We had policemen here, as I told you gentlemen before the hearing began, last week. The police are struggling with their problems, but

they have to have the help of the courts and of the correctional systems, or else they are going to be sending these people right back, again and again.

Well, Mr. Ohlin, Dr. Miller, and Mr. DeMuro, the committee wishes to thank you for coming here and giving us the benefit of your ideas. If we could do so, we would like to reserve the opportunity to stay in contact with you for some continued help as we make our recommendations.

Thank you very much.

The committee will recess until 2 o'clock this afternoon.

[Whereupon, at 1:05 p.m., the committee recessed, to reconvene at 2 p.m., this same day.]

[The prepared statements of Mr. DeMuro and Mr. Ohlin, previously referred to, follow:]

PREPARED STATEMENT OF PAUL DEMURO, ASSISTANT COMMISSIONER OF AFTER CARE, STATE DEPARTMENT OF YOUTH SERVICES, BOSTON, MASS.

In 1846, a very progressive step was taken in the history of juvenile corrections. The Lyman School for delinquent boys was opened in Westborough, Mass. The purpose of this school was to separate youthful from adult offenders. Though the founders were very well intentioned, and the quality of care was superior to that of adult prisons, there were two basic defects in the plan. The mode of treatment for youth in trouble became removal from the community, and the community transferred the responsibility for its youth to another authority, the state. Institutions spread throughout the country and became the essence of juvenile corrections.

As one reviews the history of institutions, one reads of the scandals, brutality, stupidity of certain treatment programs, the punishment that was common for misconduct. For instance, if a youth ran and was captured, he was placed in a cottage where he was required to maintain silence. Frequently a finger was broken for each attempted run. In addition to the physical abuse, the subtle psychological effects of an institutional setting dehumanized a youth to such a degree that his only avenue to self-esteem and identity was the wholesale adoption of a negative or "criminal" value system.

In Massachusetts, we had a basic decision to make. Should we expend our energies to improve our institutions, or should we look to other alternatives. Given our fiscal and personnel resources, we should have been able to make the institutions more livable, perhaps even adding enriching programs. Any changes within the traditional institutions, however, would be temporary and also would be built on the faulty premise of rehabilitation through removal of a youth from his community. Therefore, we decided to seek alternatives to institutions; *not* community programs as a supplement to institutions, but rather as a complete alternative to institutions. We had a history within our agency of placing youths in private schools, group homes, foster homes, or other purchase of service agreements; but these programs were thought of as *aftercare*, after the youth attended an institution. We decided to consider these alternatives as the first step when a youth came to our Department.

We worked with community groups, universities, churches and individuals to develop programs for our youth. In essence, a spectrum of services has evolved including volunteers, foster care, family counseling, alternative schools, boarding schools, group homes, and intensive care at private psychiatric hospitals. The agencies we work with range from federally funded programs (i.e. Neighborhood Youth Corps) to McLean Hospital.

As of March of this year, we had 683 children in group care, 241 in foster care, and over 800 non-residential service slots (jobs, counseling, alternative schools, etc.) serving a total caseload of 2,928 youth. Most of these services are delivered by the private sector and paid for through a purchase of service agreement.

Such a delivery system actually costs less per youth than institutional settings; however, like most state agencies we are in a tight fiscal squeeze. We have had difficulty transferring institutional accounts into our purchase of service account. Moreover, as we developed better, more community oriented programs, our image began to change from the state's youth *authority* to a youth *service* agency; consequently we began getting more referrals. Finally, with the proposed federal

cuts to OEO and the poverty programs, I foresee our agency having to serve many more youth. Although I have my doubts, revenue sharing may be a viable plan; but I strongly suspect that the poor, black, and neglected youngsters will once again be overlooked.

I don't mean to suggest here that we have all the answers. We have had and will continue to have difficulties. Just because a person works for a private agency, doesn't necessarily make him a better kid worker; there are as many untalented, fake and corrupt people outside of state government as there are within—however, with the private sector one can cancel a contract, change a program to reflect the client's needs or redirect monies and programs to those most in need without fighting the frustrating bureaucracy of state government replete with civil service protection and patronage. Also, we need to develop more intensive care beds; small units of 8 to 10 youth staffed by the best medical and psychiatric talent available. Obviously such programs are costly, but the most damaged kids (and I am convinced that the percentage of such "hard-core" kids is very small) deserve no less.

When we began changing the system in Massachusetts, close to 80% of our youth graduated to adult corrections. Recent statistical studies on particular programs (our forestry program) suggest some dramatic results, but I'll leave the studies to academia. We all know that the old system was a failure. The system we are developing in Massachusetts has to be more successful than that, for it is based on meeting a youth's needs on an individual basis, seeing him as a unique personality with his own strengths as well as weaknesses and working with him to develop an appropriate treatment plan that is designed for him and not considering him a candidate for a wooden numbered bench in detention cottage.

PREPARED STATEMENT OF LLOYD E. OHLIN, PROFESSOR OF CRIMINOLOGY AND RESEARCH DIRECTOR, CENTER FOR CRIMINAL JUSTICE, HARVARD LAW SCHOOL, CAMBRIDGE, MASS.

The Center for Criminal Justice of the Harvard Law School has conducted a wide variety of studies in the Massachusetts Department of Youth Services over the past three years. First, the Center has conducted a continuing analysis of organizational and political measures taken by the Boston Office of DYS to define and implement new departmental policies and goals. Second, the Center more recently has begun a continuing study of the new regional offices and their work is designing and initiating treatment programs. Third, the Center examines programs for youth to evaluate the effectiveness of their organization and operation. Fourth, the Center is conducting studies of the effects of these programs on youth. Fifth, the Center is now completing an analysis of data on a subculture study of ten selected cottages at institutions since closed during the past year by the Department to serve as a baseline of comparison with the new community group homes.

These research activities began when Dr. Jerome Miller first took office, in 1969, as a reform Commissioner. The basic thrust of the research has followed the course of reform, retrospectively into the crisis events and legislative basis of the reform, and prospectively through the experiments to create therapeutic settings within institutions to the closing of the institutions and the development of community based alternatives. The research has documented difficult and trying times for the Department during this period. But the reforms undertaken have also aroused the interest of correctional planners across the country because they are charting new directions for the development of correctional services for youth. Many problems have been solved or shown to be capable of solution. Many more have come into focus as problems that still must be solved.

Our research with the Department can best be summarized by reviewing the current status of seven major developments in 1972 which reflect the central thrust of the long-term reform effort. They are all closely interrelated because they arise naturally as organizational and program problems in the movement from institution to community based corrections. If institutions must be closed because they cannot be made to serve the ends of effective treatment then a new structure of services more closely integrated with community life must be devised. Responsibility for development and supervision of such services must be decentralized and brought closer to the community through the development of regional offices. Even under such a system however, some centralized services

for the institutional treatment of dangerous and disturbed offenders may be required. In addition a closer working relationship with juvenile judges and probation personnel must be developed by court liaison staff to coordinate detention, diagnostic and referral policies and individual case decisions. The new network of community services must include a variety of alternative residential and non-residential placements for individuals and small groups which were not needed when large institutions in isolated, rural settings provided the primary treatment resource. Since such new services are more readily and effectively purchased from private agencies, it becomes essential to develop monitoring capabilities to ensure that the quality of these services meet basic standards of effectiveness. Finally it is necessary to reassess personnel requirements for this new system, to initiate staff development programs, and to arrange reassignment, retraining or discharge of former staff members to minimize personal hardship and to prevent injustice. In the following sections of this report we will review the implications and status of these seven policy problems under the following headings: 1) deinstitutionalization, 2) regionalization, 3) programs for dangerous and disturbed offenders, 4) detention, court liaison, diagnosis and referral, 5) residential and non-residential placement, 6) quality control of purchased and other services, and 7) personnel development.

DEINSTITUTIONALIZATION

A. The problem.—Since Dr. Jerome Miller became Commissioner of the Department of Youth Services, Massachusetts has been committed to finding an alternative to large institutions. For a period of time the Department tried to increase treatment effectiveness by creating within the institutions relatively autonomous, therapeutic cottage units in sharp contrast to the centrally administered traditional custody program. However experience soon demonstrated that effective development of these therapeutic programs was greatly hampered by the rural isolation of the institutions, and the difficulty of converting a deeply entrenched custodial system to a radically new type of treatment orientation.

B. Policy and procedure.—In the winter of 1971–72 the Department successfully closed two major institutions, Shirley and Lyman. Lancaster was phased down later in 1972. To do this the Department organized task forces cutting across bureau lines. Members of the planning unit, the administrative unit, and all four bureaus in the Boston Office participated in the planning and execution of the closings, as did staff in the regions and in some of the institutions. A major part of the closing of institutions involved finding alternative placements for the youth. A new administrative capability was developed to do this, first in the Boston Office and then in the regions. In addition, the University of Massachusetts placement conference was invented to provide a mass relocation capability. Another major problem in closing institutions was the reassignment of the staff. A new personnel management system within the administrative unit was developed to do this, incorporating a procedure of basing new assignments on ranked preferences of the staff and special attention to those with more seniority.

C. Accomplishments.—Most of the youth perceived the closing of the institutions as a welcome change. It gave them new opportunities to be involved in more personal relationships with advocates and program staff, and enabled them to escape the oppressive custodial climate of the institutions. Initially many staff members were greatly alarmed but in the end found the closing policy not so unsettling as it first appeared because of the efforts clearly being made to relocate staff in satisfactory positions. For regional and placement staff finding alternative placements for youth became most urgent. When federal funding of new group homes lagged behind expectations, the staff diligently uncovered new types of placements, particularly those involving new types of nonresidential services. With the closing of institutions the problem for planners and administrators shifted from the slow task of staff retraining to the problem of finding more fluid and potentially effective opportunities for contracting and purchasing services. Now they could develop new programs more quickly, and terminate unsuccessful programs more easily. Many private service agencies saw new possibilities for involvement in the treatment of delinquent youth and greater opportunities to develop and try out new ideas for treatment.

D. Continuing problems and needs.—The last vestiges of the three large institutions linger on with the haunting possibility that they may be used again as a primary treatment resource. Planners and administrators in the Department are convinced that the consolidation of the new policies for youth corrections requires the Department to divest itself of these large institutions, though vari-

ous temporary needs for housing programs are still being met by using cottages in them. As destructive as large training schools are in their judgment, there is continued use of relatively large detention and reception centers. Such facilities exhibit the same apparently inevitable preoccupations with custodial security and regimentation to maintain control over large numbers of youth confined involuntarily even for short periods of time. Although Roslindale, the Boston detention center, is now almost entirely under private contract including a program for committed youth, it is still unmistakably an institution in the traditional mold, while the Worcester and Westfield detention centers continue very much as they were before the changes of the last year. There is a distinct possibility that these three institutions, especially Roslindale, can be scaled down, if not closed, and used only for a small number of youth who simply cannot be held securely in more open community settings.

REGIONALIZATION

A. The problem.—Even before deinstitutionalization was considered there was a need to get bases of supervision, support, and guidance closer to the workers in the field in the Bureau of Aftercare. When the Department began closing the institutions this need became urgent in the entire Department, which in a sense eventually turned into a giant expansion of the Bureau of Aftercare. In addition, the shift from a custodial to treatment orientation had already abridged institutional autonomy with greater control lodged in the central office. With the movement toward highly decentralized community based services, it became imperative to reallocate a large measure of central control to the new regional offices. In this way the regional needs could be attended to better and the communities of each region could participate more effectively and responsibly in devising new correctional services for their youth.

B. Policy and procedure.—Regionalization began as a dual structure with each regional office having a director of aftercare and a director of residential treatment. In the interests of organizational and administrative clarity this duality was eliminated. The regional director of aftercare became the regional director, while the regional director of residential treatment became the assistant regional director. Regional offices began to become fully operational as the institutions closed and responsibility and authority for youth were gradually delegated to the regions by the Bureaus and the Administrative unit in the Boston Office. Thus with support from Boston Office personnel the regional offices undertook to develop placement opportunities for youth referred or sentenced to DYS by the courts. This involved developing, with the support of the Boston office, a new contracting capability at the regional level. The latest step in the process of regionalization has been the regionalization of detention, so that there is no longer any stage in a youth's contact with DYS where some regional office is not in charge of him. Finally efforts are being made to have the budget organized by regions, somewhat as it was organized by institutions in the past but with less stringent controls over intradepartmental transfers.

C. Accomplishments.—From the viewpoint of the youth in DYS regionalization has immeasurably improved service since regional offices know more about possible placements in the communities, where the youth are, and how they are doing. This now makes feasible successive trial placements if necessary so that ultimately youth can hope to get the best possible placement. The staff generally find that regionalization provides new opportunities to work more effectively with youth—ways that simply did not seem available under the old system. Some staff who have involved themselves heavily in the new programs are obviously more impressed with this than others who have avoided involvement. For planners and administrators regionalization has meant a closer fit between programs and the needs and resources of each region, (for example the U. Mass placement conference staff felt hampered by having to work on a statewide level without a regional structure to facilitate contact with local needs and resources). Regionalization has also provided a greater degree of administrative accountability for youth and resources that perviously was only partially available in the institutions and generally not available at all in aftercare. To the community, regionalization has offered a negotiated involvement that was simply not part of the older institutional system and would not now be possible without the more accessible regional offices.

D. Continuing problems and needs.—While the division of authority and responsibility between administrative and program divisions of the Boston Office

on the one hand and the regional offices on the other has been abrupt and generally effective, it still shows the marks of newness, transition, and experimentation. For example, records and current operating information systems are only gradually developing to link the regions with the Boston Office. Perhaps the greatest continuing need, associated with the transition from the institutional structure, is to divert funds from excess staff positions left in the institution budgets so that the funds can be used to expand and continue the new program in the regional areas. This need is discussed more fully in the section below on personnel.

PROGRAMS FOR DANGEROUS AND DISTURBED OFFENDERS

A. The problem.—There is widespread although not universal agreement that most people, both youth and adult, who are now locked up need not be. There is also widespread and near-universal agreement that some of those now routinely locked up, both youth and adult, really must continue to be confined in the future as well. It is also widely recognized that it is extremely difficult to separate out with a tolerable margin of error those who need to be locked up from those who do not. However recent experience in DYS with community placements has shown that with youth this problem is not as difficult as is generally assumed. Many youth clearly and obviously belong in community placements. Some clearly belong in secure settings. A few are problematic. An obvious need that emerged during this last year as the institutions closed was the provision of secure settings with intensive treatment for dangerous and disturbed youth, coupled with safeguards that would prevent such misuse of these facilities as placing in them youth who needed community resources more than secure restraints.

B. Policy and procedure.—Virtually all units of the Boston Office and the regional offices have been involved in some fashion in addressing this problem. The planning unit has recently been trying to formalize some of the conclusions and concerns of the Department in this area. The Department has found it helpful to make a distinction between youth who are behavior problems and youth who need psychiatric care. For both sorts of youth the Department has found it desirable to try to purchase services. For the behavior problem youth some conspicuous success had been achieved in the Andros program run by ex-offenders who have shown an ability to relate directly to these youth while "taking no nonsense." This program stresses use of community resources within a framework of appropriate custodial security. The Department is considering the development of additional small programs holding up to twenty youth including one for girls, along similar lines. For youth needing psychiatric care, the Department has been exploring purchase of service from private agencies with demonstrated skills in this area, and also exploring the possibility of a closely coordinated relationship with the Department of Mental Health which would allow for an exchange of services between DYS and DMH without requiring transfer of youth from the jurisdiction of one department to another. Safeguards for the youth in these different settings would be ensured by developing agreed upon standards for decision making and frequent case review.

C. Accomplishments.—The main accomplishment to this point has been the accumulation of experience just from wrestling with the problem, and perhaps a clearer idea of what needs to be done for dangerous and disturbed youth. For some youth thus far this program has meant a more constructive form of secure treatment than periodic and indiscriminate punishment in isolation cells. Staff have developed a new awareness of specific strategies that may help dangerous and disturbed youth. The planners and administrators are also much clearer about the potentialities of purchased services for these youth and necessary safeguards.

D. Continuing problems and needs.—The continuing need is for further implementation and development of the Department's experience in this area. In particular a program is needed for girls, and the projected psychiatric treatment alternatives may require more funds. Important also is increased cooperation and understanding between DYS, the courts, and the community as to the needs of dangerous and disturbed offenders and the functions of the various treatment alternatives for committed or referred youth. At present, DYS appears able to work constructively with some judges better than others in developing improved alternatives for such offenders. Clearly in the future DYS, largely through its regional offices, must find ways to work with all juvenile judges to implement better ways of treating these youth than binding them over to adult courts, or relying excessively on maximum security facilities as opposed to constructive programming in the community with other public and private agencies.

Detention, Court Liaison, and Referral

A. The problem.—DYS has been concerned about the fact that nearly all youth detained prior to trial have been held in high security institutional settings. These settings have been seen as unnecessary and destructive for most youth who are not dangerous, and for whom high security detention only aggravates their problems. DYS staff also believes that the period of detention offers a special opportunity to alter a youth's career of delinquency if used constructively. Youth may be labeled by a period of confinement and unnecessarily handicapped on their return to the community. The staff therefore is trying to reduce the probability of commitment and to provide alternatives both to commitment and to traditional detention.

B. Policy and procedure.—Alternatives to large high security detention facilities have been developed with the help of private agencies. Shelter care units have been set up in several regions, generally housing between ten and twelve youth. Local YMCA's have proved to be the most productive private resource for such facilities. In addition, foster care has been greatly expanded for detention purposes. Regions therefore now have an array of detention alternatives ranging from approximately twenty-five foster homes through shelter care (six are now operating) to the more traditional security facilities such as the Roslindale, Worcester and Westfield detention centers. Secure facilities used by more than one region are administered centrally by the Boston Office while the shelter and foster care programs are under regional control.

To deal more effectively with needs of youth while they are still under the care of the court, the court liaison role was formulated to advise courts about alternative ways of dealing with youth available to the Department. The court liaison officer considers and recommends placement possibilities within the DYS system and sometimes, as well, other alternatives to conventional detection. Thus, if a youth is referred or committed to DYS the time between such action and placement is minimized, and the reception phase in many instances is no longer distinct from detention. In seeking other options to commitment and to reduce any labeling effect of commitment, DYS has encouraged the courts to *refer* youth to DYS programs prior to final adjudication instead of *committing* them to DYS. Referrals have increased greatly throughout the system, with, of course, regional variations. It is estimated that between one-fourth and one-third of all youth in both residential and non-residential programs are now referrals instead of commitments.

C. Accomplishments.—The range of detention programs now means that some youth are detained under more benign conditions than existed previously in the tight security units. In most cases youth also seem to be aware of the advantages of referral instead of commitment to placement programs. DYS staff regard the detention, court liaison and referral programs as important components in solidifying regionalization. Program development in these areas has largely been taken over by the regional offices while quality control, monitoring, and general administrative matters have remained in the Boston Office. The court liaison and referral programs also appear to have created more constructive working relationships with the courts. DYS is providing services which the courts did not previously have readily available and is able to draw on a statewide referral and quality control system inherently difficult for the courts to develop themselves.

Private contracting agencies in the community find in these new programs an opportunity to expand their own services. This is particularly the case with the YMCA's. In a number of courts judges and probation staff have made effective use of the new referral opportunities and the assistance of the court liaison officers in utilizing these alternatives. In other instances they have been critical of the resistance of DYS staff to use high security facilities more frequently. Clearly there are still many unresolved policy differences between DYS and court personnel in regard to these new programs that must be worked out in the future.

D. Continuing problems and needs.—While the range of detention alternatives has been greatly improved during the past year, the availability and use of the older large security facilities, such as Roslindale continues to pose the problem of overdue of this alternative. Physically secure units are necessary for certain youth, but such units should probably be small in size (no more than twenty youth), administer a diversified program, and provide responsive care.

As in the past, detention services for girls lag somewhat behind the service alternatives available for boys. The court liaison program, while providing benefits to some courts and some regions, is still not operating across the entire state. Efforts need to be made to make this program an integral part of all regional systems.

Finally, a caution is in order regarding the entire package of detention, court liaison, and referral programs. It is sound to reduce the harmful results of a youth being committed. However, if youth are now being referred who otherwise would not have been committed to DYS, the risk of labeling youth at an earlier point in time is also enhanced. There is some evidence that referrals to the Department are increasing without compensating state-wide reductions in commitments. Whether the additional youth will unnecessarily acquire invidious labels, or whether their presence will lessen the degree to which the youth who have always been in DYS acquire such labels, is a question demanding urgent concern and investigation. There are many issues to be resolved. If the DYS services become less punitive, more therapeutic, and more readily available they will be used more often. Yet if they provide a treatment of last resort for the most dangerous and disturbed youth all of the youth serviced may be perceived in the same way unless clear and possibly harmful distinctions are maintained. So for the trend toward diffusion of the punitive public image of the Department seems to be achieving desirable results. Long run data on recidivism, not yet available, for current versus earlier commitments to the Department will help get some of the answers. In the meantime the generally beneficial effects of the program should be continued.

PLACEMENT

A. The problem.—One of the most pressing problems confronting DYS as the institutions were closing was the development of viable alternatives to institutional confinement. Within the context of the move to regionalize, this development of alternative placements for youth had to be seen as in large part the responsibility of the regional offices. The new placements had to be able to deal with very different types of youth problems, including youth considered especially hard to handle.

B. Policy and procedure.—The Boston Office had begun exploring new placement alternatives in 1971, and stepped up its activities in early 1972 beginning with the U. Mass Conference in January. A primary goal of this activity involved the development of group homes. However when it became obvious that Governor's Committee funding would be delayed, leaving many youth stranded as the institutions closed, a great deal of emphasis was shifted to the development of non-residential alternatives, i.e., either day or night programs in which youth can participate while living at home or in some other setting. During 1972 much of this work of developing placements was gradually shifted over to the regional offices, until now virtually the entire responsibility for developing and providing placements rests with the regions. The joint effort of the regions and the Boston Office developed, in addition to the group homes, such placement possibilities as Neighborhood Youth Corps, a recreation program at Mass Maritime Academy, and programs at community colleges as well as more fostercare than was used formerly. According to the best estimates available at this time, there are about 80 non-residential programs across the state, in which DYS places youth, about 120 residential programs and about 170 foster homes. About 600 youth are placed in residential group homes, and about 190 in foster homes, while about 620 youth are in the non-residential programs.

Finally, by seeking the help of private agencies to actually set up the new group homes and other non-residential programs, DYS put itself in a position to observe and evaluate at close quarters a wide variety of approaches to the problem of involving the community in a broadly based correctional system for youth.

C. *Accomplishments.*—Once the range of placement alternatives stabilized in the Fall, youth became much more favorable toward the placement process and opportunities. Youth seem to favor group homes and non-residential programs which exhibit a caring environment and which provide a variety of program activities. This is similar to youth reactions to the various types of cottages at the former institutions discussed in an earlier Center report in October 1972.

Boston Office and regional staff are confident that specific programs can be generated within the private sector as long as necessary financial resources exist, and that handling youth within a community context will decrease the likelihood of the youth returning to the DYS. Furthermore, these staff members

believe that communities no longer view youth problems as problems to be resolved only by youth and the state, but increasingly instead view them as community problems which can be handled within communities. The Center's study of efforts to neutralize community resistance to group homes suggests that in some communities this sense of community responsibility and capability has indeed developed significantly.

D. Continuing problems and needs.—Adequate placements for the seriously disturbed or dangerous youth continue to be a problem, as mentioned earlier. At this point, adequate alternative programs for girls are also few in number.

One of the serious problems plaguing placement in general is the slowness of reimbursement. The time lag between provision of services and payment for services is sometimes so great that contracting agencies question whether regional directors really have the authority to contract for DYS, and in some cases as a consequence smaller agencies feel threatened with bankruptcy. Prompt payment and firm financial commitments are essential to build the greatly enriched network of placement opportunities that a successful community based system of corrections requires.

QUALITY CONTROL

A. The problem.—Quality control of programs is an issue which had received little attention in DYS until the new placement alternatives were developed. However, as these alternatives were created, the issue became inescapable. The basic problem is how to maintain control over the quality of programs contracted to private agencies. This type of accountability for program quality to a public agency is something to which most of the private groups have not been accustomed in the past.

B. Policy and procedure.—Three distinct units have become involved in evaluation of ongoing programs. Some checklist monitoring of day-to-day programs was established in both the non-residential and the residential administrative units with the Bureau of Aftercare. These two units have provided useful information about activities in the various programs. However, a recently organized third unit under the direction of Assistant Commissioner Bakal has used a more systematic approach for measuring what has been happening to youth being processed through the new programs. Data has been gathered by repeatedly visiting the programs and interviewing staff and youth. Programs are now rated in various areas of Departmental concern about quality, such as facilities, administration and staff, controls, program, clinical services, diversion, and budget. Information gleaned by all three units has been used by the Boston Office and regional staff as a basis for recommending program changes, and in some instances termination of program funding.

Along with the development of the three evaluation units the Department has continued to develop an information system. This system will keep track of youth, programs, and eventually, evaluative information. It is designed to be useful both for day-to-day placement decisions and for longer run policy decisions. It should also increase accountability of both the Department's own programs and those of agencies contracting with the Department.

The Center has been working with the evaluation units and the consulting firm developing the information system to strengthen the Department's capacity to monitor its own activities and to build in routine data gathering which would also be useful for long-range research and policy decisions.

C. Accomplishments.—It is acknowledged by Boston Office staff that quality control measures are not fully operational. However progress has been made during the year. The fact that some programs have been terminated on the basis of evaluations has encouraged staff in their belief that the Department can collect evaluative data and make decisions on the basis of it. Regional directors, a number of whom were at first skeptical of the evaluation and information system, are now calling for more types of evaluation information to improve their own placement decisions. Staff involved with the development if the information system are also optimistic about what has happened during the year but expect more systematic results from computer print-outs of information on programs in the coming year. These staff members cite as a major achievement the fact that the DYS system is now organized to report regularly detailed information on youth and programs for use in the new information system.

D. Continuing problems and needs.—Quality control will probably continue to be a major issue during 1973. Evaluation efforts must be expanded to include evaluation of detention services, foster care, and non-residential services. Evalua-

tion procedures will have to be routinized to assure that once a program has received a good appraisal, it will not be forgotten, and the information system will have to be developed to the point where retrieval of information can be very quick, so as to contribute to day-to-day decisions.

PERSONNEL DEVELOPMENT

A. The problem.—In a sense all of the problems of internal development in the Department over the past few years of reform could be categorized as problems of either program development or personnel development, and the two are closely related. Personnel development is essential if new programs are to work. Staff who have been loyal to the state for years and have become committed to their work and the philosophy guiding it have suddenly been asked to change and to implement the reform policies. Not all staff can understand or accept the major reforms now being executed. Reform thus calls for new procedures to support and guide staff, or to train or replace them—in short new ways of being sure that a qualified person is there and effectively doing a required job. This also means attending to the needs of many staff members for whom the transition cannot be easy, even though the reforms may provide opportunities for more meaningful work with troubled youth.

B. Policy and procedure.—Early in the process of reform there were attempts to institute training programs for staff on a state-wide basis. In general these early efforts were not very successful in terms of staff acceptance or participation. More recently major developments in regionalization, deinstitutionalization, and purchase of service have altered staff requirements. Formal training programs are now run as regional training conferences with the help of the Boston Office, and some training can now be done on the job under the routine supervision of the regional office. In addition, deinstitutionalization and the new practice of purchasing service has besides involving new staff, put old staff in positions where it has become relevant to their day-to-day routine to learn new skills. The administration unit in the Boston Office has provided displaced staff with opportunities to transfer to different work, including new casework and other alternatives under the regional offices, or joining private non-profit treatment agencies that contract services to DYS.

C. Accomplishments.—From the point of view of the staff, accomplishments in this area are mixed. For many staff who have taken the opportunities offered to get deeply involved in the new system, the experience has been a good one. For others who have been unable or unwilling to break with past traditions, the experience has been distressing. On balance it is interesting to note that the staff union leadership, with increased understanding of what is being done and why, has not opposed the changes as it did in earlier years. For youth the process of personnel development has brought good results, since it has succeeded in moving the system toward getting the new work done by people who are able to do it. Also the administrators and planners feel that the personnel development has brought about new capabilities for change and effective work with youth.

D. Continuing problems and needs.—Perhaps the most pressing continuing need, is for the reorganization of the state budget to allow use of more of the budgeted money for purchase of service. Much of that money is now committed to maintaining underutilized institutional or other state staff positions. The majority of the staff that actually operates programs for youth are now in private agencies contracting services to the state. The budget must be revised to reflect this fact, if continued staff development is not to be seriously hampered. The Department is seeking this kind of budget revision and would like to cut its staff of state employees down to less than half of its current number.

CONCLUSION

More detailed analysis relevant to many of the issues discussed here is available in the larger reports the Center has issued during 1972. The more detailed reports are the following:

(1) Youth Reactions to Massachusetts Department of Youth Services Institutions, 1970–1972

(2) The University of Massachusetts Conference: An Experiment in Youth Corrections

(3) Neutralization of Community Resistance to Group Homes

(4) Evaluating Large Scale Social Service Systems in Changing Environments

(5) Subcultures of Selected Cottages in Massachusetts Department of Youth Services Institutions in 1971

It will be extremely important to continue to follow-up the developments described here. The Center's research plans for 1973 include continued monitoring of organizational developments in the Boston Office and the regional offices, continued program evaluation, and continued study of youth subcultures in correctional programs.

Among the special issues which will be of great interest is the question of whether the new developments add up to a net increase or net reduction of labeling effects, as the Department moves to deal with youth earlier in their court experience, and as youth who might not have become involved with DYS under the old system are now placed by DYS as a referral service for the courts. This issue may become particularly important if, under administrative reorganization, DYS becomes merged with other agencies now dealing with nondelinquents.

The Center's research in the coming year will also provide the first systematic information on effects of programs on youth, both in terms of recidivism and involvement of the youth in reintegrative relationships in the community. In addition, the coming year will provide other important followup data from a replication of our earlier study of youth subcultures in correctional settings, allowing us to compare the new group home settings with the old institutional settings, and also from continued collection of data on the organizational process of consolidating and completing reform.

It is clear that the Department of Youth Services has embarked on a program of fundamental change in the care of youthful offenders. It has made much progress in changing the old system drawing on experience with new cottage programs devised within the institutions before they were closed. It is also clear that much work remains to be done in consolidating and completing the fundamental changes. The Department will need the continued support of the legislature, funding agencies, the courts, and other state-wide and community groups in completing its reform program. Reforms have not yet been completed to insure *lasting* changes in the treatment opportunities available to youth in trouble. It is not yet clear how the current reorganization of the state administration will affect the work already done or the need to consolidate and augment the process of constructive change. The year ahead will be a critical one for confronting these problems.

Afternoon Session

Chairman Pepper. The committee will come to order, please.

Mr. Lynch, will you proceed with the first witness.

Mr. Lynch. Thank you, Mr. Chairman.

Mr. Chairman, this afternoon the first witness is Miss Lucy Keating. She is a program development specialist with the Department of Youth Services, State of Massachusetts.

If it would be all right, Mr. Chairman, I would like to ask Miss Keating a few preliminary questions and then ask her to introduce her panel of five young people who are seated behind her at the moment, all of whom have participated in a prior institutional program in Massachusetts and are now located in various group- and community-based rehabilitation service programs within that State.

Miss Keating, I wonder if you could tell the chairman and the members of the committee what function it is that you serve as a program development specialist.

STATEMENT OF LUCY KEATING, PROGRAM DEVELOPMENT SPECIALIST, DEPARTMENT OF YOUTH SERVICES, BOSTON, MASS.; ACCOMPANIED BY MISS RUTH, MR. POLLOCK, MISS LABONTE, MR. HALL, AND MISS BERGERON, CLIENTS

Miss KEATING. I am presently working in the bureau of after care, mostly involved right now with soliciting and working with groups to develop programs, both residential and nonresidential, for girls, which is an area that we need to expand on in the State of Massachusetts.

Mr. LYNCH. What contacts do you have with young people who are participating in those programs?

Miss KEATING. Right now, we have opened up the central administration office in the Boston office for the State to be accessible to the youth that we are serving and often they come to get additional information about programs across the State.

Chairman PEPPER. Would you like to repeat that?

Miss KEATING. I often meet the youth of the department of youth services as they come into the central administration office, which in the last 4 years since Dr. Miller has come into the State of Massachusetts, has been opened up to the youth so that they can inquire about additional programs they might not be finding out about.

Mr. LYNCH. Would you introduce the five young men and women you brought with you today and ask them to please take a seat at the witness table with you?

Miss KEATING. From my left, will be Jim Pollock and Tim Hall, Sue Bergeron, Debbie Ruth, and Nancy LaBonte.

Mr. LYNCH. Mr. Chairman, I would like to proceed with Miss LaBonte.

Miss LaBonte, I wonder if you would please tell the chairman and the committee how it was that you first became involved with the juvenile justice system in the State of Massachusetts; what your experience was in an institution in that State; and, finally, what kind of a program you are presently involved in.

Miss LABONTE. I first got in trouble when I was 13, just running away and doing dope, and I ended up in Lancaster, which is an institution, and I had to stay 13 months. I was released and stayed only on that site for one summer. I had gone back and I was put into a foster home after that, from which I ran.

I have been on my own for the past 2 years.

Mr. LYNCH. Would you tell us, please, what kind of institution Lancaster is, and what kind of programs you participated in while you were there?

Miss LABONTE. It is a regular institution.

Mr. LYNCH. Tell us what the daily routine was like in that institution, if you would please, from the time you got up in the morning until the time you retired in the evening?

Miss LABONTE. We got up at 7:30 and we had to have our rooms cleaned before we went down to breakfast. After breakfast we had to either work in the bakery, laundry, go to school, or we had child care, things like that.

Mr. MCDONALD. When you were sent to Lancaster what kind of girls did you associate with? You were sent to Lancaster because

you had problems at home, you were running away. What kind of girls were you associated with in Lancaster?

Miss LaBonte. Basically, all types, prostitutes, people that were sent up for dope, people stealing cars.

Mr. McDonald. With what kind of rehabilitative services and facilities did they provide you?

Miss LaBonte. I don't think they provided any.

Mr. McDonald. Did you get counseling at all at Lancaster?

Miss LaBonte. Yes, there was counseling, but how can you be counseled and be locked up at the same time?

Mr. McDonald. What kind of groups were they? Who gave the counseling to you?

Miss LaBonte. It was four counselors: like, everyone was assigned to a certain counselor and she saw them once a week.

Mr. McDonald. Where was Lancaster in relation to your home? You were from Springfield or Westfield?

Miss LaBonte. Yes.

Mr. McDonald. Where is Lancaster in relation to that?

Miss LaBonte. About 60 miles away from my home.

Mr. McDonald. Mr. Hall, can you give us a description of when you first got into trouble with the authorities and for what offense?

Mr. Hall. When I first got in trouble I was about 13 years old. My mother took out a stubborn child complaint and they brought me to court for that. When they picked me up I had in my possession a hypodermic needle and dope. So they put a drug charge on me and I got sent to Lyman School at that time and I did 3 months in Lyman School, and there was no type of drug counseling up there.

What you did from day to day was sit in their rec hall or watch TV and go down and have your breakfast and lunch, regular schedule, you know. Once in a while you would get a little counseling, you know; but as far as reform, there was none.

Mr. McDonald. Can you tell the committee a little bit about Roslindale? You were sent there. Tell us what year you were sent there. At the detention center you mentioned you had been in a number of times, can you describe for us what life was like at Roslindale? What did you do from getting up in the morning through most of the day?

Mr. Hall. Roslindale, mainly—I went there in 1967. My first time in Roslindale was probably 1967. And they had basically the same thing, you know. You come in and they write up what you go on, and your possessions, what you have, they take your personal belongings. You go to sit in the rec hall. You watch TV. Like their bathroom facilities were all dirty.

If you wasn't in the rec hall watching TV you were locked up. Like there was guys up there, sometimes beat your head against the wall, you know, brutality. Like if the kids got out of line or something like that for unnecessary reasons, there was guys up there would beat your head. I don't think that's no type of reform for any kids.

If they did something wrong, you know, it's not their place for them to take out whatever happened at home on the kids, you know, when they come to work. That's basically what Roslindale is all about.

Mr. McDonald. Why were the fellows being beaten at Roslindale; do you know?

Mr. HALL. No particular reason. You know, like we had to go to bed about 9 or 9:30. Nobody wanted to be in bed about that time, so maybe the kids would make some noise and the guys came down one night and started beating kids on the head—just because they were making noise.

Mr. MCDONALD. Tim, you told me before you were sent to Roslindale 15 or 20 times over a course of 4 years. Can you explain or tell them what Roslindale is, and why you were sent there so many times?

Mr. HALL. I was sent there so many times because I was messing around with drugs for 4 years. I was shooting dope for 4 years, from about 1967 until about a year ago. And in the course, in between that time, like I was doing a lot of things I wasn't supposed to, until I went to the rehabilitation center.

I was in and out of Roslindale, like, what sent me to Roslindale, I kept on getting busted for various things, like being on heroin and things like that.

Every time I went there, nothing would be changed. Like the same things would be going on, either the kids would be in the rec hall, and that's it. Like the gym, once in awhile. And like I say, the only thing I have seen about Roslindale that has changed—you know, it is just a detention center where the kids are held there maybe overnight. If you got arrested by the police on Thursday they held you over until Friday, the next morning, when you are arraigned.

It is like, really, the place is an institution that should have been closed a long time ago. It is no place for anybody to live.

Mr. MCDONALD. How about Lyman Hall? You spent some time there. Can you explain the routine at Lyman; what was done for you as a young juvenile offender; what kind of rehabilitation you got there, if you got any at all?

Mr. HALL. There was no type of rehabilitation at Lyman School. It was more or less set up on the basis of Roslindale. Like you would sit in the rec hall, you know. Like they had a TV room. You could play basketball, you could watch TV. You had your choice, but as far as setting up educational and therapeutic things, they had school up there but it only lasted for something like 3 months and the kids only went if they wanted to. They weren't forced to go or anything like that.

It all depends on how you behaved up there whether you got the chance to go home, like they give 2-day passes or the 3-day passes. It all depends on your behavior whether you got one.

Mr. MCDONALD. Explain to us how you got involved with First, Inc. and what that program is all about, including what it has done for you.

Mr. HALL. Well, I was out of jail for awhile and so the condition of my parole from Lyman School was not to use any drugs again. OK, so I came back home. I did start using drugs again. So I got it so bad my mother called my probation officer on me and he came with two officers to arrest me one morning and took me to Roslindale. I stayed up there for a week. Then I was sent to First, Inc., which is a drug rehabilitation center. That was a drug, more or less, therapy place where they had encounters, seminars, rap sessions, and different things like that.

Mr. McDonald. Tell the committee about the facility itself; was it strictly for juveniles?

Mr. Hall. No, it was for anybody; no difference as to race. It was all kinds of races there; no difference as to age. All different ages, not just for juveniles. They have encounter groups, where you would go in discussion, like your past life with your family, different things.

Mr. McDonald. Were there locks on the doors?

Mr. Hall. No, there was no locks on the door. When I first came there I really didn't want to stay, but I seen some of the friends I was with in the street and they were using drugs pretty bad and I said, "If they can do it, I can do it, too." I just stayed in.

If you got locked doors a person is going to want to think about getting out. But if you have open doors, and if it is just an institution or rehabilitation center, you know, they are going to think twice about leaving, think it is going to do me some good. It was a self-help program. If you didn't want to be there you didn't have to stay there, you know.

Mr. McDonald. You were given a choice? When your probation officer came around to arrest you that time, he gave you the choice?

Mr. Hall. He didn't give no choice then. He just came and arrested me in my bed, he and two policemen, and took me up to Roslindale. I stayed up there a week before he would come to see me. When he did come up there he told me I couldn't go back home. He said I had a choice of going to Oakdale or halfway house.

I picked the halfway house, drug halfway house, because I was still on drugs.

Mr. McDonald. Have you touched any drugs since that time?

Mr. Hall. No, I haven't. It has been 1 year and 2 months.

Mr. McDonald. When was it you went to First, Inc.? When did you start that?

Mr. Hall. In March.

Mr. McDonald. March of what year?

Mr. Hall. 1972.

Mr. McDonald. Have you been arrested at all since that time?

Mr. Hall. No.

Mr. McDonald. What are you are doing now?

Mr. Hall. I am working in Waltham, at Parke-Davis. I put together cardiographs.

Mr. McDonald. In your own opinion, if you hadn't gone to First, Inc., if you had gone to Oakdale——

Mr. Hall. I probably would have still been on drugs.

Mr. McDonald. Thank you, Tim.

Miss Bergeron, can you give the committee a description of when you first got in trouble; how old you were; where you lived at the time; and whom you were living with?

Miss Bergeron. I was 14 years old and I had got in trouble for stealing cars. My first time I got in trouble, I got probation. The second time, I got put under observation for 2 weeks in Westfield Detention Center, and from there I went home and got picked up again for loitering.

I got put away for violation in Worcester Detention Center; and from there I went to Lancaster Reform School; then from there I got

transferred to Lyman Reform School: and from Lyman, I went home.

Mr. McDonald. Over how long a period of time was this?

Miss Bergeron. About 2½ years, 3 years.

Mr. McDonald. How old are you now, Sue?

Miss Bergeron. Seventeen.

Mr. McDonald. How was your homelife before you started getting in trouble? Were you getting along with your family?

Miss Bergeron. I wasn't living with my family. I was just living with friends.

Mr. McDonald. Can you describe Westfield for us?

Miss Bergeron. It is a small building and it holds about 25 people. When I was there, my first time being there, you had to wear State clothes, and it was like the girls' side and boys' side, and you stayed on the girls' side and went to bed about 8:30 and lights out by 9 and you stayed in your room.

Mr. Lynch. You indicated you weren't living with your family. Why weren't you living with your family?

Miss Bergeron. I wasn't; I just didn't like people telling me what to do.

Mr. Lynch. Do you have brothers and sisters?

Miss Bergeron. Yes.

Mr. Lynch. How many?

Miss Bergeron. Two other sisters and a brother.

Mr. Lynch. Do they live at home?

Miss Bergeron. Yes.

Mr. Lynch. Have they been in trouble with the juvenile authorities?

Miss Bergeron. No.

Mr. Lynch. You said you were 14 when you were first arrested for stealing an automobile?

Miss Bergeron. Yes.

Mr. Lynch. When you were first sent to a juvenile facility, what kind of treatment, if any, were you given there?

Miss Bergeron. Treated just like all of the rest of the kids. I was greeted when I came in and then searched. You couldn't have makeup, or any money on you, or anything like that.

Mr. Lynch. Did you have any regular kind of counseling program?

Miss Bergeron. No.

Mr. Lynch. Did adults deal with you in any particular kind of way? How did you relate to the adult correctional personnel there?

Miss Bergeron. You are talking about Westfield now?

Mr. Lynch. The first correctional institution you were sent to. Is that Westfield?

Miss Bergeron. No, that would be Lancaster. Westfield is the detention center, like an overstay until you are placed.

Mr. Lynch. What was the first institution you served any considerable period of time in?

Miss Bergeron. Lancaster.

Mr. Lynch. At that institution did you receive any regular kind of counseling service?

Miss Bergeron. No.

Mr. Lynch. What did you do there during the day?

Miss Bergeron. I farmed. I worked on a farm.

Mr. Lynch. Did you go to school?

Miss BERGERON. Yes: I did.

Mr. LYNCH. How many hours a day?

Miss BERGERON. About 8:30 to 4.

Mr. LYNCH. When did you do the farming?

Miss BERGERON. It must have been in the summertime I did farming. It was in the summertime I did farming, all day.

Mr. LYNCH. How long did you stay in that institution?

Miss BERGERON. Three months.

Mr. LYNCH. What happened to you then?

Miss BERGERON. I went to Lyman Reform School.

Mr. LYNCH. Why were you sent to Lyman?

Miss BERGERON. They were just accepting girls. Lyman just started taking girls in.

Mr. LYNCH. How long did you stay in Lyman?

Miss BERGERON. Three months.

Mr. LYNCH. What happened to you then?

Miss BERGERON. I ran from Lyman.

Mr. LYNCH. Where did you go?

Miss BERGERON. I went home.

Mr. LYNCH. And what happened to you then?

Miss BERGERON. I was never caught. I was on the run for about a year and a half.

Mr. LYNCH. What did you do during that year and a half? What kind of life did you live. Were you committing crimes?

Miss BERGERON Oh, no.

Mr. LYNCH. Were you getting into trouble?

Miss BERGERON. Yes. I never got picked up. I was still being myself.

Mr. LYNCH. That is not what I am asking you, whether or not you were picked up. Were you getting into trouble?

Miss BERGERON. Yes.

Mr. LYNCH. Were you going to school?

Miss BERGERON. No.

Mr. LYNCH. You were living full time with your parents?

Miss BERGERON. No, no. I went home to other people, like people I considered home then.

Mr. LYNCH. Were they adults or youngsters?

Miss BERGERON. Youngsters. Yes, about 25 and under.

Mr. LYNCH. Why are you here now? What eventually happened to get you back in the system?

Miss BERGERON. Then a year and a half later I got picked up for grand larceny.

Mr. LYNCH. Was that auto theft? Grand larceny auto theft?

Miss BERGERON. No. Money.

Mr LYNCH. Go ahead.

Miss BERGERON. From there I went back to Westfield Detention Center for 5 weeks. Then I got interviewed by Genesis II halfway house.

Mr. LYNCH. Tell us what Genesis II is.

Miss BERGERON. Genesis II is an organization that has many halfway houses and has a school in Springfield. And it is just, they are just houses where kids live in there and get counseling.

Mr. LYNCH. How many other youngsters are there in that house?

Miss BERGERON. Eight others.

Mr. LYNCH. Is it all girls or girls and boys?

Miss BERGERON. It is co-ed.

Mr. LYNCH. Describe a typical day at that place, would you please?

Miss BERGERON. We get up at 8 o'clock and breakfast is at 8:30, and if you don't make it down for breakfast you don't get breakfast.

Mr. LYNCH. Who cooks breakfast?

Miss BERGERON. The counselor that is on in the morning. After breakfast, I go to school.

Mr. LYNCH. Public school?

Miss BERGERON. No, I go to Business Education Institute, keypunching school. And a couple of kids go to school, you know, a couple of kids go to work. Some of them are trying to be programed, go other places. After school I come home and there is usually something to do around the house.

Mr. LYNCH. For instance?

Miss BERGERON. Vacuuming, anything.

Mr. LYNCH. Chores?

Miss BERGERON. Yes; chores.

Mr. LYNCH. Are you assigned by the counselors to do that? How does it work?

Miss BERGERON. So many chores a week and the kids have their names by the chores.

Mr. LYNCH. You have certain assigned duties each person must perform?

Miss BERGERON. Yes.

Mr. LYNCH. What happens if you don't do your duties?

Miss BERGERON. That is mostly up to the kids. We have house meeting in the house and like all of the kids and all of the staff get together and we talk about, you know, say I didn't do my chore and we talk about something like that. What restrictions I get, or maybe not even any, because I might have a real good reason why I didn't do it.

Mr. LYNCH. How many people are on the staff at Genesis II?

Miss BERGERON. Fourteen.

Miss LABONTE. No.

Miss BERGERON. About 12.

Mr. LYNCH. About 12. Those are all adults; is that correct?

Miss BERGERON. Yes; that is counselors and volunteers.

Mr. LYNCH. There are more counselors than there are youngsters in the program; is that correct?

Miss BERGERON. Yes.

Mr. LYNCH. When you finish your chores after the evening meal what kind of a program do you have? Do you have group therapy sessions? Do you have group confrontation sessions, things like that?

Miss BERGERON. Well, like the group thing would be like the house meeting, we have one of them every day, either before or after supper.

Mr. LYNCH. What is the purpose of the house meeting?

Miss BERGERON. To get out feelings, what you are going to do, just sitting down and talking about tension in the house, and stuff like that.

Mr. LYNCH. How long have you been at Genesis II now?

Miss BERGERON. I left Genesis II and came back. It has been about 4 months all together.

Mr. LYNCH. You left it and subsequently returned to it; is that correct?

Miss BERGERON. Yes.

Mr. LYNCH. Why did you leave it?

Miss BERGERON. I wasn't getting along at first, when I first went there.

Mr. LYNCH. You mean you walked out, in other words?

Miss BERGERON. Yes.

Mr. LYNCH. Why did you come back?

Miss BERGERON. Because I wasn't doing any good.

Mr. LYNCH. What do you think about yourself now? Do you look at yourself in any different way after your experience at Genesis II?

Miss BERGERON. Yes, I do.

Mr. LYNCH. Could you tell us in what particular way?

Miss BERGERON. I don't know. Like before I went to Genesis II, even when I was in Genesis II for the first time, like the counselors were on a different level about me. I didn't want them knowing anything like my private life. I didn't want to talk to them. Now, it is really good to sit down and tell them what is happening. They try to help you if you have a problem.

Like I am just not scared to go to anybody with a problem any more like before I was.

Mr. LYNCH. Do you have any idea now as to why you were getting into trouble before?

Miss BERGERON. No. I don't really have no reason why I got in trouble. I like driving cars and couldn't get my license and took a car.

Mr. LYNCH. Do you have a license now?

Miss BERGERON. No. I am going down to get my license.

Mr. LYNCH. Are you in a driver's training program?

Miss BERGERON. I am going down for my permit now.

Mr. LYNCH. Thank you very much.

Mr. MCDONALD. Mr. Pollock, can you tell us how old you are and tell us when you first got in trouble?

Mr. POLLOCK. I am 17 and I was 8 when I first got in trouble.

Mr. MCDONALD. What did you get in trouble for?

Mr. POLLOCK. I was robbing freight cars inside the freight yards over in South Boston.

Mr. MCDONALD. What happened to you? Who were you living with at the time?

Mr. POLLOCK. I was living with my father in the D Street projects. I got caught. I went to court and they let me off on probation, but I got caught again for stubborn child, and runaway, and stuff like that. So at that time, I don't know, they got fed up with me or something. But I lived at the youth service board in Roslindale.

Mr. MCDONALD. How old were you?

Mr. POLLOCK. Still 8 years old. I was in Roslindale for about 3 months, and then I got home, and I was there for 2 weeks. Then I went back to Roslindale. I got caught again for another charge.

Mr. MCDONALD. What for this time?

Mr. POLLOCK. This time was running away, breaking into freights, stuff like that. They had me down for a stubborn child, I guess. I went back to the youth service board and spent about 4 months there, 5 months, somewhere along there. From there, I went to a foster home.

They gave me the choice of either going to a foster home or putting me in, like, as we call it, in "Blue," back in those days. Because if

you were in "Blue," as the saying is, you were committed there and you could stay there for any amount of time. At that time you could stay there for as long as a year. You know, sometimes even longer. And I didn't want that, so I went to the foster home. And I was at the foster home for about 2½, 3 years, and I got, while I was in school. I took a knife out on a couple of kids and cut them.

Mr. McDonald. This was while you were living at the foster home?

Mr. Pollock. Yes, after I was there for 2½ to 3 years.

Mr. McDonald. What was the foster home like?

Mr. Pollock. Put it this way: I am glad I am home right now because a foster home—first of all, you don't get the family care as you would with your own family. Second of all, they don't really care what goes on with you as long as you don't bother them, in so many words.

Mr. McDonald. Did they care about what you were doing? Did they have any interest at all, other than making sure you weren't picked up by the police?

Mr. Pollock. Like, when they moved to, like out in the country, you know, and the way the people acted around there was like a real big crime if you committed, like a little skipping school or something, so you had no choice. Because they would be preaching to you, especially how they knew I was in Roslindale before. They always preached to you—we don't want you in trouble out here, or you will be in a lot of trouble.

So I guess it went to my head or something, so I didn't get in trouble for awhile. But I got fed up with it after awhile and I had a lot of things on my mind, and that is when those kids got sliced.

Mr. McDonald. You were also sent to Lyman, weren't you?

Mr. Pollock. Yes.

Mr. McDonald. How long were you there?

Mr. Pollock. The first time I was at Lyman I was there for about 3 months.

Mr. McDonald. How old were you then, approximately?

Mr. Pollock. This was later on, though. This was when I grew up a little more. I was about 14. Somewhere around there. And I stayed at Lyman for about 2 months and I ran. I came back to Dorchester, stayed out for 4 months, 5 months, and I got busted again, caught for a stolen car charge and assault and battery.

So they put me back in youth service board for another 2 to 3 months, and I spent most of that time just sitting around doing nothing. But then they transferred me back to Lyman again. I was there for 3 months that time and then I went home.

That is when Jerome Miller took over the department of youth service, and like he had a lot of programs starting out then, and like I didn't get into any real programs, but I got a lot of help from a lot of new people working in them. And then they cared for you, you know.

Mr. McDonald. Before you get into that, from approximately 8 to 14 years of age you were in and out of various institutions. What kind of counseling and rehabilitation did you get during that time?

Mr. Pollock. None.

Mr. McDonald. None whatsoever?

Mr. Pollock. None.

Mr. McDonald. Did you ever have any encounter sessions or talks with the counselor as to why you were having problems at the ages of 8 through 14?

Mr. Pollock. All they took was smoke. All it meant for us was smoke. It wasn't really worth listening to them. The way you really felt about it, the guys who were trying to tell you this, you didn't really think they cared so you don't really listen.

Mr. McDonald. Could you tell us what you were arrested again for—assault and battery—you cut someone with a knife? Tell us how you got involved with DYS under Dr. Miller.

Mr. Pollock. This wasn't why I cut the kid. When I cut the kid, some other guy was in before Miller, so I just went to the same routine of Roslindale and Lyman again.

Mr. McDonald. Explain how you got involved with the DYS and what they have done for you since the time of Dr. Miller.

Mr. Pollock. That is when I was discharged on January 7 of 1972. When I was discharged I went up to my parole officer to see if I could get some clothes because I didn't have no clothes, and so there I got to know my parole officer and people that worked there pretty good. And whenever I really needed money bad—I couldn't just go up there—but if I needed it bad, they would give it to me. Or if I had something to get off my chest I could go to my parole officer because he would more or less listen to me and try to help.

Mr. McDonald. Why did you go to him in the first place, when you had all of the encounters with the authorities for about 6 years? What made you go to your parole officer this time and consider that he would even listen?

Mr. Pollock. I figured I was a little more grown up, and when I was young I didn't think of it. The first thing I thought of was just trouble.

Mr. McDonald. And your parole officer did respond. What are some of the things he did for you?

Mr. Pollock. Let's see: He tried to get my license for me; he helped me out when I had trouble with my father and my father was in the hospital with a heart attack; and he helped me out by giving me money, driving me to the hospital when I needed it. More or less showing me consideration.

Mr. McDonald. Was DYS more responsive to you? Did you feel you could go up to their office and talk to them at any time you wanted to?

Mr. Pollock. Yes, because the whole structure was entirely different, because people now, under Dr. Miller, you know, after Dr. Miller was in, they more or less, not on an adult-juvenile basis but on a person-to-person basis, and they tried to treat you like a young adult and with intelligence. I think you really need that to talk to somebody.

Mr. McDonald. What are you doing now? Are you working?

Mr. Pollock. Yes. The department of youth service helped me get a job working with the department out of another building. I am working maintenance.

Mr. McDonald. Thank you.

Miss Ruth, can you describe to the committee your experiences? First of all, how old you were when you first got in trouble?

Miss Ruth. I first got in trouble when I was 12, truancy from school. They gave me probation.

Mr. McDonald. Continue please.

Miss Ruth. They brought me to court like several times for truancy. Then when I was 13, I violated probation and I went back. I was supposed to go down and see my probation officer, like no grounds to arrest me, they didn't have any warrant or anything, but they issued one after they put me in Jamaica Plains Detention Center.

Mr. McDonald. How old were you?

Miss Ruth. Thirteen.

Mr. McDonald. And this was basically for truancy?

Miss Ruth. Yes.

Mr. McDonald. You were living with your parents at that time?

Miss Ruth. I was living with my mother.

Mr. McDonald. You have a sister and brother?

Miss Ruth. Two sisters.

Mr. McDonald. What happened at Jamaica Plains? What did they do to you?

Miss Ruth. I was there until November 4, and I thought I was going home because it was my first offense, and I was committed.

Mr. McDonald. To where?

Miss Ruth. Department of youth services, and I was there until December 23, and went to Madonna Hall.

Mr. McDonald. Can you describe to the committee what Madonna Hall is?

Miss Ruth. A convent school, run by the Sisters of the Good Shepherd. It was like a clean life. It was really strict. Never let you out of the building by yourself.

Mr. McDonald. Were you locked in at night in your room?

Miss Ruth. You weren't locked in your room, but it was like between midnight and 2 o'clock the doors were locked and they had alarms.

Mr. McDonald. When you went to Madonna Hall, had you already been to Lancaster?

Miss Ruth. I never went to Lancaster. I was there for 18 months.

Mr. McDonald. At Madonna?

Miss Ruth. And then I ran.

Mr. McDonald. What kind of life did you have at Madonna?

Miss Ruth. Going to school and going to church, and never going out. They let you go home like every third or fourth weekend of the month; that, after you had been there about 8 months. You had to be there a long time before you could even go home.

Mr. McDonald. Did Madonna Hall do anything for you? What kind of rehabilitation did they have? Did they give you any counseling? You went in as a truant. Basically, that was your problem. What did they do to help you become more sociable?

Miss Ruth. Just up there. If you didn't study, if you didn't do your homework, they write out the white slip and for every white slip you lose two cigarettes. And for a number of them, you get more punishment. They wouldn't let you talk to your parents or anything. What almost everyone up there did was go to school to keep themselves out of trouble.

Mr. McDonald. There were girls there that were committed, not by DYS, but by their own parents?

Miss Ruth. DYS and some by their own parents.

Mr. McDonald. Had any of the girls committed violent crimes?

Miss Ruth. If they had, they started letting some girls in for like stolen cars, but when I first went up there it was like truancy. I don't thinks they let you in on any drug charge at all—Truancy and runaway.

Mr. McDonald. Were you there for an indeterminate sentence?

Miss Ruth. Yes.

Mr. McDonald. What was the criteria; what would they let you go for?

Miss Ruth. They really let you go when you were ready, and you look around and some girls have been there up to 4 years. You never knew when you were going to be ready. You could stay there like 4 years.

Mr. McDonald. How did they define "ready to go back out?"

Miss Ruth. They didn't. I said, "I am ready; I am not going to get in more trouble," and they said, "You are not ready." And I said, "I am," and they said, "You are not." They just used to talk a lot of crap. They never made much sense.

Mr. McDonald. Did you get any counseling?

Miss Ruth. You used to see a social worker like a weekday, but an hour once a week.

Mr. McDonald. Did you feel like you were getting anything from the counseling session?

Miss Ruth. No.

Mr. McDonald. What happened then?

Miss Ruth. Then I ran, like different times from Madonna Hall, and from there I came back.

Mr. McDonald. Back to Madonna?

Miss Ruth. I ran. Like the last time I ran, I refused to stay, so they said, they used to always say, "If you don't smile, you go to Lancaster." That is all they say. Most of the time you are up there, they threaten "Lancaster." So I said, "Put me in Lancaster; I don't want to stay," and they wouldn't let me out.

So I made them call the youth service board worker and I went to Roslindale from there and then I got paroled to my aunt's house.

Mr. McDonald. How long were you in Roslindale?

Miss Ruth. A month.

Mr. McDonald. What happened when you started living with your grandmother?

Miss Ruth. I don't know. I didn't really like it. I couldn't really do anything there.

Mr. McDonald. You mentioned once before you were living with a friend.

Miss Ruth. Yes. When I ran from my grandmother's, I went and stayed with this girl that I stayed with another time when I ran away. One day she was looking at the paper—I was at her house for a good 3 weeks—and they had in the paper that DYS persons can go down and won't be picked up for violation of parole.

We went down and they gave her temporary custody of me until they could find another place. They weren't working on it or anything. Places were not available. So I was there for about 6 months and then I went home.

Mr. McDonald. Back to your grandmother?

Miss RUTH. To my mother's house.

Mr. MCDONALD. Then what happened?

Miss RUTH. Well, like I was living with my sister sometimes and living with my mother sometimes. And everything was pretty good. I wasn't getting in no trouble. Then I was looking for a private school. I went to one and I didn't like it.

Mr. MCDONALD. Which was that?

Miss RUTH. Windsor Mountain School.

Mr. MCDONALD. This was under DYS; they sent you?

Miss RUTH. That isn't DYS placement.

Mr. MCDONALD. But they sent you there?

Miss RUTH. Yes.

Mr. MCDONALD. Could you tell the committee what you are doing now under the auspices of DYS?

Miss RUTH. I live in Boston and I go to school every day.

Mr. MCDONALD. What school?

Miss RUTH. Newman Prep.

Mr. MCDONALD. What dorm do you live in?

Miss RUTH. It is a private dorm for girls that go to different schools in Boston. Most go to art school; some go to finishing and career schools.

Mr. MCDONALD. And DYS is paying your room and board. How much does it come to?

Miss RUTH. About $2,000 a year.

Mr. MCDONALD. Can you tell us about Newman Prep? What kind of school is that?

Miss RUTH. College preparatory school. It is a pretty liberal school. It is much better than the public schools in Boston. The classes are about 2 hours.

Mr. MCDONALD. What kind of subjects are you taking?

Miss RUTH. I am taking sociology, history, and English.

Mr. MCDONALD. Under DYS, couldn't you just be going to public schools if you wanted?

Miss RUTH. If I wanted to get off parole, I suppose I could demand to get off parole. I don't know. They don't really have to let you off no matter how old you are. But they are paying for everything. It is really stupid.

Mr. MCDONALD. Stupid, for what?

Miss RUTH. To get off parole. I have straightened out a lot in the last year.

Mr. MCDONALD. Have you gotten much counseling from DYS?

Miss RUTH. They are really good. You can go into the office any time now. There are other organizations, private organizations, in Boston.

Mr. MCDONALD. If it hadn't been for DYS, the system as it is now, where do you think you would be?

Miss RUTH. I don't know.

Mr. MCDONALD. Do you think you would still be going in and out of institutions?

Miss RUTH. If it wasn't for the new system? Yes; I would have been put in again for violation. I would be in a women's prison now.

Mr. LYNCH. Debbie, why did you begin to run away from home?

Miss RUTH. I didn't run away from home. I wouldn't go to school.

Mr. LYNCH. Why wouldn't you go to school?

Miss RUTH. Because I didn't like school. I wanted to go home and lay around all day.

Mr. LYNCH. You were 12 years old when that started?

Miss RUTH. Yes.

Mr. LYNCH. Do you have brothers and sisters?

Miss RUTH. Two sisters.

Mr. LYNCH. Who do they live with?

Miss RUTH. They live on their own.

Mr. LYNCH. At that time, were the three of you children living together with your parents?

Miss RUTH. No. One of my sisters was in a drug rehabilitation center and the other in a halfway house in Boston.

Mr. LYNCH. When you were 12?

Miss RUTH. About 12 or 13.

Mr. LYNCH. How old was the sister who had the drug problem?

Miss RUTH. One of my sisters was 16, 17, and one was about 18. They got picked up.

Mr. LYNCH. When did you start experimenting with drugs? How old were you?

Miss RUTH. When I was about 14, 14½.

Mr. LYNCH. Did you learn that from your older sisters?

Miss RUTH. No; I learned it at Madonna Hall.

Mr. LYNCH. At the time you were 12 and began to have truancy problems at school, were you living with your mother?

Miss RUTH. Yes.

Mr. LYNCH. And your father?

Miss RUTH. No.

Mr. LYNCH. Where was your father?

Miss RUTH. He died when I was real young.

Mr. LYNCH. And your mother had not remarried?

Miss RUTH. No; she had not.

Mr. LYNCH. Where do you live now?

Miss RUTH. In Haverhill.

Mr. LYNCH. Does your mother still live in Boston?

Miss RUTH. I am staying in Boston but I live in Haverhill. I go home on the weekends.

Mr. LYNCH. You see your mother now?

Miss RUTH. Yes.

Mr. LYNCH. What kind of relationship do you have with your mother now?

Miss RUTH. I guess a good relationship. We don't argue no more. I go in the house and she thinks of me as an adult. She lets me do more or less as I want. She doesn't hassle me any more.

Mr. LYNCH. In retrospect, do you have any idea why you began to get into trouble when you were a 12-year-old girl?

Miss RUTH. No reason.

Mr. LYNCH. Have you thought about it?

Miss RUTH. Yes.

Mr. LYNCH. Have you discussed it with your counselors?

Miss RUTH. You know, there really wasn't any reason. Probably because I wanted to be older than I was and wanted to be cooler than I was.

Mr. LYNCH. I would suggest that is a reason. How do you feel about that now?

Miss RUTH. That it was dumb.

Mr. LYNCH. I have no further questions, Mr. Chairman.

Mr. MCDONALD. Miss LaBonte, you stayed 13 months at Lancaster and now you are in Genesis II. Can you contrast the difference between the two approaches in juvenile corrections? What was your life like at Lancaster as opposed to what you are getting now at Genesis II?

Miss LABONTE. My life at Lancaster was really different. I was locked up in Lancaster. At Genesis II I live a normal life. I go out to work; I go to school. I have no locks. It is more or less like living at home with a family. I have some more things open to me now. At Lancaster, I didn't have these things open to me.

Mr. MCDONALD. What did you get out of 13 months at Lancaster?

Miss LABONTE. Nothing, because I didn't have contact with the outside at all.

Mr. MCDONALD. You were isolated?

Miss LABONTE. Yes.

Mr. MCDONALD. You were locked up at night?

Miss LABONTE. Oh, yes.

Mr. MCDONALD. Can you compare what you are getting out of Genesis II as opposed to Lancaster? If you were still in an institution like Lancaster what do you think you would be doing now; or if you had just gotten out of a school like Lancaster? LaBonte.

Miss LABONTE. I think I would be in pretty bad shape, to be perfectly honest with you. I know I would have gone back to the school.

Mr. MCDONALD. Sue, could you tell us about your experience at Lancaster? Were you locked up at night, also?

Miss BERGERON. Yes.

Mr. MCDONALD. Describe your feelings about being locked up at night? Just basically what it was like at Lancaster.

Miss BERGERON. It was bad. It was just, you know, like being locked up all of the time. Like most of the girls just really tried to think of a way to beat the system. You know, like how could they get an extra cigarette. You never did anything because you wanted to do it. You had to have a reason to do it. You had to be bribed to be doing something.

If you wanted an extra cigarette, you could do something else. If you wanted to go to the movies, you had to be good. You didn't have a choice. You couldn't really express your own feelings. You were just playing a game with them. If they wanted to see good, you gave them "good" while you were in there. This is what I did.

I did as much as I did behind their back, because you couldn't let your own feelings out. So you did everything privately.

Mr. MCDONALD. How about at Genesis II, what is the contrast between Lancaster and Genesis II, from your own experiences?

Miss BERGERON. Genesis II is a really beautiful home. Like sometimes you get—like kids in there who have lot worse problems than you have and everything, but they explain to the kid, some kids need more help and all of that. It is more like a family. You never consider anybody just there. You know you have talked to them. You have talked to everybody about your problems, even the other kids. Like everybody tries to help everybody else in the house.

Mr. McDonald. What happens if a kid comes in and doesn't want to buy it; he just reacts; he is violent? What is the procedure?

Miss Bergeron. That's the house meeting, see. And like we have meetings about—he gives out his feelings. Like he is being violent toward the house because he doesn't want to live there. Nobody is forcing him to live there and there are other things like foster homes and other halfway houses in Springfield. And if he is feeling that way, but he still wants to live at the house, I guess that is when a lot of the counselors take over there and try to talk to him, ask him why he is being like that.

Mr. McDonald. Mr. Pollock, can you tell us what it means to go in and get a grant?

Mr. Pollock. That is when you are in need of some money for boarding or possibly clothes, or food, and you don't have a place to get meals at night. And you just go in, you talk to the guy.

Mr. McDonald. Who is this you are talking to? Who do you get it from?

Mr. Pollock. It could be from one of many persons, like the parole officer, deputy commissioner, commissioner, or the regional supervisor.

Mr. McDonald. How much can you get?

Mr. Pollock. Right now, I don't get any money, except my pay money. But before, like when I wasn't coming along too good I used to go in probably once a week and get about $15 for some living expenses.

Mr. McDonald. Mr. Hall, do you think you are going to go back on drugs now?

Mr. Hall. I feel as I won't go back to any drugs.

Mr. McDonald. You think the program at First, Inc., is going to keep you off drugs?

Mr. Hall. Yes; because I have contact with the house, you know, like I can go there and give up my urine or I can go to there in counter-groups, if something is bothering me.

Chairman Pepper. Mr. Mann?

Mr. Mann. Thank you, Mr. Chairman.

Debbie Ruth, how many delinquents are there in school at Newman Prep?

Miss Ruth. I don't think many people are delinquents. A lot of people are there on the GI bill, a lot of people much more older. Most of the people in classes, most classes, 20, 21. They range like, the students.

Mr. Mann. Where is Newman Prep?

Miss Ruth. In Boston.

Mr. Mann. Most of the students there are just straight people from the Boston area?

Miss Ruth. No. A lot of people didn't like public schools. There are some, I guess well-to-do families, that sent their kids there because it is a good private school. Other people are there on GI bills. A lot of old people. The classes are really good because people are paid to go there. So, you know, like they don't cause any trouble for them, because they just throw them right out.

Mr. Mann. You have no trouble getting along with anybody because you have been in trouble?

Miss Ruth. No.

Mr. Mann. Mr. Pollock, I notice you are working at a DYS facility

Mr. POLLOCK. Yes, I am.

Mr. MANN. Are you required to work there or are you under some probationary arrangement?

Mr. POLLOCK. If you consider that I am being forced in there, too, like keep away, out of trouble, no; I don't have to work there.

Mr. MANN. When you got into the last trouble, March of 1972—is that when it was?

Mr. POLLOCK. No. It was more or less around November of 1971.

Mr. MANN. What was your sentence? What did the judge and the officers, or the probation or youth services people, instruct you to do?

Mr. POLLOCK. It started out with the court and they instructed me—they didn't instruct me—they forced me into Lyman. I wasn't instructed nowhere.

Mr. MANN. Who got you out of Lyman?

Mr. POLLOCK. I done my time and I was not discharged, but paroled home, and I lived with my aunt. The department of youth services got in touch with me, or I got in touch with them, about how I was getting along in my house at that time.

Mr. MANN. That is how you got involved with the department of youth services?

Mr. POLLOCK. The first time I got involved with them, under Dr. Miller, is when I went up to see my parole officer. I think I mentioned it before.

Mr. MANN. Are you working full time at the place?

Mr. POLLOCK. Yes.

Mr. MANN. What are your plans?

Mr. POLLOCK. My plans for the future are to join the service, the Marine Corps. And that will be very soon.

Mr. MANN. How old are you now?

Mr. POLLOCK. Right now I am 17.

Chairman PEPPER. Mr. Winn?

Mr. WINN. Thank you, Mr. Chairman.

I notice in several of your testimonies, particularly the girls, you said they wanted to be treated like older people, or referred to as adults, but I wondered if they realized then, if they felt this way at the time they were 8, in one case 12, and the other case 14.

Miss BERGERON. I don't think it is the fact, you know, we just wanted to be treated as adults. In reform schools you are treated as though you are not—you are not decent, you know.

Mr. WINN. I meant prior to that.

Miss BERGERON. Yes. Everybody likes to be treated as an adult. You like to be talked to on the same level, don't like to be talked down to all of the time. Halfway house—well, the halfway house we are in we are not talked down to. You know, they talk to us like we can be helped. In reform schools, they talk like—you are never ever talked to. You are just told.

If you don't want to do it, you will be locked there all day.

Mr. WINN. In other words, in these institutions you are treated like a number?

Miss BERGERON. You know, you are just not treated.

Mr. WINN. Not treated like a human being?

Miss BERGERON. On a favoritism basis, too. If you were good you got more and if you were bad, and you weren't being helped when you

were bad, you were just being brushed aside. All of the good people got what they wanted and everything. You knew you had to be good. There weren't really any choices. You couldn't sit down and talk about it.

Mr. WINN. Going back prior to that, when we all started getting into trouble, I believe Mr. Pollock was 8 years old when he first got into trouble. The problem that bothers many people, many parents, is how do you sit down to discuss with an 8-year-old?

There is nothing wrong with being 8, but an 8-year-old usually thinks he should be 10 or 12, and maybe Debbie thought, when she was 12 and got into trouble, maybe she thought she should be talking and acting like she was 16 or 18.

This seems to be one of the tendencies or troubles in many cases. I just wondered what would happen when you all become parents. How you are going to talk to an 8- or 12- or 14-year-old person. I wonder if any of you ever thought about it?

Mr. HALL. I have a son.

Mr. WINN. Had you ever given any thought about how you are going to communicate with your children and not have them think you are talking down to them or not interested in them?

Mr. POLLOCK. Is it all right if I say something?

Mr. WINN. Sure.

Mr. POLLOCK. When I have my son—who knows when that will be—but——

Mr. WINN. It might not be a son, too.

Mr. POLLOCK. OK. I ain't going to be ashamed to tell them I was with the department of youth services and I had got in trouble, because I did learn by my mistakes. But in order that it might help my son at the same time, because I don't think the department is going to change that much more better than it is now. It ain't perfect now, you know, anyways.

I want to talk to my son, tell him I have been in trouble, tell him when I think he is doing wrong or doing right. And, you know, be more or less like a pal to him so he will listen to me at times.

Mr. WINN. I wasn't really talking about the troubles you have had. That is up to you, whether you want to tell your children.

Mr. POLLOCK. You said, how would you sit down with your son and talk to him——

Mr. WINN. Right, but——

Mr. POLLOCK [continuing]. When you are talking about crime.

Mr. WINN. I am talking about basic communications, because so many young people don't think they can communicate with their parents until it is too late.

Mr. POLLOCK. In a lot of cases, they are afraid the parents don't want to communicate with the son, either.

Mr. WINN. It is about 50–50. I am not going to get into statistics, but many times I ask the young people, "Have you ever tried? When did you ever try to communicate with your parents and on what subject and when do they turn you down?" And when you throw it to them like that, they really can't think of any one thing.

Maybe they developed an attitude, antiparent, or antiestablishment.

Another thing that really interests me, and I would like for any of you, if you feel you would like to, including Miss Keating, to tell me what, in the program, do they do, because I believe it was Debbie

who said that in some cases she couldn't do what she wanted to do. Well, I am sure that what individual young people want to do can vary quite a bit at the time maybe. But in the program, is there anything now that allows you to do what you want to do?

What do you want to do?

Miss RUTH. Yes. Like where I live, I can do just about anything I want as long as I can go to school. I can sign out any night I want. It is completely my liberty in this private placement.

Mr. WINN. Do they have any organized recreation? Whether young people actually realize it or not, they need, and most of them desire, recreation. If it is sports, or if it is dances, or if it is plays, if it is musicals. You can go on, and on, and on. What type of recreation do the individuals like?

Miss RUTH. They mostly are models and students. They live on a totally different level. They are always going out seeing their friends. It isn't a DYS placement. I guess I am the first DYS person that ever lived in that kind of dormitory.

Mr. WINN. You are meeting people from all different walks of life, all different interests?

Miss RUTH. Yes.

Mr. WINN. And in the past, in the institutions, you were meeting people from all walks of life with one basic interest, and that was the fact you had all been in trouble and you shared each other's problems?

Miss RUTH. Yes. But most of them were from like the same, like Jamaica Plains. Most of the people were from the same area. A lot of people knew each other on the outside. A lot of people like to go there because they meet a lot of friends they hadn't seen for a long time, Jamaica Plains, or the other places, just Boston.

Like the girls more or less come from the same type of background.

Mr. WINN. Going into the institutions again, do they have anything in the way of recreational programs for the girls?

Miss RUTH. Like Madonna Hall, they used to have movies on Sunday nights that you had to see. No one really wanted to see them.

Mr. WINN. You probably had seen them before?

Miss RUTH. No, they had good movies. They just didn't let you out and that is what the girls wanted to do, go out and take a walk. I was there like 14 months before they even let me out one time by myself to take a walk, except for going home on weekends.

Mr. WINN. Let's be practical about it. If they let you out to take a walk——

Miss RUTH. I would run away.

Mr. WINN. Yes. Some would run away. Some would get in more trouble.

Miss RUTH. When the girls got out, they ran away. Every time they went on a trip, they came back and said that so-and-so was missing. The girls did this all of the time. Until, like some girls found out if you broke the crank off the window and removed it, they had detention school, you couldn't—I think everybody tried.

Mr. WINN. In DYS you really don't have anything to run from, do you? You are not working behind somebody's back? You don't feel

you are working behind somebody's back, if you have the tendency to leave school, for instance?

Miss RUTH. Oh, yes. If I want to leave, I can leave. I couldn't run away if I wanted to.

Mr. WINN. But as I gather from your testimony, you have this feeling that you ought to continue to go to school, or else that you really want to go to school, or both?

Miss RUTH. I want to go to school.

Mr. WINN. What do you want to be?

Miss RUTH. I don't know.

Mr. WINN. What would you like to be? You said you always wanted to be older when you were younger. What would you like to be?

Miss RUTH. I don't know.

Mr. WINN. Would you like to be a model?

Miss RUTH. No.

Mr. WINN. No?

Miss RUTH. I am not about to go into that. I think they are pretty—the girls at my dorm, they are really different, the models.

Miss KEATING. Haven't you talked about wanting to work for the department of youth services?

Mr. WINN. Well, let's say some of them do, but to me, and I hope you don't take this the wrong way, you can't hire all of them in the department of youth services.

Miss KEATING. Oh, no.

Mr. WINN. So, let's say that Debbie or Tim, or whoever it might be, wants to go in the Marines. That's fine. I just wonder where they want to go. What their desire is now, what they want to be now.

I am trying to figure out if they really have an objective yet. I think they do, but I don't think they know how to express it.

Miss LABONTE. I want to be a counselor.

Mr. WINN. That is back with youth services, and that is very commendable. We certainly need that, but the society can't hire all of you to go back into youth services.

Miss KEATING. Nancy, tell Mr. Winn several of the different programs in the last couple of weeks you have mentioned you had interviews with for possible employment, and other training programs that you have been considering. Just the broad range on what you might do with those things in the future.

Miss LABONTE. Well, I thought about going to AIC College. I don't know, it is hard to really guess what you really want to do because I tried to volunteer over at Legal Aid and they didn't need anybody, it seems. I tried to get into a page program, which is for pregnant girls, and I couldn't because I didn't go to school on——

Mr. WINN. Do you feel in some programs that you might want to be in, you are blocked?

Miss LABONTE. No.

Mr. WINN. I mean that you are blocked because of your background. You don't think that is stopping you in any way?

Miss LABONTE. I don't think so.

Miss KEATING. Could you tell him a little bit about AIC?

Miss LABONTE. AIC is a 4-year college program that I was interested in, to get an education.

Mr. WINN. Your résumé says that you stated in some interview that you had a stable family life throughout your childhood and that you were not belligerent or unhappy with your family setup. At the age of 13, you started running away. I just wondered if that was because of something that happened at home. We don't like to get into personal problems as we could go on for months if we got into all of those. Was is just something that came upon you at the time, or was it because other young people that age were beginning to run away from home?

Miss LABONTE. No; I think it is more or less because I started hanging around with older people who could do more because they were older.

Mr. WINN. Had more independence?

Miss LABONTE. Yes.

Mr. WINN. At least, you felt they did?

Miss LABONTE. I guess so. I sort of followed them, doing dope and running away.

Mr. WINN. Do you think a lot of young people get into trouble because of their peers; because of the groups they run around with?

Miss LABONTE. Not necessarily.

Mr. WINN. We had testimony last week about a group that ran around together. The oldest one was 18 or 19, and there was one at 15. The other one at 15—the older ones had all been arrested many times—had never been arrested. We felt very shortly that the 15-year-old was going to be in trouble somewhere. The odds are, because of the group he is running around with, he is going to get in trouble. This happens in a lot of cases.

You all talked about the DYS program. Do you think other States ought to adopt this program? Would you be willing to help and go into other States to help testify and to talk to other people, young people that have been in trouble, if other States would adopt a program of this type?

Miss LABONTE. Yes; I think it would be really important that we had something like that and that they did close down institutions.

Mr. WINN. Do you think you can communicate with other people your age that have been in trouble?

Miss LABONTE. Yes. I have been. Sue and I more or less work with kids at the house.

Mr. WINN. I have no further questions, Mr. Chairman.

Chairman PEPPER. I would like to know how many of you attribute your having gotten in trouble to your home life, home conditions, family conditions?

Mr. HALL. I have.

Chairman PEPPER. Let's start over here with Miss LaBonte. Your family didn't have anything to do with your getting in trouble?

Miss LABONTE. They had a little bit to do with it, but not that much.

Chairman PEPPER. What about you?

Miss RUTH. I don't know. I got in trouble myself. I was the one. It was my fault. No one pushed me into it.

Chairman PEPPER. Miss Bergeron, what about you?

Miss BERGERON. You are asking about my family life?

Chairman PEPPER. Did your family life or conditions at home have anything to do with your getting in trouble?

Miss BERGERON. No.

Chairman PEPPER. What about you, Mr. Hall?

Mr. HALL. I think my family life did. Because, like, OK. Like they say, one might be bad out of the family. Like my sister, you know, like she gets into trouble, and my brother is doing time in Norfolk now. So, like the majority of my family found it hard to get along with my mother because my mother and father were separated when I was real young.

Chairman PEPPER. Yours was a broken home.

Mr. HALL. Yes.

Chairman PEPPER. Were your mother and father living together?

Miss LABONTE. Yes.

Chairman PEPPER. Yours?

Miss RUTH. My mother is a widow. My father died.

Chairman PEPPER. Are your mother and father living together?

Miss BERGERON. No.

Chairman PEPPER. And your mother and father were separated. What about you, Mr. Pollock?

Mr. POLLOCK. My family had a lot to do with my getting in trouble. My mother was deceased and this was one of the main causes of it. I would say.

Chairman PEPPER. The next question I want to ask each one of you is, did your getting in trouble have anything to do with drugs, or was it related to drugs?

Miss LABONTE. A little bit of it did.

Chairman PEPPER. It was?

Miss LABONTE. A little bit.

Chairman PEPPER. Miss Ruth?

Miss RUTH. I never did dope until I was in the DYS placement. I was with DYS almost a year before I ever touched dope.

Chairman PEPPER. What about you, Miss Bergeron?

Miss BERGERON. No.

Chairman PEPPER. Mr. Hall, you did?

Mr. HALL. Yes.

Chairman PEPPER. What about you, Mr. Pollock?

Mr. POLLOCK. No.

Chairman PEPPER. You did not?

The next question concerns your education. You are going to be a counselor, Miss LaBonte. Do you intend to try to get a high school diploma to pursue your education?

Miss LABONTE. Yes.

Chairman PEPPER. Now, you are already going to Newman Prep. You will stay on to finish school; you realize now the value of an education.

Miss Bergeron, I notice you are going to work for the Monarch Life Insurance Co. How far did you get in school?

Miss BERGERON. Eighth grade.

Chairman PEPPER. Don't you think it would be helpful to you if you would go back to school in some way, night or some other time, and get your high school diploma and maybe even take an advance course in business, business training, secretarial training, et cetera?

Miss BERGERON. I am taking key-punch training.

Chairman PEPPER. Don't you think it would be helpful to you?

Miss BERGERON. Yes: it would be helpful to me.

Chairman PEPPER. All of you are very attractive people, and I am afraid you are going to be handicapped if you don't. Some people overcome it. You have a very good personality and very charming manner, and all of that, but I think it would be helpful, if you would get an education. You can go further, live a much better life, if you could get a little better education.

A very small percent, 5 percent, of the people in the labor market, are unskilled. I mean, there is only room for 5 percent of the working force in unskilled occupations. That is what it means. So you have got to get a job in that 5 percent, most of you, if you don't have education enough, training enough, to get up into a better job.

Mr. Hall, what about your education? Do you want to go on and finish?

Mr. HALL. I plan to go back to school in September.

Chairman PEPPER. What about you, Mr. Pollock? I know you have a job, too.

Mr. POLLOCK. Yes. I am going back to school.

Chairman PEPPER. How far did you get in school?

Mr. POLLOCK. Tenth grade.

Chairman PEPPER. How far did you get, Mr. Hall?

Mr. HALL. Tenth grade.

Chairman PEPPER. Well, now, the next thing is, do you think this youth program, you have been a part of, is about the best way you know of for public desire to try to do something about young people who get into trouble? Have you any suggestions as to what would make it better? We will start off with you, Miss LaBonte.

Miss LABONTE. No, I don't have any suggestions right now.

Chairman PEPPER. Miss Ruth, do you have any better program to suggest?

Miss RUTH. No, sir. DYS, they are really running good. They are really short on money. They aren't financed well enough. They could do so much more, but it is mostly lack of money. They don't really have enough.

Chairman PEPPER. You mean, the youth services program could do a little more if they had more money?

Miss RUTH. More money.

Chairman PEPPER. What do you think, Miss Bergeron?

Miss BERGERON. I agree with that, definitely. They need more money.

Chairman PEPPER. Have you any suggestions as to how this program could be improved?

Miss BERGERON. No.

Chairman PEPPER. Mr. Hall?

Mr. HALL. I don't have no suggestions on how it can be improved because I really don't have that much contact with the department. I am working on my own. They wanted to put me back.

Chairman PEPPER. You are now working on your own?

Mr. HALL. Yes.

Chairman PEPPER. Isn't it fun to be your own man again?

Mr. HALL. Yes.

Chairman PEPPER. Be free of drugs?

Mr. HALL. It is. It really is.

Chairman PEPPER. What about you, Mr. Pollock? Do you have any suggestions as to how the program could be improved?

Mr. POLLOCK. Well, I ain't going to say it is the best, but there is a lot better that could be made out of this, but it is a lot better than what has been. So I just leave it at that.

Chairman PEPPER. It is obvious to me that one of the reasons this program has succeeded as well as it has is because it individualizes and personalizes what it does for you. It is dealing with you as an individual. There must be pretty wise counselors. These are the people that are in the counseling part of this program and they try to find what your trouble is, what kind of a person you are, and what you will best respond to, what would be best for you. Don't they try to do that? Don't they try to individualize the program?

Mr. HALL. Yes, they do that.

Miss BERGERON. They do.

Chairman PEPPER. Whereas, in the big institutions where there are hundreds of thousands of people you can't do that very well. So it has an obvious advantage over the other.

All I can say to you folks is this: This is a great country we live in. It is an interesting world. There are so many wonderful things to do, so much fun to be had, and the like, but you know you have to be able to make your way or fit into society some way or another. There are a lot of things about it that ought to be improved, ought to be changed.

I have great sympathy for some of the problems of younger people growing up today in a changing world, changing society, trying to realize some of their dreams, aspirations, having their individual personalities, feeling they want to live that kind of life, and nobody can say for sure just what is the best life. But anyway, it is wonderful you have been able to get into a program where you are finding yourselves, every one of you, by what you said here today.

Miss Keating, they all indicate they have a new attitude toward life, they enjoy life. I believe all of you are getting much more fun out of life, aren't you?

Mr. HALL. Yes, much more fun.

Chairman PEPPER. That is wonderful. Are you, Mr. Pollock, enjoying yourself? Mr. Pollock already said he is having fun. You can tell, he has a big smile on his face. You have a great future ahead of you.

We appreciate your coming.

Miss Keating, I want to commend you on what you are doing. I can see the rapport you have with these young people and how much you mean to them, and that means you are touching a beautiful life and making it better.

Thank you all very much for coming.

We will adjourn until 10 o'clock tomorrow morning.

[Whereupon, at 3:45 p.m., the committee adjourned, to reconvene at 10 a.m., on Tuesday, April 17, 1973.]

STREET CRIME IN AMERICA

(Corrections Approaches)

TUESDAY, APRIL 17, 1973

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON CRIME,
Washington, D.C.

The committee met, pursuant to notice, at 10:15 a.m., in room 311, Cannon House Office Building, the Honorable Claude Pepper (chairman) presiding.

Present: Representatives Pepper, Mann, Rangel, Steiger, and Keating.

Also present: Chris Nolde, chief counsel; Richard Lynch, deputy chief counsel; James McDonald, assistant counsel; and Leroy Bedell, hearings officer.

Chairman PEPPER. The committee will come to order. I am sorry that some of our members are a little late this morning, but we have many very important witnesses and I want to give full opportunity for those witnesses to testify.

I see there are certain newspapers in the local area that write, every day, long columns about crime, yet right here in this room we have some of the best authorities of this country present to talk about how to curb crime and how to deal with crime, but they don't seem to manifest any interest in that, unfortunately.

Yesterday, people disclosed to us an entirely new system of dealing with juvenile offenders. They are at the beginning of the pipeline that produces a group of criminals, who are the primary offenders against the law in the country. We had a Harvard professor, plus Dr. Miller, who initiated the Massachusetts program, and the gentleman who is the assistant director of it at the present time.

Then we had five young people who have participated in the old program and are now participating in the new program. And we found out, for the interest of the taxpayer, that the new program not only provides less repeaters, less recidivism, but it costs less to the taxpayer than the old program, which I would think would be a matter of great public interest.

But any way, all we can do is try to find out what is the best thinking. That is what these hearings are about, to find out the best thinking in our country in dealing with the subject of violent crime: what can be done to curb it: to reduce it to a tolerable level.

We have dealt with the aspect of the police. Last week we had 12 of the outstanding police departments of the country represented here to tell about the innovative and imaginative programs that they had

initiated in their areas which have led to the reduction of crime, which we hope will be emulated by other police departments in the country.

This week we are dealing with correctional institutions, primarily putting emphasis upon the younger people. Because, as they say, they are the beginning of the pipeline. In the latter part of the week we will have two outstanding men, one from the American Bar Association, the former Governor of New Jersey, Governor Hughes; and another man, Mr. Skoler, who is also a very outstanding authority on the subject of adult penal institutions.

This morning we have two very distinguished witnesses, very knowledgeable and outstanding in this field.

Mr. Lynch, would you proceed.

Mr. LYNCH. Thank you, Mr. Chairman.

Mr. Chairman, I am privileged to present to you, Mr. Kenneth Schoen, the Commissioner of Corrections for the State of Minnesota. Mr. Schoen is a native Minnesotan. He holds both a bachelor's and master's degree in sociology from the University of Minnesota. He began his career in corrections as a parole agent in 1957. After that, he became superintendent of a 60-bed facility which dealt with delinquent adolescent boys.

Subsequent to that, he served as superintendent of the Minnesota State girls' school, and after that, he was an assistant commissioner of corrections for the State of Minnesota. He was appointed in January of 1973 as the commissioner of corrections.

As you will recall, Mr. Chairman, he is the successor to Dr. David Fogel, who testified before this committee last year, in relation to prisons in turmoil.

Chairman PEPPER. He made a very excellent presentation.

Mr. LYNCH. Mr. Schoen, if you have a prepared statement would you please deliver it at this time?

Chairman PEPPER. Mr. Schoen, we are very pleased to welcome you here today. Thank you for coming.

STATEMENT OF KENNETH SCHOEN, COMMISSIONER, STATE DEPARTMENT OF CORRECTIONS, ST. PAUL, MINN.

Mr. SCHOEN. Thank you, Mr. Chairman, committee members, Mr. Lynch: I would like to tell you something about the scene in my State. We feel in Minnesota that we have done some things that are interesting and have been effective in the terms that you, Mr. Chairman, have mentioned. We feel we have been effective in controlling some of the behavior to which the community objects to, and at the same time showing some worthy cost figures. But by no means do we feel we have arrived at the solution there.

I would like to give you a brief history of how things developed: In 1947 we saw the beginning of a real effort to do something for juveniles by the formation of the youth conservation commission—YCC—patterned after the California plan, which brought together juvenile institutions and probation parole services in the State. What if also did, really, was introduce the medical model, in which we diagnose an individual's problems at a reception center, and then attempt to fit the treatment to the individual.

I might get ahead of my story and say we since junked that model, but I will get back to that in a moment.

In 1959, we formed the department of corrections and two things followed that are significant. One is that we pulled together the adult and juvenile programs under one department. I think that is significant in a State the size of Minnesota, which is about 10 times the size of Massachusetts, geographically. Geography tends to kill correctional programs because you can't get to the people or they can't get to the services. This step toward combining the administration of these programs at least, makes some sense and it is in this direction we have been going since 1959.

At the same time, legislation was introduced to provide a probation subsidy in all 87 counties of the State. What this did was begin a trend toward the development of community services at the local level. These probation services were administered by the local county, involving all counties in Minnesota. The three large Minnesota counties were excepted for some reason. I think the reason was that they had extensive services already. But the result was that every single juvenile who came into court would have a probation officer at the local level.

During the 1960's, we saw the rise and fall of institutional options. It was interesting in that the beginning of 1960 we opened the decade with one camp and two juvenile institutions. By the end we had three camps and three juvenile institutions. There was a great deal of interest in building a security facility for juveniles. Thank goodness that didn't come to pass; however, it came very near. The population was very high in the institutions in the beginning of the decade; toward the end they were down. Right now they are at an all-time low. Currently we have only one camp and there are plans in the legislature now to junk that facility also.

In the late 1960's, and early 1970's, we have seen the development of community alternatives beyond probation. Probation is certainly a community alternative, but beyond that there are halfway houses, group homes, and other types of facilities to extend the correctional-type programs into the community.

These were again largely operated by the localities as opposed to being operated by the State. This is in sharp contrast to other States around the country. It is our belief that we deliver a better service if it is operated locally and administered locally to respond to local needs. I will describe to you later a rather elaborate plan we have to implement that. In fact, I have to go back to testify on a bill today in the Minnesota Legislature. Hopefully, we will see that thing begin in the proper form.

The community alternatives were developed because there was a recognition of the chasm between the institution and probation. This chasm was just simply too great. It was no easy transition from an institution back to the community. We needed alternatives to the institution. And we were becoming quite aware, in the late 1960's that the institutional costs were quite high. Currently, they run as high as $14,000 and $16,000 per year, per bed; exceedingly expensive. About 75 percent of all our budget is consumed in institutions, which includes adult institutions.

Chairman PEPPER. What was the figure?

Mr. SCHOEN. About 75 percent. Our annual corrections budget at the State level is $22–$23 million; 75 percent goes into institutions, largely juvenile institutions. Those are the more expensive ones.

Another interesting thing is the great contrast between our juvenile institutions and the adult institutions. The adult institutions, I dare say, are just a disgrace.

Chairman PEPPER. Let me interrupt you just a minute. I visited Red Wing and no doubt you will mention that in your presentation. I was enormously impressed by what you are doing there and I hope that fine institution is going forward.

Mr. SCHOEN. Mr. Chairman, that institution is doing very well. That institution and the one at Sauk Center are particularly in contrast to the adult. In fact, we are finding at Red Wing that we are getting about 80 percent success of youngsters who have left the facility. Back in 1969, before the program that you witnessed began, it was about 50 percent. That is a dramatic change.

Chairman PEPPER. Who was the professor at the University of Minnesota that initiated that program?

Mr. SCHOEN. Two persons were involved there. Prof. Dick Clendenen and Harry Vorrath, who is now out in Michigan.

Chairman PEPPER. I met both of them.

Mr. SCHOEN. He is doing group work out there.

As I was saying, we saw an extension of options in the community in the late 1960's and they were largely group homes, regional detention—which is a thrust at some of the crummy jails we were keeping kids in—and community correctional programs got going.

The scene in Minnesota presently looks like this: We do have a few juveniles in security. We have not shut down our institutions like Massachusetts has, but what we have done is regionalize. Again, Minnesota is a large State. We have three juvenile institutions and we designated each of these to serve a different geographic area of the State. The idea here is to permit the staff and resources of the institution to relate to certain areas of the State, the people there, the law enforcement there, et cetera. This permits more of a relationship between what goes on in the institution and what goes on in the community. One of the institutions, in fact, even has cottages set aside for certain areas of the State.

We have seen populations go down in the institutions over the last 10 years, although we are finding currently they are leveling off, for what reasons we are not quite sure. We are also seeing whether a major change in the role of the parole agent can be implemented. When I started back in 1957 I had a large caseload. I would see my clients across the desk and spoke about their problems and hopefully there, I would say something eloquent that they would leave and go out and get better as a result of. I think we are finding that sort of thing not particularly useful. In fact, there was a survey done about a year and a half ago in Minnesota contrasting parole supervision and nonsupervision. We took a number of youngsters from the State training school at Red Wing and Sauk Center and put them out on parole. Some had agents and some didn't. It was an excellent, well-controlled study. The results showed that those who had parole agents did no better than those who did not have parole agents. In fact, if you didn't buy the statistics too critically, those who didn't have parole agents did a little

better. This would suggest that the activity the parole agent normally has carried on is really less than highly productive.

I would like to just describe briefly one program that I think has been particularly useful and has really been a model on which we are building a number of programs in Minnesota. It is a program called PORT in Rochester, and stands for "Probationed Offenders Rehabilitation and Training." It is a community-based, community-directed, community-supported, residential correctional facility for all ages. The age of the youngest in the program has been 12 and the oldest has been 47. It serves a three-county area including Olmsted County, in which Rochester is located, and two smaller counties. Its purpose is to provide an alternative to those individuals who would otherwise go off to both adult and juvenile correctional institutions.

PORT utilizes community resources to the fullest—public schools, vocational rehabilitation, mental health centers—many, many resources that exist in almost all communities in this country, as opposed to duplicating these in the institution in which such duplication becomes extremely expensive.

The program was really "hatched" by a couple of district court judges who felt that too often, when they were sentencing somebody, they really didn't have the option they wanted. They had probation which didn't work—which hasn't worked in the past, that is, in these cases we are speaking of—or they had institutionalization, which they felt was an overkill and frequently counterproductive. So this thing developed from that.

It was a program that is very much supported by the community. It is really, in effect, directed by the community. On the board of directors are the sheriff, the chief of police, and other elements of the criminal justice system. Of course, we are quite aware this system is anything but a system. In fact, they are generally warring factions who probably really have little in concert.

PORT is located in the community. It has served approximately 160 individuals, most of whom would have gone to a correctional institution if PORT hadn't existed. I think the really interesting thing is that since it began in October of 1969 it has taken in 160 people, the commitments to these State facilities from that three-county area. The nice part is that we can compare what it was before, after, and what the trends have been in the State. They have been down very sharply for adults, something like 78 percent. Just about the lowest commitment rate in the State.

Yet, the crime rate in the Rochester area is also down, whereas in St. Paul-Minneapolis, the recent FBI reports showed that it was up.

So it may be Minnesota's crime rates haven't been that bad. They were up in the Twin City area, but down in Rochester. This would suggest to these criminals in the community that otherwise be in State institutions are not increasing the crime rate. It is not necessarily cause and effect, but that is the situation nonetheless.

Also, the cost per day is substantially less than the adult institutions and remarkably less than the juvenile institutions. It rounds out a little less than $10 a day. The adult institutions are running about $16 a day and the juvenile institutions about $35 a day.

PORT has what we call cost-effectiveness operating. It has a very small staff. They use college students who live in and serve as

counselors, roommates—just people that really add to the quality of the environment of the operation.

The beautiful thing is that these people do not have to be uprooted from the community. They continue in school and they are taxpayers; if they are working they support their families, so even the estimates I quote are very conservative because they do not include dollars we end up paying into institutions as fringe costs.

This is a program on which we are modeling a number of others. There is one going in Brainerd, Minn., which is up in the lake and resort area. This area had a very high commitment to the State institutions. There is one going in St. Paul, one in Columbia, Mo., and one expected to get going in Minneapolis.

We are trying to take these concepts and institutionalize them, if you will, by a subsidy bill something on the order of the California plan. Exactly what we are doing is computing a subsidy to go out to a county, provided they give us a plan. We then have a full spectrum of services operating in the county or groups of counties, if several wish to join together.

We set a maximum amount of money they can get, and it is based upon their crime problem as well as financial situation. Counties differ greatly on these two factors in Minnesota.

It says that they must bring all of their correctional services under one administration. That is an oddity because it means the sheriff will no longer operate the "old English" custom of his jail. It also means judges may lose what traditionally has been their bailiwick. I say that and defer to Judge Arthur who is here, because the discussions on this matter are rather lively discussions. But we are interested in trying this out: we think the business of having as high as ever jurisdictions operating a correctional service in the same county is nonsense. We end up consuming great amounts of money and at the same time really delivering very poor service.

We also see to it that the county is eligible for a fairly hefty sum of money. If they want to use State institutions they will pay for that out of their subsidy at the going rate of $35 a day for juveniles and $16 for adults, except for adults whose offenses are by statute in excess of 5 years. The rationale behind that is that we don't want to come into the situation where we are charging counties to send their severe criminals to a State facility.

We find that in our institution at Stillwater, the State prison, about 35 percent of the population falls in the category we are talking about. They have statutory maximums of less than 5 years. At the State reformatory about 50 percent fall in this category. We feel we can substantially reduce our institutional population and thus free up money to develop a spectrum of services in the context of the community.

We hope to get the bill flying past the State senate this time. It is in the State house currently. There is some opposition. As I said, I would like to try it. The beautiful part about it is it is not brick and mortar; not something we have for the rest of our days as we do in institutions.

With that, I would like to conclude my testimony.

Mr. Lynch. Commissioner, you have, I believe, a centralized department of corrections in the State of Minnesota. Would you tell us what is your jurisdiction substantively as commissioner of corrections?

Mr. Schoen. Mr. Lynch, we have under the department, adult and juvenile corrections. Juvenile corrections includes a youth conservation commission, which is a paroling board, the juvenile institutions that fall within the department, which are the three large juvenile institutions, plus currently two camps. It also includes the field services, probation and parole services, operated by the State. There are local services, as I indicated earlier, which do not come directly under my jurisdiction.

Mr. Lynch. I am sorry; I am unclear. When you say they are operated by the State, do probation and parole fall under your jurisdiction as commissioner?

Mr. Schoen. Parole falls under my jurisdiction; that is correct. If the court puts offenders on probation they are then under the local service; sometimes probation officers are on contract for services from the State. But they really are responsible to the court for probation, except in the case of an adult. This is what we are making a thrust at; it is very confusing. When an adult is placed on probation by the court in the 84 smaller counties, then it comes under my jurisdiction. If it is in the three larger counties, it then comes under the local jurisdiction. Also, we have the adult institutions and adult parole under the department of corrections.

Mr. Lynch. In the interest of efficiency, and also in the interest of allowing you as commissioner of your department to track juveniles who are on probation, ought you have jurisdiction over juveniles on probation; in your judgment?

Mr. Schoen. Mr. Lynch, my feeling is no, we should not. However, we can track. I think that the department of corrections should be the funder to the local level, provide services there in accord with local needs, within guidelines, within enforced standards. Funds should be withdrawn if the quality of services at the local level drops.

Part of these standards includes tracking. I think the department has the responsibility, really of providing the technical services and computer service so we can track individually. Computers and the state of technology being what they are today, we can do a far better job than what we are currently doing. This is one of the major appeals I made before the State legislature.

Mr. Lynch. On any given day, could you advise the Governor or the public exactly how many juveniles are on probation in your State? Do you have that information?

Mr. Schoen. If I asked for that at 8 a.m. in the morning I could have it by the end of the day; yes, sir.

Mr. Lynch. Could you describe what you mean by subsidy? How does that subsidy work? Where do those funds come from?

Mr. Schoen. Currently we are spending at the State level about $23 million per year. What we have in mind is changing the ratio from 75 percent of that to institutions, and 25 percent to the community or for management. We would then take approximately $15 million from this budget, by the subsidy formula I briefly described a minute ago, and give this to the counties. This subsidy would match

up with the counties existing levels of expenditure. What we are setting up is a State subsidy to localities to operate programs. In other words, bring the money to the people, rather than the people to the money.

Mr. LYNCH. But those would be State funds?

Mr. SCHOEN. Yes, sir.

Mr. LYNCH. How does a juvenile in difficulty with the law get involved in the probationed offenders rehabilitation and training program, "PORT," as you call it?

Mr. SCHOEN. Mr. Lynch, it is optional on his part. Here is the way it generally works. He gets into difficulty and very quickly is on probation, although we have had some exceptions to that. The judge or his staff are looking for an alternative. Of course, this is a small area and therefore the people are very much aware of the program; so one of the options the judge may offer the youngster is the PORT program. Generally, the judge is at the point of saying you have exhausted your resources and traditional probation, your behavior has developed to a point at which we feel it is in your interest and the interest of the community to send you to an institution.

The PORT program would then be available and the choice open to the youngster. The same option is open to adults. A man goes up there and spends a couple of weeks looking it over—with the staff looking him over, too. If he chooses it, the judge sets it as a condition of his probation. He resides at the facility. The general length of stay averages 6 or 7 months—sometimes it is much less or much longer. Our experience is when it goes beyond a year it is not as effective.

As a short answer to your question: PORT is optional to the youngster and his family.

Mr. LYNCH. Commissioner, you indicated it cost $35 a day, which, if my arithmetic is correct, is approximately $12,500 a year to keep a juvenile incarcerated. Yesterday we heard the testimony indicated—that in some States, Rhode Island, for example—the cost may run as high as $22,000; in New York, it was between $18,000 and $21,000 per annum; in Illinois, $15,000; Massachusetts, between $10,000 and $15,000. How much does it cost to have the juvenile in a program like PORT?

Mr. SCHOEN. We are using annual figures, and I think you must bear in mind that if the length of stay were less than a year of course, it would be that fraction of the total of $12,500. Although the length of stay in PORT is approximately the same as it is in the juvenile institution, around 9 months, PORT runs less than $3,600 per year.

So it would be substantially less.

Mr. LYNCH. Approximately 25 percent of the cost of incarceration?

Mr. SCHOEN. That is correct.

Mr. LYNCH. Commissioner, how many juveniles do you have in your State who need to be incarcerated?

Mr. SCHOEN. That is always a very difficult question. And I think you really have to look at where programs are operated to give you some idea of how many.

If you go to an institution, particularly an adult institution, and ask what percent can make it in the street, the staff will say they don't know. This is because there is so much behavior that goes on in institutions that is merely a byproduct of living in the institution. As I

mentioned, some community programs have been developed that have reduced the load in institutions substantially.

The figure, I would guess, would be 10 percent. But again, I think that figure is so dependent on whether we have something more creative available to deal with the youngsters. Being dependent simply upon institutions alone, as a method of dealing with a residual youngster, is an old custom we have had. I think it is important that we address ourselves to some options. Then I would daresay it may go down to 5 percent or 1 percent if we really get some good programs.

Mr. LYNCH. For purposes of the record, at what age does the juvenile reach his maturity vis-a-vis the criminal justice system in Minnesota?

Mr. SCHOEN. Through the age of 17.

Mr. LYNCH. Through 17. The 18th birthday he is an adult?

Mr. SCHOEN. He is an adult. We have a youthful offender law in Minnesota, but in effect he is an adult at 18.

Mr. LYNCH. It goes up to what age?

Mr. SCHOEN. Age 21.

Mr. LYNCH. How many juveniles do you have currently institutionalized in Minnesota?

Mr. SCHOEN. We have two county institutions and we have three State institutions, plus an operating camp. I would say about 500 juveniles institutionalized, maybe 550, including the county institutions in Minnesota at the present time.

Mr. LYNCH. What kind of a juvenile gets committed to one of those institutions? What is the typical kind of offender that has been committed?

Mr. SCHOEN. For boys it is mostly for property offenses, car theft, burglary; although car thefts are going down principally because of the locking devices.

For the girls more than 50 percent we call status offenders. Their behavior is called delinquent simply because they are juveniles, that is.

Mr. LYNCH. Whereas it could not if they were adults?

Mr. SCHOEN. If they were beyond the age of 18 it could not.

Now, there is a bill before the legislature at the present time in Minnesota wiping out status offenses as a means of commitment to the State. Judges could still adjudicate them delinquent and deal with them at the local level. Others say that many youths could have been committed for criminal offenses but were merely charged with status offenses. I am not really sure of the accuracy of that.

Mr. LYNCH. What is a juvenile camp? Would you describe a camp for us?

Mr. SCHOEN. These got going in the late fifties. The notion was modeled somewhat after the CCC idea back in the thirties. They are generally smaller facilities, 40, 50, 60 residents. Initially they were forestry type located in the areas of the State where we had heavy timberland. The juveniles would clean up brush and this kind of thing. The notion was this was a good work experience and created a more intimate kind of relationship between staff and the boys. They evolved into vocational training facilities and all of them added schools.

The problem has been that as we have added such community facilities, the type of individuals who would be in these camps, with no

security to speak of, we have had a real problem keeping the populations up. I think this has been seen around the country.

As a result, the one residual camp we have now has had a population of only 10 and 35. When it gets down to 10, the legislature gets very upset because the cost is really quite high.

Mr. LYNCH. What kind of an offender goes to camp, as opposed to a regular kind of institution?

Mr. SCHOEN. Again, my experience does not indicate that the offense and type of behavior you can expect to see in an institution are highly related. The boy who goes there would be one who would not be a great behavior problem; who would probably not be a great security risk, and very likely would not commit some act that would be dangerous to the community, embarrassing to the department, that sort of thing.

Mr. LYNCH. How long does one get sentenced, if that is the appropriate word, to that kind of institution or a camp?

Mr. SCHOEN. The program in the one remaining camp we have, which is in the northern part of the State, around Hibbing, has a definite length of stay. I think currently it is 3 months. So the youngster knows when he goes there that it is going to be that long a period. The current program offered there is a type of outward-bound program. It is an outdoors endurance experience, in addition to a school program. Forestation has really become a minor part of the program.

Mr. LYNCH. As a correctional administrator, what is your view of programs like outward bound? Do they have a value?

Mr. SCHOEN. I think they do, yes sir; provided this isn't the whole program. What it does is offer them an opportunity to do the things that many kids have done by virtue of being a part of the mainstream. They begin to see themselves as competent individuals, particularly with physical skills. We have seen some good results of this program and I think it offers some real value. Massachusetts is doing it and a number of the Eastern States are using these programs. I think this is one we want to continue.

Mr. LYNCH. You have been involved with adult and juvenile corrections since 1957. I wonder if you could describe for us what your long-range plans are, especially regarding the juvenile correctional system in Minnesota?

Mr. SCHOEN. Mr. Chairman, Mr. Lynch, I hope we will see the day, particularly with respect to juveniles, although adults too, when we are spending our correctional dollars largely in the community to provide a full spectrum of services, and the opportunity for the individual to link up with services prior to being thrust deep into the correctional continuum.

For a moment, may I say that we tend to get in the correctional programs, the individuals who do not have access to power and resources. For the youngster who is reared in a home where this access is available, other diversions are developed by the parents—psychiatry, good lawyers, private schools, et cetera. And they generally work. So we don't see many of those people in the correctional system. This is not to suggest those kinds of kids don't commit delinquent offenses.

Mr. LYNCH. If I could interrupt, are those services generally publicly available to young people if the parents do not have the financial

wherewithal, are those kinds of things publicly available now in the State of Minnesota?

Mr. SCHOEN. Mr. Lynch, they are not readily available. To make them available requires money and persuasion. They are becoming increasingly available, but not nearly to the extent necessary. One of the things the PORT program does do is give options to the individual.

Mr. LYNCH. What kind of options? Could you explain that?

Mr. SCHOEN. It gives options. For example, the person needs a special educational program. There are two institutions that tend to break down most significantly with respect to the juvenile: The family institution and the school institution.

We need to build on these two, using the correctional dollar, with family counseling, psychiatry, mental health services, and special educational experiences. This is what we would like to see happen and this is where we would like to see our money directed.

The person who has money and access to power can provide these things; for example, private schools are not available to the poor. What happens is that the judge ends up just as desirous of providing the poor kid from the other side of the tracks with the same experience as the youngster who grows up in an affluent area. Thus he ends up committing the person to a State institution.

Mr. LYNCH. To what extent would the provision of those kinds of services cost more than the present treatment accorded under correctional institutions? Would it be more expensive in your judgment?

Mr. SCHOEN. In my judgment, it would not be. We project that we could provide all of the services that they need with our current level of spending. The only increases we would need would be due to inflation or population increases.

In our opinion, if we can pull together the fragmentation of the correctional services, or efficiencies, we can reverse the 75–25 ratio, directing our money toward the community. We could provide school programs that respond to alienated, dropping-out youngsters. There are some very excellent models for this. We could provide such programs without spending more money. Yet the productivity, the cost effectiveness would be exceedingly higher than it currently is.

Mr. LYNCH. Turn that budget around from 75 percent to institutions by doing what, by closing some local institutions and going to a regional correctional system?

Mr. SCHOEN. Mr. Lynch, largely by closing a number of the institutions at the State level. For example, we have a juvenile institution in the metropolitan area, serving Hennepin and Ramsey Counties—Minneapolis is in Hennepin County—St. Paul, in Ramsey County. They both operate juvenile institutions. Both of their institutions are half full. We operate a State institution serving approximately the same area, and ours is half full. Close them both up and immediately we would realize a saving of about $2.25 million.

Mr. LYNCH. Your testimony was the approximate operating budget in your department is about $23 million. How much money have you received within the past year from LEAA?

Mr. SCHOEN. Approximately $2 million. I have to put a heavy emphasis on the approximate there. The department gets some money directly and some from the State through programs we either subsidize or we are interested in supporting.

Mr. Lynch. What do you use the LEAA money for, sir?

Mr. Schoen. Primarily the development of new programs that we otherwise could not operate or develop, because of the need to continue what we are operating. That is a problem we have now. Just changing the reversal of the 75–25 ratio is very difficult. We have to operate parallel services. LEAA allows the beginning of new programs even though they are operating existing programs.

Once a program gets financed, and we get people into it, we can begin to shift funds. The PORT program and other models developed from an LEAA start. Once we get going we can begin to shift funds in those directions for good programs.

Furthermore, we have a chance to examine the programs and judge whether or not they are effective.

Mr. Lynch. Do you have a planning development and research staff in your department?

Mr. Schoen. Yes. We are making a major reorganization in the department and one of the major shifts is going in that direction.

Mr. Lynch. What is the state of the unit now?

Mr. Schoen. It exists, it does a fairly good job. But I would say it does only about 25 percent of the job it could do, with the talents we have, the knowledge we have, the technical capabilities we have in the State.

For example, we have a very sophisticated computer located in the State capitol. We do not have a terminal. I hope to have a terminal by the first of July, so we can really begin to determine such things.

There is a bill in the legislature saying it should be mandatory for a man to go to prison for 3 years if he uses a gun. We have somewhere in the community the knowledge of how many offenders used guns and their track record.

Mr. Lynch. Under the 1970 amendments to the Omnibus Crime Control and Safe Streets Act, there were the requirements for partial funding that the corrections component of the State system produce, in a sense, its own mini 5-year plan for correctional forecasts. Did your department do that in the State of Minnesota?

Mr. Schoen. We are doing it. It is currently being done and is coming to fruition at the present time. We did it through a private corporation, Bush Foundation grant, being done through the Minnesota Correctional Services. It is going to be an impressive piece of research.

Mr. Lynch. Can you tell us what forecasted plans are within that 5-year plan for juvenile corrections?

Mr. Schoen. Largely we plan to decentralize the juvenile institutions, as we have already done; to reduce their size and to move the resources to the community, setting up programs there.

Eventually, I'd say a 10-year plan is to go into what they call human resources programs in the community where they don't have departments of bad people, but human resources that respond to individual needs.

Mr. Lynch. Commissioner Schoen, yesterday witnesses describing the Massachusetts system indicated to this committee that it was their feeling that frequently private organizations could perform more effective and more accountable correctional services in the juvenile field; their feeling was that you do not get involved in bureaucratic tangles

and, in fact, you can serve a contractual relationship with an independent firm much more easily than you can change a bureaucratic system. Do you in Minnesota contract out private rehabilitation programs for juveniles? If you do, how does it work? And if you don't would you like to have that authority?

Mr. SCHOEN. Mr. Lynch, yes, we do contract out. I support their findings in Massachusetts. This is a good way to go. And it does one more thing, it also begins to develop a constituency, where someone has to support the correctional effort. Other programs tend not to have this constituency.

We have contracted out primarily with LEAA funds, which is a great aid in this. One of the problems with State funds in Minnesota is that we budget on a line item basis and there is no incentive to save money. In fact, it is the other way around. The incentive is to spend all, and to come back and say, "Look at all of the money we spent, we need more."

I think at this time we are going to make a change in that so residual moneys can be utilized to operate programs and even allow for contracting.

I would say that percentagewise very little money is spent in contracts. We have a number of contracts operating for direct service and training grants. We are going to be moving in this direction and as we move toward subsidy programs, I would encourage communities to do the same thing.

The PORT is a contract program. It is a nonprofit organization operating in the community on a contract, really to the State and county because the State and county fund the program.

Mr. LYNCH. To what extent do you utilize the services of the juvenile justice volunteers, individual citizens who work with or under the auspices of your department?

Mr. SCHOEN. It varies quite a bit.

A gentleman by the name of John Conrad, who used to be with LEAA, a researcher from California originally told me Minnesota has a very high percentage as you compare State to State.

I was not aware of this, that our comparison with other States was on the upper end by far.

Hennepin County has an elaborate program with volunteers. Throughout the State, we are seeing the development of a great deal of volunteer input into the system. And of course, what it does, again, is to extend our services in many respects. The PORT program is an example of one in which volunteers offer the major input into the program. And again, it provides a great deal to corrections to have volunteers intimately involved. I am not talking about them bringing cookies or flowers or the nice things like that. I am talking about really delivering correctional-type services.

Mr. LYNCH. I take it you tend to favor the use of volunteers?

Mr. SCHOEN. Very much.

Mr. LYNCH. Do you have a training program or guidelines for the selection and training of volunteers within your department?

Mr. SCHOEN. Within the department we do. It is a unit that got started under an LEAA grant. As of July 1, we will be picking up on our State budget.

The Hennepin County court services was one of the first departments to get involved in this area. They have a very elaborate training program.

Mr. LYNCH. What kind of juvenile recidivism rates have you experienced within the past several years, Commissioner Schoen?

Mr. SCHOEN. They have declined since 1967 because we have made substantial improvements in our juvenile institutions. The Red Wing facility, especially, experienced a decline from about a 50-percent return rate to about 18 percent in 1972.

The facility at Sauk Centre, the one the committee chairman visited a couple of years ago, has been dealing with younger boys and girls of all ages. The girls are reporting approximately the same rate of failure as success.

Interestingly, with the younger boys, we do much more poorly. That is exactly what we found in the PORT program, too. The younger boy, 13 to 15, is the one who is much harder to get a grip on.

Mr. LYNCH. Why is that?

Mr. SCHOEN. I think because they have a higher level of impulsivity and also much more dependence upon people than we are able to provide in our institutional-type programs.

I think parenting plays an important role in that. We are going to be trying some special programs for that person now. We are thinking initially of creating a linkup with school and group therapy programs. Then the youngster who does not have a home would have a small group living situation. Then, perhaps, we could make a thrust at this problem.

The success of the PORT program, as we get into the older ages, goes up. If you look at the institution we put the older person in, this suggests we have the very worst there. But statistics indicate our chances of being successful at the age of 18, are much greater than they are as we get down to the younger ages. And the same is borne out in juvenile institutions.

Mr. LYNCH. What kind of public response have you received to the PORT program?

Mr. SCHOEN. It has been remarkably excellent. The question is, how long will it last? This has been the case since 1969. At the annual meeting they had at Rochester at the nicest hotel in town, where the right people go, they had an attendance of 300 people this past fall. It is a program that is very much a part of the community. It has a board of directors that is an impressive group, paralleled only by the Mayo Clinic itself.

Mr. LYNCH. I have no further questions.

Chairman PEPPER. Mr. McDonald, do you have any questions?

Mr. MCDONALD. Thank you, Mr. Chairman.

Mr. Schoen, can you explain to us in more detail precisely what the PORT program entails and precisely what it does?

Mr. SCHOEN. First of all, it is a nonprofit corporation set up in 1969. It is an alternative to incarceration for the most part, and it is residential.

It uses two treatment technologies. One is group therapy, the type of thing used at the State training school in Red Wing. That was the first method used. Then they added a behavior modification scheme, a point system, where freedoms are earned by virtue of measurable be-

havior. This starts off with fairly tight controls on the individuals. It essentially says to a person, "We don't trust you, because you haven't given us reason to," rather than saying, "Everything is fine now, and all of your sins are past and forgotten, we are going to begin a fresh slate."

The group makes decisions on increased freedoms individuals living in a group will receive. Residents, and volunteers—college students—live in the same rooms together.

The individual may immediately participate in school or work. The experience has been that you can structure that well enough to insure the necessary control, bearing in mind that the primary goal in corrections is public safety and public protection. It must be cognizant of that. Otherwise the question Mr. Lynch asked earlier, "How is the public support?"—it is not going to last very long if the community is a hotbed of any kind.

As the individual shows the group that he can operate in several areas such as schools and finances, they give him increased freedoms. Eventually they receive the same freedoms in the program that individuals of that age would normally receive. A 15-year-old would have fewer freedoms than a 25-year-old for example.

Chairman Pepper. Where do they go to school? Do you have special schools or do they go to the public schools?

Mr. Schoen. They go to the public schools. And if they are in the community from whence they came, which most of them are, they go to their own school. That eliminates the transition from the facility back into the school.

Mr. McDonald. You mentioned before there is a mix at PORT adults, from the ages of 13 to 47 or 12 through 47. Does this work out? Is it good to associate young juveniles with older adult offenders?

Mr. Schoen. Your question, Mr. McDonald relates to problems experienced in adult institutions that bring in very young persons. Such facilities have experienced more problems than we do in Minnesota. The difference is here, PORT is a piece of the community.

If the value system, or the culture, or what is thought to be right and what is thought to be wrong, on the part of the individual who lives in the program, is normal and healthy, we have found that the younger residents even fare better. And the older guy does pretty well, too, because his behavior looks more ridiculous in the eyes of the youngster than it would with a bunch of guys living together like in an Army camp.

We found that with the young juvenile living in an institution, we tend to have sort of a perpetual boy scout jamboree, if you will. We then end up spending more time trying to control the youngster than we do getting down to the business of developing his strengths.

There have been no cases, where there has been what is clearly, explicitly, delinquent behavior as a result of that association. Generally, what happens, in fact, is that the older fellows and the younger kids associate with their own age group. Probably the biggest problem is that you do tend to see associations continue once the residents leave the program in the community. Sometimes these are not real favorable associations. Sometimes they are. But as far as the older guy having a negative influence, or vice versa, on the younger one, that has not been the experience.

Mr. McDonald. What is the competence of the college-age students to counsel the older offender? Are they especially trained? How does the older offender take being counseled by someone perhaps half his age?

Mr. Schoen. The counseling is not a professional type of counseling. They attempt to help them with their problems in the sense of a deep insight. We picked the college age students, which are pretty young guys. They come from a junior college and are only 18 and 19, this presents some problems.

We have to pick those who are functioning in at that own age. We did try some who were having some dropout problems themselves—questioning the establishment and all that sort of thing. We found, that those cases, that we really ended up with more problems than we wanted. But I think generally that we choose the students well.

Good students and older guys will do better. The relationship is one of companionship. If the college student is a functioning individual, it is a good relationship. Furthermore, this kind of individual has his feet on the ground and his value system pretty well set. He is not going to be influenced negatively by the offender, but the offender is going to see, living intimately with him, somebody who can really cut the mustard and be a model for him.

The students also perform supervision of the building. Offenders perform the same function, if they demonstrate that they can be trusted. They also clean up the building together. There is no hierarchy in that respect.

Mr. McDonald. No further questions, Mr. Chairman.

Chairman Pepper. Mr. Schoen, has it been your observation that crimes are committed by relatively few people?

Mr. Schoen. I guess it depends upon how we want to define "crime." I guess we all commit crime to some degree.

Chairman Pepper. I am thinking primarily about what we call serious and violent crime.

Mr. Schoen. One of the problems, of course, is that we know our statistics on crime is very poor. Most of it goes unreported and violent crime, the type where bodily harm is done, is confined to a relatively small number of people in a small area, generally within the towns and cities.

I would say that the individuals that are, in fact, dangerous people to our communities are confined to a relatively small number. That is correct.

Chairman Pepper. That gives us a point of focus for the problem. If we could do something about those people we would materially reduce the volume of serious or violent crimes, wouldn't we, Mr. Schoen?

Mr. Schoen. That is correct.

Chairman Pepper. What importance do you attach to the youth population, the teenagers, for example, in relation to the problem of crime?

Mr. Schoen. As I jokingly say, if we could eliminate everybody between the ages of—I am emphasizing, jokingly—13 and 25, we largely eliminate crime.

Certainly the youngster, the teenager, is the one who commits crimes most frequently. I can't say whether these are the most violent crimes. I think seldom, almost never, you see a person in our adult prison who we have not seen or been aware of as a delinquent youngster.

Chairman PEPPER. You mean who has not been delinquent in his youth?

Mr. SCHOEN. That is correct, Mr. Chairman.

Chairman PEPPER. In other words, as you say, the generation that is in the penal institutions, the so-called correctional institutions of the country, at some time before were a part of the juvenile system?

Mr. SCHOEN. Generally speaking that is correct.

Chairman PEPPER. That suggests the importance of programs attempting to do something about the problem of juvenile crime; doesn't that?

Mr. SCHOEN. That certainly does.

Chairman PEPPER. Therefore, the necessity for all possible emphasis of that part of our population.

Now, will you just take the case of a boy, let's say a boy of 16, 17 years old who is brought into the juvenile court, someone from your region in Minnesota, for the commission of a serious crime.

What happens to that boy? In the first place, is he sentenced by the court to a particular place, or is he put into the custody of your correctional system?

Mr. SCHOEN. Mr. Chairman, the judge has a number of options. Let's assume that it is a 16-year-old who has been in difficulty for some time. By the time he is 16 we have seen him for a while. And let's say he has been on probation to the court. At this point the judge just feels that he has exhausted the resources. We are, of course, as I said, seeing more options. But let's assume there are no other options, that he would commit him to the youth conservation commission, which is really a parole board for youngsters, and place him in one of the department of corrections institutions. He would then spend some months there.

Chairman PEPPER. Who would determine where he would go, and what sort of discipline he would be subjected to?

Mr. SCHOEN. If one of the local juvenile courts commits him to the State, the youth conservation commission would determine to which facility and which program he would participate in.

Chairman PEPPER. That would be after an interview with someone?

Mr. SCHOEN. He would go to our reception cottage at one of the institutions. There they would develop material for the commission. Then the commission comes there to hear the case, make a decision, and establish some information. This is a panel of two or three.

Chairman PEPPER. Let us just say this 16- or 17-year-old committed rape and murder. What would happen to him then?

Mr. SCHOEN. It depends. It again is up to the judge. He has two options on a very serious crime. He can commit him to the youth conservation system, as I indicated. He would then be sent to one of our open juvenile institutions. The judge would have to feel that he is not likely to commit the crime again, if he were to run away.

If the judge felt this individual was indeed very dangerous and felt it was questionable or irrelevant to try to rehabilitate him, he can

then bind him over to what we call Minnesota District Court, the adult felony court. He could then be tried as an adult and perhaps go to one of our maximum security facilities. Very likely he would go to the reformatory at St. Cloud.

Chairman PEPPER. Did you say under the law of Minnesota that people convicted of a serious crime must serve at least a 3-year minimum sentence in the State institution?

Mr. SCHOEN. Mr. Chairman, what I said is that there is a bill in the current session of the legislature which would require mandatory sentencing of 3 years for anyone who committed a number of serious crimes with a gun in their possession.

Chairman PEPPER. That would mean they would have to serve that time. They couldn't be paroled?

Mr. SCHOEN. That is correct. Neither the judge nor parole board could alter that.

Chairman PEPPER. It is a little beside a point of discussion, but would you care to express any opinion as to how desirable a long sentence is, even for a serious violent crime?

Does society gain by sending a man to prison for 40 or 30 years, or 20 years? I am asking whether or not it is possible that he may be rehabilitated under those circumstances.

Mr. SCHOEN. I suppose if you are saying 40 years, we could be sure he is not going to recidivate for a long time. However, nobody stays for that long a period. The average stay at Minnesota is 22 to 23 months, at the present time.

We do know that prisons are very counterproductive. There are some very good statistics, in fact there is an excellent study on this about juveniles just produced by a man named Lamar Empay of California.

Chairman PEPPER. What is the subject of the book?

Mr. SCHOEN. The book is entitled "The Provo Experiment." It is a long-term study done over a period of years. It compares, with the use of control groups, the youngsters who went to juvenvile institutions with those who didn't go. He used controlled groups where the judge allowed him to move in after making his decision to put some in the community and some in the institution.

The ones that went to the institution clearly, some years later, continued to commit crimes in numbers and serious crimes. This gets us back to the point of your question; That is, everybody suggests that institutions are indeed very counterproductive.

Mr. STEIGER. How about the controlled group?

Mr. SCHOEN. One group went to the insitution and the other was expected to go but didn't go. He then had the judge also put two groups on probation, one on regular probation and the other in an intensive group.

There were three groups in the community and one in the institution. The differences between the three community groups were there, as would be expected, but these were not too great. The clearest differences were shown by the group that went to the institution. The moral of the story is that no matter what you do in the community, the important thing is keep youngsters out of institutions.

Chairman PEPPER. You are trying to find a way to inspire these young people to get into a better course of life, trying to give them a

feeling that they would be happier. We had here five young people yesterday, and they all testified that they were enjoying life more, they were happy in this new program in which they were participating.

One boy had been on drugs, and was not on drugs now. He said he hoped to be in the Marine Corps soon. I guess you try to bring out the best.

I remember that remarkable institution of yours at Red Wing, the peer therapy principle it operates on, where they arouse in the boy the desire to help his fellow inmates. I heard one boy there tell a very interesting tale. Had been out for a while and then called back and asked if he could be permitted to come back for a week or two. He said he was getting, as he put it, scared of himself. He came back with this group, about a 10-person group, in that cottage. He said he wanted to be with his fellow associates again. And after he stayed there a week or two, he said, "All right, I am ready to go now, I think I am all right."

That brought out the desire within those boys to help one another. You appeal to that side of their nature, too, I suppose.

Mr. SCHOEN. Mr. Chairman, there are a couple of points you covered there. One is, when youngsters feel they have some control over their destiny and command over what is going to happen to them, this is extremely helpful where they have options. It is also important that they see the correctional program as being an aid to them rather than merely a punishing force.

The fact that the boy chose the institution would indicate that there is something in it for him.

I was down to Red Wing Friday of last week, and I can report to you that I had the same feeling. The kids look like there is something going on for them that is still there. I was very impressed with what I saw there.

Chairman PEPPER. Mr. Mann?

Mr. MANN. No questions.

Chairman PEPPER. Mr. Steiger?

Mr. STEIGER. No questions.

Chairman PEPPER. Mr. Rangel?

Mr. RANGEL. No questions.

Chairman PEPPER. Mr. Keating?

Mr. KEATING. No questions.

Chairman PEPPER. Yesterday, Dr. Miller, in testifying about the Massachusetts plan said there was difficulty, there was expense involved in transforming the system, and dealing with young people from the old institutional system to the new system that they were employing.

He thought it might be desirable for Federal funds to be made available to the States to make this transformation. He recited the fact it was a $2 million grant from LEAA funds that made possible the alteration of this program.

Do you think it would be necessary for other States and your State to address this program, for other States to inaugurate this program which you seem to suggest is unmistakably desirable. Would it be desirable, or would it be necessary, for Federal funds to be made available to the States?

Mr. SCHOEN. Mr. Chairman, I am asking the State legislature for $1.8 million to begin this transition. Minnesota has been willing to spend some money. I would say, however, that the direction we are going toward is largely a result of having Federal money. I guess the answer to your question is "Yes."

Some States have been very stingy in spending money for corrections. I think that where they have good correctional administrators with good desire, they often just don't have the funds. If you are locked in an old system, you simply can't get out of it unless you have some seed money, investment money, front-end load money, if you will, to make that change.

Chairman PEPPER. The last question is, what other States have adopted modernistic programs such as Massachusetts?

Mr. SCHOEN. Mr. Chairman, I think, Florida; some interesting things going on in Michigan, in Washington, certainly California has done a number of things out there, primarily because of the crunch of their population. They had to do something. Some very interesting things have come out of California.

We are seeing a proliferation around the country of some interesting programs. We are also seeing some of the old 1700 stuff still carrying on as though that were really productive.

Chairman PEPPER. Do you think, on a different scale, that we can apply the principles you employ in dealing with juveniles to the adult population in our institutions?

Mr. SCHOEN. I am convinced that we can do it with even greater ease. I think the juveniles are the ones who are much more difficult to rehabilitate. If I were betting money, or I had to say where my best investment was, I would always do it with adults because we have so many more things going for us with them than we have with the juvenile. The juvenile is dependent, impulsive, and much more difficult to get a grip on than the adult.

Chairman PEPPER. Do you think there is real hope if we employ the proper programs for the rehabilitation of many people in the adult penal institutions today?

Mr. SCHOEN. That is correct.

Chairman PEPPER. Mr. Nolde has some questions.

Mr. NOLDE. Mr. Schoen, regarding the LEAA funding to which you referred earlier, would it be wise to condition such funding upon a requirement that the State eliminate the old system if the money is going to be devoted to a new system, or a new approach such as the one you mentioned here?

Mr. SCHOEN. That is an interesting idea. I am responding, however, without a great deal of thought. One of the problems of LEAA money is that it started buying an awful lot of hardware. At the time college students were being obstreperous and I recall pith helmets and things being bought and sitting on shelves some place in buildings, and that sort of thing.

Yes, I think if we could say it is predicated on developing an expansion of services, with a minimum of brick and mortar, and provided that points of entry into the system could occur earlier. Also, it should provide that the elements of the criminal justice system, the police, courts, corrections, and prosecutors and defense, must sit down together and begin to develop a program for their community, rather than just

bad-mouthing one another, which I think is a very serious problem at the present time.

Mr. NOLDE. Would it be feasible to impose such condition, to eliminate a parallel situation that seems to be developing here?

Mr. SCHOEN. Politically, I guess you maybe know that one better than I do. I think it is very feasible. I certainly would, yes.

Mr. NOLDE. I have no further questions, Mr. Chairman. Thank you Mr. Schoen, for your fine testimony, and also for the excellent work you are doing. The State of Minnesota is fortunate to have such an outstanding Commissioner of Corrections.

Chairman PEPPER. Thank you very much, Mr. Schoen. We appreciate your being here. You helped us greatly.

We will take a 5-minute recess for the accommodation of the reporter and will resume with the next witness.

[A brief recess was taken.]

Chairman PEPPER. The committee will come to order, please.

Judge Arthur, will you come up, please.

Our next witness is Judge Lindsay Arthur of the Minnesota Family Court. He is also president of the National Council of Juvenile Court Judges.

Judge Arthur will testify and comment on the juvenile corrections problem from his vantage point as a judge and officer of the National Council of Juvenile Court Judges.

Judge Arthur, you have been very helpful to our staff in preparing these hearings and we wish to thank you for that, as well as for your kindness in coming before us today.

Mr. Lynch, will you please begin.

Mr. LYNCH. Thank you, Mr. Chairman.

Mr. Chairman, Judge Arthur, as you know, is the president of the National Council of Juvenile Court Judges. Judge Arthur holds an A.B. degree from Princeton University and J.D. from the University of Minnesota. He is also a director of the Urban Coalition, the Boys' Club, Children's Health Club, and a number of other civic organizations. He practiced law in Minneapolis and became a judge of the Minnesota Municipal Court in 1954, and became a judge of the Juvenile Division District Court for the State of Minnesota in 1961.

Judge Arthur, if you have a prepared statement for the committee, would you please deliver it at this time.

STATEMENT OF HON. LINDSAY G. ARTHUR, JUDGE, DISTRICT COURT, JUVENILE DIVISION, MINNEAPOLIS, MINN., AND PRESIDENT, NATIONAL COUNCIL OF JUVENILE COURT JUDGES

Judge ARTHUR. Mr. Chairman, I heretofore submitted a statement in writing and, if I may, I would like to leave that with you and make an ad lib summary, if that would be permissible.

Chairman PEPPER. Without objection, your statement will appear in full in the record.

[Judge Arthur's prepared statement appears immediately following his testimony.]

Judge ARTHUR. Thank you, Mr. Chairman.

As was indicated, I come here kind of wearing two hats. Let me talk about them separately. Each of them is concerned with delinquency, in fact, each of them has almost exclusively juvenile delinquency as

its province, but each of them necessarily approaches it from a somewhat different point of view.

We have the National Council of Juvenile Court Judges. It is an organization about 35 years old. We maintain, and I think we can demonstrate, that it is the strongest organization of judges in the United States. Our membership represents some 1,500 judges, about half of the juvenile court judges in the United States, but these judges themselves come from jurisdictions comprising some 75 percent of the population of the United States. These are our active members. Fifteen years ago we had a budget of about $1,000 and now our budget is passing three-quarters of a million dollars, and we expect it to cross a million dollars next year.

Chairman PEPPER. Where do those funds come from, Judge?

Judge ARTHUR. As a guess, about 60 to 70 percent are private funds, basically, from the Fleischmann Foundation in Nevada, some from various other foundations, the rest is basically LEAA funds.

We have recently developed a staff of highly trained experts. I would hold them second to none in these skills for which we have secured them.

This National Council approaches the problem of juvenile delinquency from a different point of view than the individual court. We say the most important factor in reducing delinquency is to train the people dealing with the kids in the establishment. Basically to train the judges of the juvenile courts so they can understand what kids are about, acquainting them with the behavioral sciences, to training them as to juvenile law both before and after the *Gault* case. We also train them on available dispositions and treatment programs, what is being used effectively around the country, so the judges themselves can do a better job. There are very few places in the United States where you can go to school to be even a trial judge, much less to learn the very high specialty of the juvenile court. We have opened a college in Nevada with Fleischmann funds where we have already trained over 2,000 judges.

But I think we are just tapping the surface. I think we need to go into it much more voluminously than we have. Our ultimate goal is to make it possible that no judge would touch a juvenile case until he had a minimum of 2 weeks' highly intensive training and at least 3 or 4 days a year of refresher training. Juvenile court is a demanding specialty. It should require intensive training to get into it.

Similarly, our right arms, our probation officers, we think they should be trained. Many of them now have M.S.W. degrees, but we think they need to be trained in some of the practical aspects of the applications of the juvenile court approach. Our council is beginning to use our funds to train these key people to try to bring them into even a higher degree of skill than they now have.

But, as I say, we are only tapping the surface with our present budget; we are not anywhere near where we should be. But we will provide this training because it must be provided.

The second thrust of our organization is services to our members. We have a law digest we think is very good. It analyzes the appellate cases dealing with juveniles. We have a quarterly journal, usually used for articles of interest, as a forum, if you will, for discussion of ideas. Every now and then we take an issue and use it for a single

purpose. You have an example of both these publications, as they are included in the folders provided to the committee.

We would like to develop statistics as to juveniles. We have almost none now and we think they are almost not in existence. HEW has some very rudimentary figures, the FBI has arrest figures, sometimes rather misleading as to actual juvenile delinquency.

We would like to develop statistics on our own basis. The figures should be based, not on the reason for the arrest of the child, but on what he admits or is found guilty of. The police do make mistakes and often their cases don't come to our courts, and often the child is not guilty of anything or is guilty of a lesser included charge in some form or another.

We would like to assemble a manual of all of the things that have been tried around the country. We are trying to assemble this. But we are able to do it now by only one judge in Michigan, Eugene Moore, trying to put it together on his own, with his own staff. Obviously, an impossible burden for any degree of completeness.

We are looking for funds to do that. I think we will find them. It is a question of getting the job done and making available to each of us the successes of the others. And, I would quickly add, also making available to each of us the things that did not work, so the others don't have to follow and make the same mistake.

We would like to assemble data, caseloads, salaries, the various bits of information that are so useful to operating any kind of an organization such as our courts.

We need a placement service. Right now, I am looking for a director of Court Services and I can only go on whom do you know and whom can I call up and ask. This is not a very scientific basis, there is no personnel service, the N.C.C.D. has kind of a want ad section in its publication, but other than that there is no effective place for service.

We would like to look at the architecture of juvenile court. Right now we usually inherit a building designed for an adult court and if they fit the particular needs of a juvenile hearing, it is a coincidence and a very rare coincidence. We would like to design the court around the impact it would have on the child, rather than forcing the child to fit into the architecture.

Lastly, we are trying to set up some standards to judge ourselves so a judge can look at his court and say, "I am good at this, and bad at that," based on objectively measurable national standards.

Judge White from Chicago is trying to work out some of that without any outside funds; using only our funds.

The third big thrust of the National Council of Juvenile Court Judges is research. It is nonexistent on some of the way-out frontier areas. We are trying to put together a project in Pittsburgh right now, and I think we are going to be successful. Judge Cahill is looking for about a half a million for a few years demonstration until we can get this thing self-supporting. It looks like foundations in Pittsburgh will assist us. We have not asked for public funds nor Government funds of any kind for this project. We hope it can be financed without tax funds.

Let me then describe some of the programs in Hennepin County. Minneapolis is the center of the county. Minnesota has a population of almost 1 million people. The juvenile court holds about 14,000 hear-

ings a year involving basically maybe 5,000 children. On FBI figures, I think our crime rate is well below the national average per capita basis, for whatever reason.

Our juvenile court operates on two basic premises. The first, of course, is to rehabilitate children. We are not interested in punishing them for what they did in the past because we don't think it will do any good. We are trying to rehabilitate, to find why the child did this, to try to correct the causes so far as the court is able to marshall the resources to do that. If we can rehabilitate the child, if we can eliminate the causes, then we can eliminate the crime far more effectively, I think, than just using prisons and fear psychosis. We will use disciplinary approaches where it is indicated, and we do, but we are trying to rehabilitate a child; we are not trying to punish for the past. We are trying to look to the future.

Our second premise is diversion. We want to keep kids out of court if we can. We urge the police to screen kids out of the court. If they can take a child home and the home will take care of the situation, there is no need to bring them to court. If nothing else, it wastes the taxpayers' money.

If the police can take him to a youth service bureau and this will accomplish the purpose, we urge the police to take him there. The police say they divert from us somewhere around two-thirds of the cases. We think this is healthy.

We urge other organizations around the community to provide for children without coming to court. We have, of course, the usual organizations which operate very effectively: the Boy Scouts, the YMCA, the organizations that are well-known.

The YMCA and the Boys' Club have developed an activity called "Detached Workers," street workers if you will. They are a rather horrendous group of people to look at because they dress like the counterculture, with the long hair and costumes, and so forth, like that. They are very effective at getting to the turned-off kids and we think they do a remarkable job of getting at these people, out of court, without the need for the court; probably better than the court could ever do because they are getting at the child immediately, right in his own bailiwick; they are not using the threat of court to get at them.

We have our own intake division in the juvenile court. Every case that comes to us, whether from the parents which are one of our main sources, or the police or the schools, are all screened by the intake division. They do not apply treatment, because they become involved before there has been due process. Instead they refer the child out to a treatment program or they send the child back home or they send him to the family psychiatrist, if there is one. Sixty percent of what comes to the court is screened out by the court's own intake division. The court doesn't see these people. As well as you can ever measure such things, only 8 percent of the kids screened out by intake came back into court, which is a remarkable rate of return.

We have a standard for the intake division: If the child can and will be rehabilitated elsewhere, the case should not come to court. It should come to court only if authority is needed. If the child is unwilling, or the family is unwilling, or if there is nothing available to them without the court, then the case is to come to court. This is the method we use to screen out some 60 percent of the kids.

We have developed some other local programs. One is called Operation De Novo program. Its mission is to pick up the hard-core kids before they get to court, sometimes for the upteenth time.

Operation De Novo picks up these kids that are outside the regular culture, the kids that are rebelling if you will, the kids that are on the edge of militancy. So far it has a remarkable rate of reaching these kids on a highly intensive basis, often using people who have been through the mill themselves. It is a good program.

Our adult court has developed a program of getting people out of jail by screening the people coming into jail, and releasing everyone they possibly can without bail, those who are going to come back without the bail. Our jail population has gone down rather radically because of the program. It is good.

When people do come to court, we have various resources available to us. The one we are proudest of is the right of speedy trial. The child—or an adult—who comes to our court has had his first court appearance within 2 or 3 days; within 2 or 3 days more he has had his arraignment appearance; his trial would normally come in 2 or 3 weeks. If he wants it sooner we will provide it sooner. If he is found guilty or pleads guilty and is in jail, we have the sentencing in 2 weeks. We are trying to obviate the need for our jails, trying to cut down the jail population, which is such a stagnant place to put a human being.

Obviously, in all courts, we rely heavily on probation, one-to-one counseling. One officer talking to one child, or one officer talking to one parent. This is the backbone, I guess, of any service. This, I am sure, the committee is quite familiar with. We do have supportive things that go with this. On one hand, the disciplinary approaches for the child for whom it might go in one ear and out of the other, who says all I got was probation. He gave me a lecture and that is it. To get his attention we have to do something stronger: Take the kid's driver's license away if he is middle or upper middle class. We may tell him to go out and work for free a few hours a week. It is useful in some cases.

Conversely, we have some activity programs. One, the "flying" program involves a group of pilots who came to us, private pilots, and said, could we take some of your kids and we will teach them aerial navigation, take them up in our planes and fly them around and show them how to navigate. The kids they took, obviously, began to realize it is important to know how to read, it is important to know how to do mathematics, it is important to know how to work in a team. The final examination is to plot a triangular, three-city course. The pilot says, "I'll follow your results unless it looks like fatal results could occur." It is quite a successful program; it has been going on for quite a few years.

We increasingly do group work; an LEAA grant started us on this, but we are doing more and more. Groups of kids and parents, groups of kids, groups of parents, encounter groups, as well as the normal discussive type of group work.

We have various foster homes, and never have enough. We have some group homes, treatment group homes, six of them in Hennepin County, are called "Home Away," developed around the same encounter group. They go to their regular school or job. When they are

not in school or on the job they are back at the home where they have their group work by way of helping themselves, getting the strength that can come from the group.

We have a "PORT" project, which Mr. Schoen indicated is about to start. They took a building I had planned on using for my court and my referees. Now it is going to be a PORT authority and I think it has a better use for that than the court.

Necessarily, we have institutions. Mr. Schoen alluded to the three State institutions. There are also two county institutions. I think it should be made clear, for the record, that there are quite a few other institutions in the State besides the State and the county ones which we use. There are private institutions operated by various religious orders or operated under other charitable structures, for the emotionally disturbed child, but most of those children have come through court as a delinquent or a status-offense type of child. It would be unfair statistically to say we only have the three State institutions and the two county.

Our institutions, once more, every one I have seen, and I tried to visit them regularly, are definitely not warehousing institutions, not the juvenile jails. We have shifted. Now we build a mix: The child comes out and in a couple of weeks he works out his own negotiated treatment plan with the social worker, and they both kind of contract. The social worker promises to be accountable for providing it and the child promises to accept the program. We are trying to provide them with so many options we can individualize the treatment plan for the particular child.

We had a meeting last week to begin the first stages of consolidating the programs of the two largest counties with the State services to consolidate programs, close institutions if they are not needed, or use the resources to better advantage, possibly get less use of the private institutions since their per diem cost is higher.

We have heavy reliance on volunteers, both in our institutions and our programs. About 4 years ago, somebody came and said, "Let's try volunteers," and I was dead against it. How could you bring in volunteers: We need professionals. We have just passed the 400th volunteer and are still going. I favor the volunteer program very strongly. If the volunteer is properly trained—and that is a big "if"—and if the volunteer is properly supervised—and that is another big "if"—then the volunteer can do wonderful work, actually rehabilitating and helping kids.

I hope I haven't overtalked my time.

Chairman PEPPER. Mr. Lynch.

Mr. LYNCH. Judge Arthur, you now have served approximately 12 years as a juvenile division judge. Based on that experience, and in your capacity as the president of the National Council of Juvenile Court Judges, could you describe for us what effect the *Gault* case has had on your operations and the operations of the juvenile courts in general?

Judge ARTHUR. I guess that depends on which juvenile court judge you ask. In my case, I almost had the feeling the U.S. Supreme Court came to my court, looked at it, and said, "All of the rest of the country should do the same thing." It had no impact on my particular

court except to make it possible to get more public defenders and one more court reporter.

A lot of judges resist it. The judge feels, "I am a lawyer, I can protect the child's rights while he is in my court." I would say in the smaller jurisdictions, this is the general feeling.

One of the difficulties a juvenile court faces is that it is very hard to appeal our decision. The kids haven't got any money to appeal; the parents are less than interested most of the time in appealing; LEAA does not supply appeal money that I am aware of; our country doesn't want to supply it. I know my decision is final in all too many cases.

I wish we could find a way to appeal; then maybe we could bring in the better impact of *Gault*. However, in defense, may I urge that a juvenile court proceeding is in two parts. One is adjudication: is the child guilty or not guilty. This is *Gault*, and this is full due process, and this I believe in very thoroughly. A child is entitled to all rights of an adult. But the juvenile court proceeding is something more than that. It is always a disposition act, and the U.S. Supreme Court has said to us, "Due process does not apply at the dispositional level." All we insist on is a fair hearing and I think we give them a fair hearing. *Gault* applies to a small number of our cases because so many plead guilty and don't go to trial. I think the impact of *Gault* is greatly overrated.

Mr. LYNCH. How many judges did you say?

Judge ARTHUR. Myself and five referees, who are subject to my appointment. I like it this way. I like the referee system. We are consistent. We may be consistently wrong but we are consistent.

Mr. LYNCH. What do they do, sir?

Judge ARTHUR. They take any case I assign to them. In fact, they take every case, except that I take all sensitive cases or cases that might be appealed, or cases where the public is worried, or where there is a difficult point of law. I try to take everything tricky, hard, and interesting.

Mr. LYNCH. The referees to whom you assign cases, I assume when you say you assign cases to them, they have them from start to finish. Are they attorneys?

Judge ARTHUR. They don't have them from start to finish. They rotate calendars considerably. He may have an arraignment calendar. It is too complicated in a mass production count to follow a case. Two of them are attorneys and three of them are not. The two who are attorneys handle most of the *Gault* aspects—the trials, the arraignments, this type of thing. The two who are not—ex-probation officers—specialize in the dispositional aspects of the court. The other man is basically for administrative purposes. He is the business manager of the court.

Mr. LYNCH. How do you track or followup the juvenile who has appeared before you and whom you have committed to an institution, or to probation, or whatever? How do you know, as a judge, whether or not your sentence, your treatment, has been effective?

Judge ARTHUR. Every time we make a disposition we order a progress report. It may be in a week, it may be a month, 3 months, 6 months. It has to be in at least a year. That progress report must come in writing to us, unless we refer the child to the State, at which point our authority ceases and the youth commission takes over.

Mr. LYNCH. You get no feedback on that?

Judge ARTHUR. There is no feedback. We are told sometimes several years later he has just been discharged, and that is about all we hear.

Mr. LYNCH. Would you like to have feedback on children who have appeared before you and have been committed to the State Department?

Judge ARTHUR. Yes, very much. And what we started last week, the three metropolitan counties working closer with the State, can develop that. I think the State would not be adverse to this.

Mr. LYNCH. Would it be useful on a national basis to have all juvenile court judges receive data on children who have appeared before them to find out what has happened to those kids?

Judge ARTHUR. I sincerely think so. The judge needs to know that. When I use this type of a program or that type of program, these succeed or those didn't. If nothing else, this may guide the judge in his future dispositions.

Mr. LYNCH. I guess it would be a good training device for the city magistrate or judge. Is this something that any juvenile court judge that you know of has applied to LEAA for funding for?

Judge ARTHUR. There are several answers to that, Mr. Lynch. The city of St. Louis, as I understand, is trying to develop a kind of social profile of children. The last I heard, they developed about 485 different profiles and then they were trying to compare the disposition and the recidivism with the profile and try to say that if you get profile No. 379, probation is apt to work, but an institution won't; that type of thing. St. Louis is underway. We had a program like that in Hennepin County, we applied for a LEAA grant, we received the grant on a tentative basis the day before they went from discretionary funds to State block funds and our grant got lost in the shuffle. I don't know of any place that is doing a computerized analysis as thoroughly as I think it should be done.

Mr. LYNCH. But your testimony is it would be desirable this would be done?

Judge ARTHUR. This is the type of thing we would like to get out of our Pittsburgh project. We would like to know an awful lot more about what works and what doesn't work, and what are these kids about. We resist answering on the basis of what do you do with a murderer or rapist. We are trying to say what do you do with a child who comes from a broken home and can't read and is a minority. Let's take the factors that force them into delinquency—or don't keep him away from it—instead of looking at outward symbols such as type of offense.

Mr. LYNCH. Was it your earlier testimony, on new programs, innovative programs, desirable programs, that more or less you and your colleagues who are juvenile judges hear about those inadvertently: there is no organized, comprehensive system for the dissemination of information?

Judge ARTHUR. That is correct. We do have the "bull session." I guess that is one of the best things we have. We have our annual conventions. A lot of time will be spent around the beer table. This is where I will learn a great deal. My own State also has State judges meetings. The bull session is obviously one of the valuable parts of it.

Mr. LYNCH. I would infer from what you are saying, it would be desirable that there be a clearinghouse.

Judge ARTHUR. Perhaps.

Mr. LYNCH. Perhaps, a national clearinghouse describing and evaluating programs in this field.

Judge ARTHUR. We have applied to LEAA for a grant for that, but we have been told not to get our hopes up at all.

Mr. LYNCH. Why were you told that, do you know?

Judge ARTHUR. We applied for all kinds of grants, and I think they kind of said you are only entitled to this much and some of the others get higher priority. I am just guessing.

Mr. LYNCH. You say "we"?

Judge ARTHUR. Meaning the National Council of Juvenile Court Judges.

Mr. LYNCH. Judge, during your opening remarks you said that you viewed it as your task, or your goal, to correct causes of delinquency insofar as the court is able to marshal the resources to do that. Do you have those resources in Hennepin County?

Judge ARTHUR. I think we have them. I think we have them more than most counties. Our taxpayers have been very liberal and I thank them publicly for it. We do not have what we need on several programs. Part is just the basic research of knowing why the child is doing this and I think the behavioral scientist at the university needs some grant projects. This again is our Pittsburgh problem—let's do research further on the child. But we need the programs.

Chairman PEPPER. I am sorry to have to interrupt you. There is a quorum call on the floor and we have to run over and vote. We will just take a brief recess.

[A brief recess was taken.]

Chairman PEPPER. The committee will come to order, please. You may proceed, Judge.

Mr. LYNCH. Judge, just before the recess, I had asked you about your statement that juvenile courts try to correct causes insofar as possible with the resources at hand. Then I had asked you, in fact, what resources you have at hand for referring young people in trouble, for treatment, or whatever. I wonder if you could describe for us, very briefly, what kind of agencies are available, and to what extent you and your referees make use of those agencies.

Judge ARTHUR. The basic agency we use first for diagnosis is the probation officer. We allow him 2 or 3 weeks to make a diagnosis of the child, to talk to the child, the parents, the school, and so forth. Then he prepares a report, a diagnosis, a prognosis, for us, which is the basic document on which we make our decision—even though we may or may not follow his recommendation. He has accessible to him a psychologist and psychiatrist, if he needs them. We would like to have a little more of that type of service, but we are managing. He has available a mental health clinic, if that will be of some value to him.

So as far as the resources of the court allow, in deciding what we should do, we use heavily the 1-to-1 probation approach. We have a county home school and that has a varied approach; fortunately, underused because of community resources.

Mr. LYNCH. I wonder if you could venture an opinion, in your capacity as president of your association, as to whether or not juvenile court judges on a national basis have an adequate number of resources, in your term, subsidiary resources, both public and private to whom

they can refer young people who may not need incarceration but who desperately need treatment of some kind. How do judges do that? How do they find out about those agencies that are public or private and can serve? Is that done in a systematic way? Are there referral handbooks? How does the judge get that information?

Judge ARTHUR. That is kind of a funny thing. I think the honest answer is that each judge will develop his own chain of resources and sometimes won't tell anybody else because that would fill up the beds that are available. But I have nightmares, thinking I have a child who needs a bed in a particular type of institution, and I know there must be some institution somewhere around the United States and I don't know it exists, and in the meantime it may be going bankrupt because there are not enough kids coming into its particular type of service.

One of the things we would like is kind of a national computer service on beds available for children, for treatment around the United States. This is for the emotionally disturbed child, among other things. Very specific types of treatment are available, but we don't know what they are. I know what they are in my area, you would know what they are in your area, but we have no way of knowing what they are around the United States.

Mr. LYNCH. That information could be put in a data bank?

Judge ARTHUR. Yes.

Mr. LYNCH. Again, I infer from what you are saying that it would be desirable if we did have such a data bank, with that kind of data in it.

Judge ARTHUR. Very much so.

Mr. LYNCH. Which would be made generally known to judges, especially juvenile court judges, and other people within the criminal justice system.

Judge ARTHUR. It would be an expensive thing because it is obsolete the day it is done. So many things are coming up and other things are dying down and the emphasis is changing. So it would be an expensive thing to put it together and keep it current, keep it disseminated. It should be done.

Mr. LYNCH. I understand on a national basis it might be expensive. There is at least one State that I know of that keeps a looseleaf referral handbook which is updated every 3 to 6 months, and supplies it to literally thousands of people within the juvenile and adult criminal justice system.

You testified, Judge, that you handle 14,000 cases per annum, roughly.

Judge ARTHUR. Hearings.

Mr. LYNCH. Hearings. What is the difference between a hearing and a case?

Judge ARTHUR. Well, this is not 14,000 different children. A child may have a detention hearing and an arraignment hearing, a trial, disposition, or redisposition.

Mr. LYNCH. Approximately how many individual juveniles does your court see in a given year?

Judge ARTHUR. In the deliquency area, I would estimate around 5,000.

Mr. Lynch. Of that 5,000, how many are people who, if they were not juveniles, we could otherwise characterize as real criminals?

Judge Arthur. You mean the status offenders?

Mr. Lynch. Yes.

Judge Arthur. For girls I would estimate that probably about half, maybe a little more than half of the girls are here for status offenses: the boys, it would be somewhere around, I would guess, again, around 15 or 20 percent are in court for status offenses.

Mr. Lynch. These are children who have, in fact, committed common law or statutory crimes. About 15 or 20 percent, if I understand you correctly, have stolen automobiles——

Judge Arthur. I was putting it the other way. As for boys, I would say 15 percent of the boys are in court on status offenses. About 80 percent for offenses which would be criminal for adults. But for girls, it is about half and half.

Mr. Lynch. To what extent do you see the 80 percent of the young men who come before you who have, in fact, committed crimes or seriously delinquent acts; to what extent can you determine whether or not they are what we would otherwise characterize as first offenders?

Judge Arthur. It is hard to say, particularly in the system I was describing, because they may have been before the police and the police may have released them. So, if they do come back, they are already second offenders. They may have been before our intake and intake may have released them. They may have been before our court. We do not carry adequate data. I have a very strong feeling that recidivism is a very badly used term. It is too easy to say the child was before us in 1969 for an offense and before us in 1973 for an offense, so he is a recidivist. These are police-style figures, they are not ours.

Mr. Lynch. Does the police department, does the intake division or unit, keep records of the fact the youngster had appeared before them and was summarily discharged?

Judge Arthur. Not summarily, but at least released. Yes, we do have the figures. We are trying to feed them into the county's computer, but it is not functioning very well yet.

Mr. Lynch. You do not, as a matter of course, get that information. The young man appears before you. He may have had five previous contacts with the police?

Judge Arthur. Well, as an individual child I would have most of that before me at the time I see him. Not necessarily all of the police releases, but I would have all of the things for which he has been referred to the court.

Mr. Lynch. On a typical young man who appears before you for auto theft, for breaking and entering, for that kind of crime, do those people frequently have lengthy prior records of any kind?

Judge Arthur. The word "lengthy" could be misleading. They do have prior records. I would say that, as a guess—I wasn't prepared for the question but I should have been—not more than five or six priors. After this point we may begin sending them to the State.

Mr. Lynch. That would be five or six prior incidents which did not result in appearance before you or another juvenile judge?

Judge Arthur. I am sorry, I may have missed your previous question. We keep them in court possibly, as a rough figure, for maybe five

or six offenses before we refer them to the State facility. The kids whom we see, yes, some of them have been to intake, we know some have been released by the police, we know some we have seen ourselves previously. I am only aware of the ones that have been to court previously.

Mr. LYNCH. Let me give you a hypothetical case. A young man, 16, 17 years old, who appears before you and the charge is, let's say, burglary. The same charge could also be grand larceny. He has no prior record of any kind. You make a determination that he has not before been seen by the police, has not been through any kind of juvenile division intake proceeding. How do you handle a matter like that?

Judge ARTHUR. We almost disregard the fact it is burglary or grand larceny. What we try to find out is why did he burgle or steal, what got him into the situation. Was he having trouble at home, which is so predominant? Is he having trouble in school; is he having trouble reading? We try to find out the causation, what got him into the mess, so we can correct that.

Mr. LYNCH. Based on your extensive experience in this area, is there a typical causation factor involved? Is there one that crops up more than others?

Judge ARTHUR. This is a funny response to that. It is everything, from television on down the line. It is very hard to generalize. I would not, other than to say that frequently it is a problem inside the family, and I don't mean by this the parents are always at fault, this kind of thing. Another thing is axiomatic: Juvenile delinquents have a reading problem. Maybe this is a cause, maybe it is a symptom.

Mr. LYNCH. What does your court do about that?

Judge ARTHUR. In our county home school we have about 12 teachers—which is one of the reasons per diems go way up when you put a child into an institution—you have to provide teachers. About 11 are reading teachers.

Mr. LYNCH. When you have the youngster, boy or girl, before you charged with a serious offense, and you make a determination that there is a serious problem in the family, what authority do you have seeing to it that that youngster gets counseling; what authority do you have to also see to it that the family participates in that counseling?

Judge ARTHUR. The Minnesota statute, which is a little bit unique in this, says if I put a child on probation I can make reasonable rules for his conduct and his parents' conduct. So, riding a truck through that loophole, the "reasonable rules for his parents' conduct," I can do quite a few things.

Mr. LYNCH. Do you as par for the course require the parents to participate in counseling and/or other kinds of treatment?

Judge ARTHUR. On various occasions we put the parents on probation, not the child.

Mr. LYNCH. How does that work?

Judge ARTHUR. They don't like it.

Mr. LYNCH. Do they generally follow your probationary rules?

Judge ARTHUR. Yes, they do. This amounts to the fact the probation officer will see the parents every 2 weeks and try to work with the parents on how come Johnny is in this situation? What have you done or what can you do?

We have a program called the family education center, which meets on Saturday mornings. This is where parents and kids come together as a group, sometimes 100 or so of them. It is rather carefully structured without appearing to be, and we order the parents to go to three of those sessions. You can keep going after that if you want to. There are various family counseling services in our area, as I am sure there are in others. The parents may be given the option to go pick up a private social worker, they can afford it.

Yes, we do require the parents to use whatever resource we have available, if we think it is useful.

Mr. LYNCH. Have they been evaluated?

Judge ARTHUR. The family education center has been evaluated and we think it is quite effective. The others: It is the same problem, how do you evaluate a program, find out its effectiveness. I don't know. Until we develop better figures on recidivism, we won't know.

Mr. LYNCH. Doubtless you have juveniles in trouble before you who have been picked up by police in the early hours or late hours in the evening, as the case may be. I assume you see those youngsters after what, after the intake proceeding?

Judge ARTHUR. If the kid is picked up and put in our detention area he must come to court within 1 court day, within 6 business hours after the arrest; if this is what you mean.

Mr. LYNCH. Are there mental health or other social services operating in your metropolitan area that do not close their doors at 5 p.m.?

Judge ARTHUR. In our detention center itself, there is the intake officer, a master of social work. He is there all night long, 24 hours a day, the man who makes the decision on whether to hold or not, whether to send them to the general hospital for mental, and who makes the basic decision of the first impact on the court's authority.

Mr. LYNCH. How adequate are those staff resources? Do you have enough people?

Judge ARTHUR. In Hennepin County as of today, yes. I shouldn't say that. I should be an empire builder; but, yes, as of today, we are adequately staffed.

Mr. LYNCH. Why do you predicate "as of today"?

Judge ARTHUR. Because a year ago we weren't, and I don't know about next year. Our county board is beginning to pull in its horns a bit.

Mr. LYNCH. Are you seeing more juveniles than you did, for instance, 2 or 3 years ago?

Judge ARTHUR. No. I think our caseload is going down as we press more and more of this intake screening, of diverting kids away, as facilities such as Home Away get going, kids go there without going to court. I think the diversion is cutting our caseload down.

Mr. LYNCH. Does your diversionary unit send youngsters to private as well as public agencies for treatment of various kinds?

Judge ARTHUR. Frequently, if the family has money or some kind of health insurance. Most health insurance policies, as I understand it, will pay for psychiatric or social work therapy.

Mr. LYNCH. No further questions.

Chairman PEPPER. Mr. McDonald, do you have any questions?

Mr. MCDONALD. Yes, Mr. Chairman. Thank you.

Judge, from your position as president of the National Council on Juvenile Court Judges, obviously, you have an overview of the nationwide quality of juvenile court judges. First of all, what is the quality; do you think it is good or it needs to be improved; and, if so, is it being improved?

Judge ARTHUR. I think I would answer, Mr. McDonald, on a population basis. If you go to a county such as some we have in Minnesota, with 3,000 or 4,000 total population, the juvenile court judge may see a case or two in the course of a year and he has no special expertise, and you probably are not going to get him to get any expert training. He may be just a guy dedicated, but not skilled, in the business. If you go up to the larger cities you are going to get people who make their life work out of it and they are anxious to go out and get the extra training. I would say, in my mind, the criterion of a good judge is just how much expert training he has received in his particular forte.

Mr. MCDONALD. Obviously, in Minnesota, you have a large urban population, but if you go into some of the smaller States, rural States, do you have youth coming before persons serving as juvenile court judges who actually have no training?

Judge ARTHUR. Yes. Again, in the smaller communities, there is another factor that works against us. In many States, if not most, the juvenile court is a court of lower jurisdiction rather than a court of general jurisdiction. In Minnesota, except in the two major counties, it is a court of tertiary level and if any of those judges become expert and they are offered a job on the court of general jurisdiction, the salary is enough higher they are going to take it and we lose them in the juvenile field.

One of the outstanding examples is Judge Tilman from Atlanta, who moved from a lower court into a higher court. He loved the juvenile field and was trying to make his lifework out of it. But when he was offered $5,000 or $10,000 more a year he couldn't turn it down.

We would like to become a branch of the general jurisdiction, carrying the prestige of that court, the salary of that court, and I would go on and say we would also like combat pay.

Mr. MCDONALD. You alluded to various approaches, rehabilitation, disciplinary. Can you tell us if there is a place for discipline in the juvenile court system?

Judge ARTHUR. I think so. The story on that may be like the farmer out in Missouri, who observed his neighbor hitting a mule over the head with a 2 by 4 and said, "That's a terrible thing you do to your mule. Talk to him, rub him behind the ear and be nice to him and he will do what you want him to."

The farmer hit him once more and said, "I'll do that as soon as I get his attention."

I think with some of the kids we see, first we have to get their attention, and there is nothing more attention-getting than telling a middle or upper middle-class suburban kid that you need his driver's license for a month or so. It takes them 2 or 3 minutes to get that license across the table to you.

Mr. MCDONALD. That is discipline, not locking them up in jail?

Judge ARTHUR. We don't lock them up in jail. We do not use the detention center as a dispositional method.

Mr. MCDONALD. I have no further questions.

Chairman PEPPER. Do you use in any case the jury system with regard to the juvenile offender?

Judge ARTHUR. We do not in Minnesota. Under the Supreme Court ruling, I guess we could if we wanted to, but it says in our statute, specifically, no jury in juvenile.

Chairman PEPPER. And you haven't had any trouble with the Federal courts on that?

Judge ARTHUR. No, sir. No one ever asked for a jury in my court that I am aware of. I have had no request for it. As I understand, in the States where jury trial is available in juvenile court, it is rarely asked for.

Chairman PEPPER. What Federal funds, so far as you know, Judge, are available for use in this juvenile field, either juvenile deliquency or juvenile court system, or correctional system, or any aspects dealing with youthful offenders?

Judge ARTHUR. Our National Council receives—and I am guessing now, I should know it—somewhere around $200,000 a year, in various smaller grants that would total about that amount, going into our various programs. My own court has about $150,000 a year coming out of our local State crime funds for various things.

Chairman PEPPER. LEAA money?

Judge ARTHUR. LEAA money; yes, sir. The money is available.

Chairman PEPPER. Is that sort of money being made available to juvenile courts all over the country?

Judge ARTHUR. Not as much as we would think appropriate, Mr. Chairman. I think, as the previous witness indicated, a lot of it has gone into police hardware and I think it would be better if more would go into the judiciary field.

Chairman PEPPER. Do you know any other Federal funds available for any aspects of the youth program?

Judge ARTHUR. Apparently, some HEW funds may be available in the noncorrectional aspect, such as for the neglected child, that type of thing, or into educative programs, to the tutoring programs. We have not been able to tap those successfully, although we understand they are available.

Chairman PEPPER. You heard me ask Mr. Schoen whether he thought it best, in order to induce the States to put into effect the most innovative programs for juvenile offenders they can discover, to have Federal funds. What do you say about that and, if so, what percentage of the cost of an innovative program should be borne by the Federal Government?

Judge ARTHUR. That is quite a question, Mr. Chairman.

Yes, I think Federal funds should be used as an inducement to move the States into the rehabilitative-type program rather than the warehousing-type programs that have been used in the past, the Charles Dickens type of approach. I would urge that it be done in such a way that you don't phase the old out until you have the new phasing in, so you don't have to take some child who is a very dangerous person and do nothing with him because you have neither the new nor old.

Chairman PEPPER. You know Mr. James, no doubt, who made a survey for the Christian Science Monitor of juvenile correction institutions over the country?

Judge ARTHUR. Yes, sir.

Chairman PEPPER. And the film he directed is going to be presented here before this committee later this week. He gave me the horrifying information that, I believe he said, 15 to 20 percent of the girls that were in these institutions generally were there because they were runaways and they were runaways from home because they were sexually assaulted by their stepfathers or fathers. Have you found any material frequency of that sort of offense?

Judge ARTHUR. We get some incest cases and, curiously, they came to the juvenile court because the girl would not testify against her father in a felony case. Why, I don't know. They come in as contributing to the delinquency of a minor, which comes to juvenile court. I get maybe one a year of such cases, which is not a substantial number.

Chairman PEPPER. And you can't do anything to the father because the girl is unwilling to testify against him?

Judge ARTHUR. No, sir; I have a case on appeal right now where a father sexually assaulted all three of his girls on a regular basis and the mother stood by. She was asked, "How come you let this go on?" And she said, "He might divorce me if I take them away." Finally, she took the children away from him and he was extremely upset and demanded she return the children. And I have this on appeal.

Chairman PEPPER. Was he prosecuted for that offense?

Judge ARTHUR. No, sir; the prosecutor felt the girls' testimony would not stand up. They were very young.

Chairman PEPPER. And the wife will testify for the husband?

Judge ARTHUR. The wife left the State and we are not quite sure where she is.

Chairman PEPPER. Now, Judge, according to your observation, what percentage of the boys and girls who get into your juvenile court later wind up in adult penal institutions?

Judge ARTHUR. I should have anticipated this question, Mr. Chairman. I don't know. I am sorry; I don't know.

Chairman PEPPER. We had testimony from one of the juvenile judges in Florida, Judge Orlando of Fort Lauderdale, and my recollection is his estimate was about 50 percent; and I heard others use some similar figure.

What about school dropouts? What percentage of the boys and girls who come before your court are school dropouts?

Judge ARTHUR. In Minnesota, they can't drop out until they are 16. Prior to that time, the school will bring truancy petitions into the juvenile court. But if you take the status of offenses out of the juvenile court—and there is a national movement to do that—then there will be no enforcement of this at all. You will be repealing the compulsory school attendance laws if you do that. The schools do bring us truancy cases where the child drops out before age 16, and we do what we can.

After 16, the child can drop out, and under the curious law of Minnesota he can drop out whether the school likes it or not and whether the parents like it or not. The child makes his own decision.

Chairman PEPPER. Those who drop out before they graduate from high school, have you any figures as to the percentage of the young people coming into your court who drop out before they get through high school?

Judge ARTHUR. I have no figures and I would hesitate to guess. We do know the kids we see all have an educational problem, basically a reading problem.

Chairman PEPPER. Would it be likely that most of your students that you deal with are dropouts?

Judge ARTHUR. I would question whether it would be most, but it might be close to half. But that is a guess.

Chairman PEPPER. Did you say that they have reading programs: that is, you find that boys and girls have a serious reading problem and you do try to give them some reading instruction?

Judge ARTHUR. First we try to work through the school system to find a reading program that will fit them, with some of the numerous special programs they have. If they don't, we will try to use our own resources, and if we institutionalize a child in our county institution reading is one of the main thrusts of the program.

Chairman PEPPER. I learned in California recently, when we were having hearings out there, in one school, which was in the suburbs of San Francisco, there were two or three classes of students who were in the eighth grade whose reading level was not above the third grade.

Judge ARTHUR. I can believe that, Mr. Chairman.

Chairman PEPPER. We have a shocking reading problem in many of the schools of the country, don't we?

Judge ARTHUR. I had a child before me recently, Mr. Chairman, who was a senior in high school and was listed in the 102d percentile of reading, which implies, the school said, that 102 percent of the children in that school can read better than he can. I questioned their mathematics.

Chairman PEPPER. That is pretty good.

One other thing, in respect to this whole problem of dealing with people who commit crime, what influence do you think incarceration has as a deterrent to the commission of crime?

Judge ARTHUR. Zero, I guess. If the person who is committing the crime knows he would be caught, and they always assume they won't, every criminal I ever questioned in sentencing has felt, in effect, "I was too smart to get caught." Of course he did get caught. But if he knew that he would get caught, then I think incarceration might be a threat. But they dont' expect to be caught.

Chairman PEPPER. As to whether a man gets 20 years, 30 years, 40 years, or 5 years, do you think it makes any difference as a deterrent to the commission of crimes?

Judge ARTHUR. I would support the statement that the longer he is kept in prison the more apt he is to commit a major crime when he leaves.

Chairman PEPPER. That was also testified to here yesterday by Dr. Jerome Miller.

Judge ARTHUR. I would think as to most of these people, instead of holding them for a period of years, the courts should do as we do in our juvenile area: Hold him until he is able to live in society again, however short or long that may be.

Chairman PEPPER. Do you favor judges imposing indeterminate sentences, the release date to be determined by the correctional authorities, or the judge giving a fixed number of years as a sentence?

Judge ARTHUR. I would favor leaving it to the people who get to

know him and see the change in the man's personality as the years go by. In other words, let him be released when he is able to make it in the community, however long it may take.

Chairman PEPPER. I am inclined to agree with you, although some say that has a frustrating influence upon the individual, because he can see no hope. He has got his own destiny in his hands, if he chose rehabilitation.

Judge ARTHUR. We had a program in my county school where they went for 6 weeks and that was it, and we had other programs which were indefinite, and the staff said the kids worked much harder on their problems when it is an indefinite thing because they know they wouldn't get out until they had solved their problems.

Chairman PEPPER. Are you familiar with the legislation proposed by Senator Bayh?

Judge ARTHUR. There are two bills. He is interested in one, S. 5613, and the other is H.R. 45, something of that nature. Yes, sir, I am familiar with them.

Chairman PEPPER. Senator Bayh is going to testify here tomorrow on his legislation, at 10 o'clock in the morning, and we probably, sometime during the week, will also have Representative Railsback, who with the cooperation of this committee has been initiating some juvenile court legislation in the House of Representatives.

Judge ARTHUR. I understood Senator Cook has joined Senator Bayh on that bill that you mentioned.

Chairman PEPPER. Very good.

Judge ARTHUR. And Senator Percy has shown considerable interest in it.

Chairman PEPPER. Judge, how much time do you spend in Washington? Do you spend most of your time at home?

Judge ARTHUR. In my current job as president, Mr. Chairman, I seem to get around the country. I am gone from my State about a day every week. But this will slow down. I do get to Washington four or five times a year.

Chairman PEPPER. When we come to the preparation of our report, if we do so, we want to consult with you to get your advice and counsel on it.

Judge ARTHUR. I would be very honored.

Chairman PEPPER. Thank you.

[Judge Arthur's prepared statement follows:]

PREPARED STATEMENT OF LINDSAY G. ARTHUR, JUDGE, DISTRICT COURT, JUVENILE DIVISION, MINNEAPOLIS, MINN., AND PRESIDENT, NATIONAL COUNCIL OF JUVENILE COURT JUDGES

Mr. Chairman, may I thank you and the Committee for devoting your time and your energy in seeking means of helping America's children in trouble. The need of course is great. But the satisfactions of helping children are greater. New and promising techniques are being tried and proven methods which obviate and complement the Juvenile Courts; new community resources are being developed to open and supplant the institutions. I thank you for the opportunity to describe the activities of one Court and to express the views of the National Council of Juvenile Court Judges of which I have the honor to be President.

I. NATIONAL COUNCIL OF JUVENILE COURT JUDGES

Perhaps I may briefly describe our National Council. We believe that we are the strongest membership organization of judges in the United States. The Courts of our *active* members have jurisdiction over more than seventy-five per cent of the children of the United States. Fifteen years ago our budget was less than a thousand dollars a year, now it is nearly three-quarters of a million, mostly from non-governmental sources, with every promise of substantial further growth as we become more and more recognized as the principal vehicle for improving the juvenile justice system. We have assembled a highly qualified staff. We have fashioned a college for advanced professional training. We have developed publications which up-date our information and concepts, and provide a forum for interchange of ideas. We think we have a place in the future for helping judges to help children, reducing delinquency and crime and broken homes.

A. TRAINING

The principal thrust of our National Council is training: Over two thousand judicial personnel and over one thousand of their staff have been exposed to our instruction and materials, mostly at our college in Reno, but also at institutes and training sessions in and about the country. Our ultimate goal is to provide *every* Judge and Probation Officer with at least two weeks of intensive formal training *before* he becomes involved with his first case, and with at least one week of refresher training every year thereafter. It's an ambitious goal, but it will be met because it must be met. Juvenile justice personnel require and must have access to a specialized expertise if they are fully to realize their potentiality for substantially reducing crime.

B. SUPPORTIVE SERVICES

A second thrust of our Council is to provide services for juvenile court judges. We have an excellent law digest, providing every month, notes on the latest juvenile law cases. We have a quarterly which is used both for issues containing various articles of interest and issues designed as handbooks on a particular subject. We intend to develop further services. On too many of them we are only making a start:

Statistics.—There is a crying need for statistical data. Current crime and delinquency rates are based on police statistics. They include cases that are never referred to court, cases where the defendant is guilty of a lesser charge, or not guilty at all. They treat any second offense as recidivism, however distant in time, dissimilar in nature, or different in seriousness.

Treatment Manual.—There is a great need for a manual of treatment methods so that each judge can profit by the successful . . . and unsuccessful . . . techniques of his conferees. Similarly there is need for a national clearing house of resources, rather than, as now, leaving each court to its own resources which may be too meager, or too duplicative.

Data.—There is need for comparative data on caseloads, salaries, costs.

Placement Service.—There is need for a placement service for staff persons, presently we must rely only on a word-of-mouth, whom-do-you know basis.

Architecture.—There is need for study of court facilities and buildings to determine how to achieve maximum rehabilitative impact, even from furniture and fixtures, fitting the courtroom to the child's needs rather than the child to the judge's comfort.

Accreditation.—There is need for objective standards by which juvenile courts can grade themselves and find and correct their deficiencies. Nothing such now exists. We intend to supply them for our members.

C. RESEARCH

The third thrust of our effort is for basic research. We are currently seeking to assemble private funds in Pittsburgh for a center for this purpose, where various and varying experts can be brought together for intensive and pragmatic consideration of the multitudinous frontiers of knowledge needed to expand the effectiveness of Juvenile Courts in their rehabilitative efforts to protect the public and help the children.

We are a young and strong organization, dedicated to a single purpose, with proven expertise, with ability to help judges help children and reduce crime.

II. JUVENILE COURT FOR HENNEPIN COUNTY, MINNESOTA

I wear another hat today: as Judge of the Juvenile Division of the District Court for Hennepin County, Minnesota, a jurisdiction of almost exactly a million people, a Court which holds about fourteen thousands juvenile hearings each year, hearings which involve about five thousand children. We are in a continuous state of ferment, constantly trying to improve the protection which we try to give to the public and the stamina we try to give to the chairman.

A. DIVERSION

Our guiding principles are rehabilitation rather than punishment and diversion rather than authoritative judicial process. We recognize that the Court is an instrument of authority, which should only be used when authority is necessary. The Court process is expensive, it is traumatic, it may generate more hostilities than it resolves. If a child and his family can and will obtain needed help voluntarily, the help may be more effective. But if the child or the family cannot, or will not, obtain the services which are needed for the child's rehabilitation and the public's protection, then the Court must intervene to require submission to help.

Community Services.—The community in Hennepin County has generated numerous resources which forestall or divert delinquents and potential delinquency. There are various academic options within and without the school system, since reading and educational deficiencies are surely an important cause of crime. There are Youth Service Bureaux and crisis centers and Scouts and church programs and neighborhood centers and minority-oriented activities. Among the most effective in reaching the children who have left our world for drugs and revolt are the Detached Workers of the Boys Clubs and the Y.M.C.A., people who go inside the counter-culture at considerable sacrifice to themselves in order to be needed and available.

Police Diversion.—The police in the area try to resolve what they can within legal and constitutional limits, referring possibly a third of their contacts to parents or to community resources for help. The children they divert, do from time to time become involved in further illegal activity . . . as they do to any other agency.

Court Diversion.—The Court maintains an "Intake Unit" which screens all incoming cases, studying the police reports, conferring with the families, consulting with the prosecutors. They are able to refer some sixty per cent of the cases away from the Court, with a remarkably low return rate. Other cases, both juvenile and adult, are screened by "Operation De Novo" which looks for tough and hard core delinquents. Over the few years of their existence they have developed a considerable skill in reaching those people with whom nobody else has succeeded. Somewhat similar is a screening service by the criminal Court's own staff to release without bail every adult who can be relied on to return; they have gambled heavily on human nature and won, our jails are considerably less populated but few of those released have been absconded.

b. Resources Available to the Court

Speedy Trial.—Both the adult Criminal Division and the Juvenile Division maintain their calendars so that an arrested person is brought to Court within two business days of arrest. If he pleads not guilty, his trial is within three weeks, unless he requests either a longer or shorter time. If he is detained his sentencing is within two weeks of this trial or arraignment. These times are possible only by careful scheduling and considerable cooperation among the judicial personnel.

Individual Counselling and Supportive Services.—While the principal non-institutional method of rehabilitation is and will remain the one-to-one counselling of a skilled Probation Officer with a child or a parent, it is not a panacea, and it often needs supportive services: devices such as unpaid work, driver's license suspension, monetary contribution to charity, to convince the child that the public reacts to violations of its laws; and counselling often needs programs to attract the child's interest and motivate him into useful and instructive activities. As an example, some local pilots have for several years taken on groups of boys, teaching them the glamour of aerial navigation, and incidentally teaching them the need for mathematics and reading and perseverance and teamwork.

Groupwork.—We have also developed and are continually refining groupwork

techniques, working with groups of children on either a discussion or an encounter basis, or working with parents who need skills in raising small or adolescent children or, with much promise, working and counselling with groups of families.

Community Homes.—Children frequently need to be removed from their homes for cooling off periods, for learning to live with others, for care for special needs. There are never enough such homes, except for neglected or abandoned infants. In addition to seeking out regular family style homes, we have developed a few homes for the unskilled, the unmotivated, the fearful-hostile children. Our community has developed a chain of "Home Away" group homes, where children keep their jobs, attend their usual schools, but spend their evenings and weekends in the encounter group milieu, deriving support and understanding from their peers until they have the skill and strength to stand alone. The program has been so successful that we have closed down one-third of our institutional beds. A similar program for young adults, "Port" has been successful in Rochester, Minnesota, and is about to open up in Minneapolis.

Institutions.—There are of course institutions . . . and I believe there always will be: There are some children and adults who won't stay around for help: they must be kept in security to ensure that they receive the treatment they, and the public, need. There are some children and adults whose delinquent attitudes are too infectious to leave them with the innocent. There are some children and adults who are violent, or who are compulsive thieves, or who are just plain lawless, and who must be locked up for public protection.

All institutions should be rehabilitative and not merely warehouses or turnkey operations. We have numerous different approaches in our county and state institutions, we are constantly trying to revamp old and devise new methods, all in an attempt to individualize: to diagnose each child's needs and to put together a treatment package which will meet those needs. The catalog of our county and state institutional methods is long. We think we are at least as effective as others around the country.

Once again, Mr. Chairman, may I thank you and the committee. The rehabilitation of the young is America's best hope for reducing crime and for increasing responsible citizens. I am proud to be a part of the effort. I am proud that my Congress is also involved.

We will take a recess until 2 o'clock this afternoon.

[Whereupon, at 1:05 p.m., the committee recessed, to reconvene at 2 p.m., this same day.]

Afternoon Session

Chairman Pepper. The committee will come to order, please.

We are very much pleased to have with us this afternoon the director of the Florida Division of Youth Services, the Honorable Oliver J. Keller, who has done a magnificent job in Florida and has been commended by many knowledgeable of treatment in this field throughout this country; and of whom we in Florida are very proud. We are very grateful for Mr. Keller for coming and giving us, for the benefit of the Congress and the country, his experience and his counsel in this critical area relative to not only youth crime but crime in general.

Mr. Lynch, will you please present the witness and question him.

Mr. Lynch. Thank you, Mr. Chairman.

Mr. Chairman. Mr. Keller, who is now involved in reforming and modernizing the Florida system, was educated at Williams College, received a master's degree from Northern Illinois University, and is the former chairman of the Illinois Youth Commission. Mr. Keller is an author of the book entitled "Halfway Houses," and as you know, now serves as the director of the Florida Division of Youth Services.

Mr. Keller, I believe you have a prepared statement to present to the committee. Would you do so, please.

STATEMENT OF OLIVER J. KELLER, DIRECTOR, STATE DIVISION OF YOUTH SERVICES, TALLAHASSEE, FLA.

Mr. KELLER. I have submitted a prepared statement. I would prefer to do what Judge Lindsey Arthur did this morning, if I could——

Mr. LYNCH. That is fine. Would you do that.

Mr. KELLER [continuing]. And just talk informally for about 15 minutes, if I may.

[Mr. Keller's prepared statement appears at the end of his testimony.]

Mr. KELLER. I think the Florida youth corrections system is quite unique in the country, in that the Governors of our State, two of them, and the State legislature, have seen fit to develop a unified system of youth corrections, prior to this kind of organization being recommended nationally.

Now, here in Washington, in January, the National Conference on Criminal Justice met. One of their major recommendations was that corrections be a State responsibility rather than a local one. The rationale simply is that corrections as a profession needs to be centralized and unified in a State system, and that the past experience of fragmented county corrections programs has not been successful at all.

So over the course of the last 5½ years, the Florida Division of Youth Services has moved from a program of three training schools to a program which encompasses the whole spectrum. By law, this agency is responsible for the prevention of delinquency. We are also responsible for the intake of all children to Florida's juvenile courts. Thanks to Federal funds of a couple of years ago, matched with general revenue money, the division of youth services was given responsibility for juvenile probation and intake, as well as parole which it had back in 1967.

The agency operates the State training schools. It operates community-based programs which we are particularly proud of, Mr. Chairman: The halfway houses, the group foster homes for delinquent children, the START centers, the TRY centers, which I will explain a little bit later on, and we also contract for service. Comparatively recently, the legislature authorized our moving into the detention field. The bill passed by the Florida Legislature at the 1972 session mandated that, by 1978, detention of children awaiting court action in Florida will be a State responsibility.

I think the kinds of questions that people want answered are: "Does it work? Does it pay off? I think the answer is "Yes." Florida is a boom State; it is one of the fastest growing States in the country. Just in the time I have lived there, the population has increased by a million people. We are over 7 million people now.

Our prison system is in serious trouble as far as overcrowding is concerned. There is a crisis with respect to too many people for the Florida prison system. In contrast, the youth corrections program, thanks to the legislature's putting it all together, actually has empty beds. Our training school populations are the lowest they have been in years and years.

We are actually, through administrative transfer, taking young men from the adult prison system. We are moving people from prisons

into the youth corrections agency administratively. The commitments from the juvenile courts are down because we are diverting children to other resources. The failure of young people on juvenile parole is down.

Some of the things we are doing with intake and probation, I think, are important to recognize. Before there was a consolidated State system, some counties had probation and intake service. Others did not. The poor counties often had nothing. When the judge had a young person before him, he was virtually compelled in some instances to send that youngster to a training school because there was no other resource at hand.

Since the State system of intake and probation went through, every county in Florida, regardless of its wealth, has the same level of intake, probation, and parole service. We are able to divert as many young people as we can from the official system.

I believe they should be kept out of our system wherever possible. We are permitted to do "consent supervision," which means the young person who has been in trouble, and his parents, agree with our intake worker on a course of action that is planned. The parents and child agree to go along with the plan for a limited period of time. The case does not have to go before the court.

We are making considerable use of citizen—what shall I say—citizen labor. These are people who volunteer. They are not paid. We have over 800 people now who simply are adult friends to young people who need that kind of relationship. The volunteer probation program, where we assign a businessman, or a housewife, or a college student, to work on a one-to-one basis with young people in trouble has been notably successful.

I think that in treating kids with problems with the law, we have to recognize, Mr. Chairman, the need for a variety of programs. That we now have in Florida. For young people who cannot live satisfactory on probation, we are placing more and more of them in group foster homes.

I would like to point out that you can find good people, reputable people, who are willing to take somebody's problem child into their home, if you look hard enough, if you screen them carefully, and if you pay them enough so they do not lose financially themselves.

One of the things that Florida is known for nowadays, of course, is community-based programs such as the halfway houses. A halfway house is simply a large residence, with 20 or 25 young people living in what may have been a motel, or former nursing home, or an apartment building. They attend public school; they hold jobs; they live a relatively normal life; and it works.

We don't have to put many of these serious delinquents into institutions. They can be treated less expensively, and I believe more effectively, in community programs.

I mentioned that we have a program called the start center and a program called a try center. These are names taken from the State of New York—from the New York Division for Youth. The start center is simply a halfway house which has its own educational component, its own classrooms. These programs are for young people who are so far behind in the public school system they need a special catchup effort.

So we have a school program in the start centers. The try center, another name taken from the State of New York, is a program where kids still live at home, but appear early in the morning at the treatment center. They are there all day, either undergoing group treatment, which I will get into a bit later, or they are working, or they are going to school.

I should emphasize that community based corrections truly work. We have 25 of these programs now going in Florida. Initially, the reaction of the neighbors to the establishment of a halfway house or start center was negative. People are highly anxious. They are afraid their property values will be destroyed and that hoodlums will be released in their midst. It doesn't work out that way.

The programs have been sufficiently effective—and I knock on wood as I say it—that many neighbors who were previously hostile are now our biggest boosters. I will give you an example.

At Fernandina Beach, a small town north of Jacksonville, the people were extremely frightened when they heard we were starting a program for delinquent boys. Within the period of a year, the townspeople became so close and so fond of these young people, that, at the town's expense, they built a one-room school building for our boys on State property, gave it to the State. It was a very generous gesture from people in that community.

Now, let me point to the cost. The cost per day in a community-based program in Florida is considerably below that of an institution. We are able to serve young people for $13 or $14 a day in a halfway house program, as compared to $20 to $30 a day in an institution. We are able to find "white elephant" pieces of property on the real estate market, property that other people don't want. It could be an abandoned church, it could be an apartment building, or old nursing home. We can use it.

So far, all of our programs in the State are distressed pieces of property that we have picked up and renovated and moved into rather quickly. We avoided heavy capital outlay. I think the reason these programs work is because of the quality of staff—young and energetic people that have empathy for kids with problems.

I am a strong believer in groups. Mr. Chairman, this morning during a break in the testimony, you described very well, I thought, the program at the Red Wing School, of Minnesota, where kids help one another in groups. I would be happy to have you substitute Florida for Minnesota if you like. We, too, discovered that delinquent teenagers, if treated with dignity and kindness can respond maturely; can make reasonable, sensible decisions; can face their life situations; and try to reckon with those situations.

I really mean this. We have so-called bad kids in halfway house programs in our State. Thanks to this group approach, where these kids get together for 90 minutes every day, 5 days a week, they are some of the nicest people you will meet. They are open; they are friendly; in the local school system they are looked upon by the school authorities as some of the nicest members of the student body.

You have to see it to believe it. I think that, through this approach, where the kids help one another, friendships develop; young people who have only hurt one another now care for one another; and they can learn to make responsible decisions. I think that correctional ad-

ministrators are fighting a losing game unless they can change the attitudes of the people they work with.

The reason corporal punishment doesn't do any good is that it works only so long as you are watching the individual. As long as you watch him, he may be fearful of being beaten. They used to use straps in our schools in Florida. We don't use the strap at all any more; we don't need it. It is only when you are changing the person's ideas about himself and his attitudes that he is going to change his behavior. Then you don't have to worry about watching him. The trouble with training schools—and I won't belabor this because we have many people I think are excellent employees, working very hard in our training schools—is that our boys' schools are too large. If you are going to change people who are delinquent or criminal, I think the change generally takes place through personal relationships.

If you have a 16-year-old boy who is turned off from the world, who looks upon himself as a loser, and looks upon the world as being rotten, the only way he is ever going to be a reasonable, decent citizen, I think, is if he establishes a relationship with someone he knows cares about him and respects him. Then he can respect himself in turn.

The problem with large institutions is it is difficult to get that kind of personal relationship established. The schools are too big. You don't have time for really knowing what someone is like.

Also, the larger a school is, the more you go by the system. It is the system that becomes important rather than the young people who are in that system. You begin to follow a routine. You go by formal written regulations. This does not help change people.

Recognize, too, that in a large institution, the people with the best training end up as administrators. They are the ones that are in the front office. The people who really are "where the rubber meets the road," who are where the kids are, are often people who are inadequately paid, possibly $5,500 a year or $6,000 a year, such as cottage fathers. Some of these people, I want to point out, are excellent in spite of the terrible pay, but there are other cottage parents in such institutions who could care less about the young people they are supervising.

I think the role of the training schools in our country in the future is that they should be kept small. By that, I mean 100 or 150 young people at the most. They should be reserved only for a very small percentage of young people who demonstrate they cannot live in the community. I believe that 70 to 80 percent of the young people are committed as delinquent kids can "make it" satisfactorily in a community-based program. There are some that bomb out. They run away; steal a car. When the community won't tolerate their presence at that halfway house, you have to move them. But they are a comparatively small percentage.

I would like to see the day when our training schools are truly intensive treatment institutions for a very small percentage of children. Recognize that these institutions, if they are to be intensive treatment experiences, will be expensive. The training school is like a small city. You have residences; you have administrative headquarters; and you generally have a chapel, a school, maintenance shops, and sewage systems. It is like a little village. To keep all of that going, and at the same

time have as good treatment program as it should be, it has to be an expensive operation.

We have an institution, Congressmen, in Florida, which we are proud of. We took a gamble on it. It is called the Howell Lancaster Young Development Center. It is our institution for our "mess-ups," kids that are our worst kids. The only way a young person gets to this place is to fail in another program. But it is a coeducational school, and it is an open school. There are no fences or gun towers. Kids wear their own clothes. In other words, it is not a uniform-type operation.

We have only 16 boys or girls to a cottage. It is one of our best facilities, and yet it is supposed to be for the worst kids we have. Why does it work? Because the kids are treated as human beings, because of the groups, which I think are crucial to changing of delinquent behavior, and because the place is small. The staff and young people all know each other well.

Chairman PEPPER. Are they locked in?

Mr. KELLER. No, they are just there. And we have very few runaways from that facility. Let's address the questions of sex activity, Mr. Chairman, because people say we must be crazy putting delinquent kids, boys and girls, together in the same institution. We have discovered the kids act more like ordinary kids on the outside. We occasionally have some sex problems. I would be lying to you if I told you every now and then we don't have a problem. I don't think we have as many problems as the ordinary public school does, the average high school does.

And through the groups, kids respect one another. There is a feeling of concern and respect for one another which is worth seeing.

On the issue of staff, I am not hung up on the idea of Ph. D.'s and M.S.W. degrees. My own feeling is that correctional administrators should search hard to get people who like other human beings. One of our most successful halfway house superintendents is an ex-alcoholic, whom I met at Sumter Prison.

He wasn't in prison, but he was an AA from the outside, talking to AA convicts at Sumter. This man is a black man with 2 years of college. He is one of our best halfway house superintendents. He not only has great concern for the young people, but they know it. They know he really cares about what happens to them.

Chairman PEPPER. Mr. Keller, may I interrupt you. When I visited Red Wing, Minn., Mr. Olson, who is in charge there, told our committee that when he took over under the new program, I think they let all of the psychologists and psychiatrists go but one, maybe one of each, I don't know. And they did just what you said. They put in charge people that know how to handle boys. It is a boys' school. And they said the best man they had on the campus was the fellow who ran the shoeshop. He could do more with those boys.

You know, we have Art Barker at Fort Lauderdale, who is in charge of Seed, some of our members here visited the Seed, he is a reformed alcoholic. That fellow has a knack of some kind or other for dealing with boys or girls. He is a genius.

Chairman PEPPER. What you are saying is you don't care about their technological qualifications, but you want people who know how to deal with boys and girls.

Mr. KELLER. Mr. Chairman, I say the first thing you look for is warmth for other people. If you can couple that with a college degree, with some knowledge in the behavioral sciences, that is a great big important plus. I am not knocking the professions.

Chairman PEPPER. Of course. I am not, either.

Mr. KELLER. But what I am saying is that I think we can use those people to train group leaders. My own discovery has been that the State simply cannot afford psychiatrists, in numbers, for these training schools. I really don't believe most delinquents need that. I believe young people who really are in bad shape mentally should be treated by a competent psychiatrist through contract. If the young person needs psychiatric help, then contract for it. The administration can employ help from the outside. My own experience with some institutional doctors has not been too good. The State often doesn't pay very well, and, consequently, it gets what it pays for.

I think one of the stumbling blocks correctional administrators run into is—unfortunately, although I would like to employ more people like the man I described at our halfway house in Tallahassee—the tendency of government is not to be flexible. As pay grades and job specifications are set, these are almost invariably tied in with advance degrees. You don't get paid well unless you have a master's in something or other.

That is too bad, I think. I think there needs to be greater flexibility.

Mr. RANGEL. Mr. Chairman?

Chairman PEPPER. Mr. Rangel.

Mr. RANGEL. I share your concerns. I don't know how closely you are related to the drug rehab programs, but most of the communities felt that the victim did not really need full-time psychiatrists and psychologists, or social workers, but rather people that had an understanding of the problem, the result being that many of the programs merely justified they had to be approved because they were staffed by former addicts.

I recognize that you have to have more flexibility in the civil service system, but to get the type of talents that you and the chairman described, to get this type of talent and dedication, what would you think is needed by agencies such as yours?

Mr. KELLER. I think the job specs should be written in such a way that, somehow or other, they would take into account the individual's past experience, what he had to offer. It might include street experience, Congressman, other than academic steps. Very often, you know, coming back to the academic business, there are people that are superbright, who shouldn't be working with human beings. They don't help people.

They can knock off a Ph. D., but they are not helpers. And then there are other people who can move through the academic world, but don't know what the bricks are like. They have never been there. They don't know what the hard life is like. It is ridiculous for this kind of middle-class person to be telling the individual in trouble how it is.

Mr. RANGEL. I know. We have the same type of public servant that just doesn't like people but he has degrees. On the other hand, my problem is that the person that just comes from the street, he is hired by people who come from the street and we really don't know whether

he is a part of the problem, rather than someone who can assist in the solution of it.

The answer is someplace in the middle. I was just wondering if you did have the flexibility that you want.

Mr. KELLER. We are getting less flexible, I am afraid. As the job specs are specifically laid out in our State, it is going to be harder and harder to employ people like the man I described.

Mr. RANGEL. And like Mr. Barker, who the chairman described. Have you had a chance to look at the Seed program?

Mr. KELLER. I know Mr. Barker and I have been to the Seed for a visit. We have quite a few children in that program.

Another stumbling block, if I may move to it, that concerns me in the people-helping field is the requirements of the Federal Wage and Housing Act. These are being enforced very strictly in our State. Obviously, the reason they are there is because people were abused in the past. People were worked fantastic hours, were not compensated for it, and weren't given time off. The sad thing now is that there are people who would like to work with kids, but when their 8-hour day is up, they have to leave. They have to get out. The only way we can avoid that in our State is to get the pay grades at a high enough level so they then become "exempt." Over a certain pay range, the person can work at night or any time. But there are lower echelon people who really enjoy working with kids. They have got to leave at the end of their stint. They may be in the middle of a conversation with a kid. The rule is enforced so rigidly that the people who will question the employees say, "Did you hang around for 10 minutes after working period?"

Mr. RANGEL. Who enforces it; the union? The shop superintendents?

Mr. KELLER. There is a gentleman with the division of personnel whose job it is to go around and find out from people what their working hours are.

Mr. RANGEL. Can't they come back as volunteers?

Mr. KELLER. No; unless it is in a totally different field. For example, a secretary could offer to be a Boy Scout leader, but a house parent cannot. A house parent might want to take kids to a ball game, because he would like to see the ball game himself. But he can't, he is on overtime if he makes that trip.

I am strong for contracting for service. We are doing some of this now in Florida. We have four marine institutes that are under contract. This is where we put boys on boats. Florida doesn't really have any mountains, so we can't have an "outward bound" experience.

Chairman PEPPER. Excuse me. Mr. Keller, I am surprised that you are so uninformed of our geography. We have mountains that tower up into the sky as much as 300 feet.

Mr. KELLER. They are beautiful hills.

The marine institutes are not-for-profit corporations. We contract with them to put boys on these boats, where they learn ship handling, where they learn scuba diving. If they don't know how to swim, they teach them how to swim, obviously. Also repair. When these kids get through with this course they are very much in demand as far as jobs in our State are concerned, because we have so much maritime business.

This is the kind of program that really turns on an adolescent boy. Just being on a boat, going out to sea, for example, on a yawl or ketch.

We also contracted with the Jack and Ruth Eckerd Foundation. This is a not-for-profit foundation, which operates a "wilderness camp." They have two wilderness camps now, the Eckerd Foundation does. The State is going to have a camp created for delinquent boys in west Florida, over near Pensacola, in the Black Water River State Forest. They have from 400 to 700 acres of land. It is really wild land. The central camps consist only of a small administration building and the dining hall, which is known as the Chuck Wagon, and there are some showers and toilets there. But the rest of the camp is all in the wilderness.

There will be a camp of 50 kids, five subunits, with no buildings in the subunits; nothing but tents which the kids make themselves. If it rains, they have to fix it. Half of their meals each week are prepared out there in the wilderness. They cook their own food, plan their own menu, and the other half of the week they come up to the Chuck Wagon. You don't want kids to do nothing but cook and prepare food all of the time.

But it is quite an experience. I have seen kids who failed in everything else really turned on by their wilderness camp experience. They go on canoe trips, pack trips. The school program is related to the camping experience. That is, the boys determine we need to order so much food; let's figure out how much food we need. How many of us are there? How many loaves of bread do we get, and that kind of thing. As far as English is concerned, that would be done in planning for the trip they are going to take. After they have taken the trip—for instance, coming down the Mississippi on a raft—they write up what their experience has been. They write back to the people they met on the trip.

We also have contracts with Florida Atlantic University and the University of West Florida. These universities work with our boys on the training school campus. We actually have branch universities going at our institutions. And, at Okeechobee, just north of the lake, there are 60 young men and women from Florida Atlantic University living in trailers at the boys' school. They go to class right on the grounds of our boys' school.

Twenty hours a week, the university students are devoting themselves to their own academic work. The other 20 hours, they work for us as teacher aides and recreation aides. And I think it serves two purposes: One, these university students are young enough they can really relate to the teenage kids in that training school. There is a difference of maybe 4 to 6 years between the students and the kids in the training school. Then, and most important, we are developing future teachers who have skills in working with delinquent kids, and are not afraid of these behavioral problems when they find them in the public schools.

We need to do a lot of this kind of thing in conjunction with public schools.

The newest program the State has moved into is detention. Mr. Chairman, we in Miami are operating Youth Hall now, and we are also in the Panhandle. The panhandle of Florida runs from Pensacola almost over to Tallahassee.

But the 10 counties in the panhandle are served by only two detention centers. We have a system of open, nonsecure shelter homes, and a system of home detention, which allows kids to go back to their own homes under intense supervision. This is a program that was started by a gentleman named Paul Keve, who used to work for Judge Lindsay Arthur.

This program in Florida follows a State plan worked out by the John Howard Association. Mr. Rowan, of course, will testify later. What Rowan is saying to the State of Florida is:

> You don't have to build any more lockups. You don't need it. Use the existing two secure detention centers that the counties have, and, instead of building any more lockups, use open, foster-type homes for kids who don't need to be locked up.

Then, also, send kids home, but make sure they are closely supervised by home detention workers.

Here is how that works. You don't look for a guy with a fancy degree. You find somebody whose references check out okay; maybe just a guy with a grade school or high school education; that's all. You give him the responsibility for making sure that five boys, who have to come before the court, stay out of trouble until their court date.

Now, it makes sense, considering the adult system. In the adult courts a really bad hoodlum can be bonded out until his court date simply because he can come up with bail bond. He can pay the dough. Doesn't it make sense in the juvenile field to do something better? Let the delinquent kid—or you think he is a delinquent kid because he is coming up before the court—go home, but have him supervised every day by an individual who isn't paid a big fat salary, but whose job it is to be sure his five kids keep the court date, and stay out of trouble.

The cost of this State detention system, according to Mr. Rowan, is going to be just about what the counties that are presently operating detention centers are now spending. Remember, there are 20 counties out of 67 counties in Florida that have detention centers. These are lockups. What the counties are presently spending to keep kids in those 20 lockups is what the John Howard Association believes the State of Florida can spend to operate an entire State system where you minimize lockup; you allow kids to be under home detention, or in open shelter homes.

Mr. RANGEL. Mr. Keller, what happens to those people who are employed under the present system?

Mr. KELLER. Congressman, they transfer to the State system. This is what happened when the title IV–A moneys and LEAA moneys of 2 years ago were matched with State general revenue, when we took over what had been the county responsibility of intake and probation. The State operates all of that in Florida. Those people came over to the State system. On the whole, they worked out well.

Believe it or not, we only dismissed one individual on a morals charge. Some are better than others, obviously, but we recognized when we moved into that area that we weren't going to fire people. We actually couldn't. They gave us a 6-months' period when we could

unload people if they were bad, but we found most people were pretty decent.

Mr. RANGEL. But you are talking of hiring a different type of person, say, for the custodial care, to insure that the alleged juvenile delinquent gets back to court.

Mr. KELLER. That is right.

Mr. RANGEL. You wouldn't have any civil service status job for someone like that?

Mr. KELLER. You see, what has existed so far, and this is true throughout our country, is just lockup care. We are going to continue to operate most of those security detention centers, or lockups, and the people who are working there will continue to work there. What we are saying, in other words, is that we agree with Mr. Rowan of the John Howard Association. We don't have to build a lot of lockups elsewhere.

What we are going to do, instead, is to pay Mr. and Mrs. McDonald to take three to five kids into their home, shelter cases, until their court date. We will pay McDonald $7 or $8 a day per child. Also, Mr. Lynch, who has been recruited now as a home detention worker would have the responsibility of just making sure the five kids stay out of trouble.

So these programs obviously are far less costly than lockup care. Lockup care costs about $27 a day per child. You have to have 24-hour supervision and 8-hour shifts, and so on. This other nonsecure way costs us about $7 per day per child.

The next area that I am concerned about, and want you to hear about, is that staff training efforts for agencies of our type are often neglected. It is very hard to sell legislatures on giving money for staff training. A lot of people don't understand it. We are asking for a little bit more than 1 percent of our budget for staff development. I think that staff training is crucial, if we are going to do the job right, because we are a big agency now in Florida.

We have 3,000 persons working for this agency. We process 110,000 kids a year through intake. We have 16,000 children on probation or parole. It is crucial that the people who work with this agency understand the philosophy of the agency, and that they are motivated, and feel they are a part of a growing, vital, energetic system. Staff training is crucial, I think.

Also, the whole business of public education. What we are doing right now and what this committee is doing are crucial. The public really needs to hear what your deliberations result in, because so many people still think the iron fist is the way to deal with troublemakers. They don't realize the traditional method of dealing with offenders produces a more dangerous offender.

You Congressmen have heard firsthand the testimony about what happens to people in prisons and large institutions. You know that when those people come out of that kind of a prison experience they may be truly vicious. I have talked to convicts who said they would kill a guy for a pack of cigarettes, if a person got in their way. They had gotten to the point that other people's lives just didn't amount to that much.

I think we have a public education job to do, which is to make clear to the public why people do become offenders, what steps should

be taken to correct them, and then emphasize the importance of citizen involvement. I am a former broadcaster who didn't get into this field as a so-called professional until I was 37. I used to work as a volunteer with kids that were in trouble. I know I helped some kids.

I did it, because they knew I cared about them as people. There are people willing to work with kids all over this country if they are recruited and plugged in. There are all kinds of such people.

One of the most effective volunteers we have in Florida is a police officer in the Clearwater area who not only took charge of a 13-year-old boy who was getting in trouble, but ended up being a substitute father for all of the children in that family. This sounds like one of those soap opera things, but it is really true.

The mother of these children died of a hideous cancer. She was deserted by her husband. She had five children. Before she died, she wrote the local chief of police—and it appeared in the newspaper—a letter about what this policeman had done for her and her children by substituting for the father that wasn't there.

Agencies like ours, if they are ever to do anything except slam the door when the horse is gone, must do more in public relations. We need to work closely with public education. I am an old school board member. I am about to slam the public schools, since I was a part of the public education system for 6 years. The school systems contribute heavily to the delinquency.

I saw a newspaper cartoon which was based on the Mad Queen in Alice in Wonderland. It showed the queen with her crazy hat on, and she was saying, "If you don't go to school, I'll kick you out." Which, of course, is what we do in this country. If the kid is a truant, we send him from school. Kids are driven further and further away from the system and more and more toward the criminal setup.

We need to do a lot of work with the schools.

Finally, the legislators in our State asked me: "How good are your programs." This year, for the first time, we did come up with some very gross information, just gross facts: that is, commitments are down; failure rate is down; and so on. But, as far as any real hard evaluation of programs is concerned, that is another thing that is tough to get money for it.

We even made it our No. 1 budget priority a couple of years ago. We said we really needed to get a few people in the research bureau so we could actually demonstrate whether we were doing a good job or not. But it is hard to sell people on that. You can get money for a new sewage system in an institution, or for new roofs, or halfway houses, too, because our legislators believe in that, but things like staff development, or educating the public as to their responsibility in the whole delinquency scene, or evaluation of programs, it is tough to get money for those.

Just to conclude: We were using title IV–A money until recently—title IV–A of the Social Security Act. It was great while it lasted. We had $10 million coming from title IV–A, which we were using because so many of our young people are the children of families on public assistance. The intake-probation program, which is now a State operation, and which guarantees service to kids no matter where they live in our State, would not have been possible if it had not been for the Federal money.

The thing that upsets people like myself is that the money has dried up. Title IV–A is almost a lost cause, and the stuff you have to go through to get any of it now bogs you down in paper.

Congressman, I am concerned that they changed the rules in the middle of our game, which is our fiscal year. Under the old guidelines our program of counseling kids on probation and parole was eligible. We were receiving the money. Then they changed the rules and decided the old guidelines would no longer continue. That really throws State agencies a curve, because then you are right in the middle of the fiscal year. What are you going to do?

There is a crisis now in Florida with regard to the social service agencies. People say: "Well, after all, the State has some money over here. Why don't they use that?" One reason is that, obviously, different people in the State have ideas as to where the money should go. The great thing about the IV–A money, while it lasted, was that it was money earmarked for social security programs. We were able to use that money for a period of time.

I think the two pressing issues that have bothered the American public have been the war, which is now behind us, or I guess it is behind us: and the other issue has been crime in our country.

If crime is now the No. 1 concern to the public, which I think it is, I would ask that Congress think very seriously about the kind of money needed to do the job properly. We need to do so much in the prevention area.

Mr. LYNCH. Mr. Keller, you were talking about title IV–A money. That money was in fact a limited fund, isn't that correct; the way it formerly worked it was on a matching basis, dollar for dollar, no ceiling?

Mr. KELLER. There was no ceiling. And I am not saying there should not be a ceiling on it. I think all of a sudden the Office of Management and Budget realized there was an open faucet.

Mr. LYNCH. How much money did your department receive?

Mr. KELLER. We got $10 million from that source in 1 year. All sorts of good things happened. Now, of course, with that dried up, we have tried to reach here and there and to get the State legislature to keep the programs afloat.

Mr. LYNCH. You mentioned that it is difficult to get the public to think about, or the public is unaware that, programs such as community based programs are more successful, are less expensive, than institutionalizing in prison kinds of settings.

To what extent do you, as a correctional administrator, advertise that fact?

Mr. KELLER. Well, Mr. Lynch, I talk it up all the time. Any time I get interviewed, or have a chance to speak to a group, I am generally carrying the same message.

We have a bureau of community services which is supposed to be responsible for the whole State as far as prevention efforts are concerned. It has five people in it. They do a whale of a job with five people.

They are the ones that got the volunteer program going in conjunction with our probation-parole people. They are out there recruiting public interest and public participation. I think the more and more people we can work into the system, such as the university students

who now have firsthand knowledge of what delinquents are like, you realize the delinquent is generally not an ogre. He is generally a kid who looks upon himself as a failure. A kid who doesn't like himself.

Mr. LYNCH. The reason I asked that question is this morning the chairman of this committee indicated he was somewhat perplexed by the fact that during this week of hearings, when we were talking of juvenile corrections and about new approaches, more successful ones, a very small number of gentlemen from the press showed up, whereas last week when we were talking about police programs, the room was relatively crowded. I take it, in a sense, you are saying the same thing.

Is it, in your judgment, the fact this is not newsworthy or it is not exciting enough for the public to be interested?

Mr. KELLER. Mr. Lynch, I am the son of an old newspaperman, so I am going to stick up for the press. I really think the press generally finds corrections a field of real interest. They give us good coverage in Florida. And it isn't something we are seeking for. We will get telephone calls from AP and UPI about our programs, and from Martin Dyckman, who has done tremendous things in corrections in Florida. We have a number of newspaper people who realize people do read about corrections.

Before I got into this business, I found the whole business of prisons, training schools, and jails kind of morbidly exciting. There is press copy there.

Mr. RANGEL. Is this reflected in the legislative priorities? I served in the New York State Legislature and it is my opinion that U.S. Congressmen are politically insulated from direct voter reaction on national priorities, since our jurisdiction is so broad. I would hate to see what would happen to correctional programs in New York State where we have the rural areas controlling the political influence on priorities. And unless Florida is a different kind of State, the major problem we have, whether we are dealing with powerless children, or powerless people, or powerless prisoners, or powerless senior citizens, is what you pointed out; that is, legislators relating to the priorities set by those that are politically powerful. So notwithstanding the interest indicated by the press in Florida, what effect does this have on your State legislative body when they determine their budgetary priorities?

Mr. KELLER. I agree with that. I think the press is important, but I think the reason things have happened in Florida is because—this sounds like "butter"—we really have a first-class legislature, on the whole. We do have people in that legislature who want something to happen. There have been a few key legislators who have made it their particular crusade to improve the corrections picture. That is their bag. And they happen to be powerful legislators.

One, specifically, is State Senator Louis de la Parte from Tampa, who has been chairman of the senate health and rehabilitative services committee, chairman of the senate ways and means committee, and is now president pro tem of the Florida Senate. He is not only respected by his colleagues, but he is very persuasive. And, if you have a few people in the legislature that want change to come, it will come.

You have to have a champion; that is true.

Mr. RANGEL. Assuming that your Governor doesn't impound. Assuming you have no impoundment power problems in Florida from the executive branch——

Mr. KELLER. Frankly, the Governor has been for the detention program. When the State detention bill was passed a year ago, and we thought Federal funds would be available, there didn't seem to be any problem.

The Governor feels there is now a problem about expanding detention over where it presently stands, which is in Dade County and the 10 counties in the Panhandle. That money was authorized a year ago. He is wanting to hold the money at that stage. But Senator de la Parte is saying: "We are going to go ahead and have it now." He is pushing it. The senator is pushing to go ahead anyway.

Mr. LYNCH. Senator de la Parte's bill would, in effect, do away with correctional institutions by 1978?

Mr. KELLER. No; first of all, the legislature passed a bill authorizing State assumption of responsibility for juvenile detention to be completed by 1978. De la Parte has introduced two bills, the first to prohibit the placement of any young person in jail after December 31, and concomitant with that is the other bill, which says, effective on December 31, 1973, the counties are out of the detention business.

The State will operate a network of detention facilities tied together with automobiles. It will consist of those things we talked about: the existing lockups, shelter-type care, and home detention care.

Mr. LYNCH. Do you support the concepts of those bills?

Mr. KELLER. Absolutely, I sure do.

Mr. LYNCH. You indicated, Mr. Keller, that your department processed on an intake basis 110,000 youngsters a year. Will you explain what you mean by that? What is intake?

Mr. KELLER. The policeman takes the child who has been arrested, and the school authority takes the child who is creating problems in school, to somebody. Parents take their problem child to somebody. The problem child, himself, might even walk in to somebody. That somebody is an intake worker, who has a very heavy responsibility to decide whether the matter can be handled informally, or whether a petition needs to be filed.

If a petition is filed, if the intake worker feels a petition should be filed, it goes to the State's attorney's office, which would move ahead, and bring it before the court.

Mr. LYNCH. So the 110,000 are not all people who have been referred by any element of the criminal justice system? It could be family, friends, schools, what have you, at that stage?

Mr. KELLER. Most all our referrals, frankly, are by the police. I recall this, because I presented the charts to the appropriations committees the other day. About 70 to 80 percent of our referrals are police referrals.

Mr. LYNCH. You also indicated that you have approximately 16,000 juveniles under probation or parole.

Mr. KELLER. That is right.

Mr. LYNCH. What happens to the difference between the 110,000 and the 16,000?

Mr. KELLER. Well, many of them are handled informally or dismissed.

Mr. LYNCH. What would an informal handling include?

Mr. KELLER. Well, possibly consent supervision, which means the young person and the parents agree they will make restitution, or the

child will behave. Suppose he has been bothering a neighbor. That was the reason for the arrest. They agree he won't go there anymore. He will leave those people alone. And it can be handled that simply.

We want to keep as many young people as possible out of the official system.

Mr. LYNCH. Mr. Keller, you also indicated that one of the reasons that these new small groups worked so well, is because of the influence that the kids exert upon one another, peer pressure of some kind, peer confrontation and what have you.

I suppose it is a commonly held view one reason a lot of kids get into a lot of trouble is the same reason?

Mr. KELLER. That is right.

Mr. LYNCH. As someone with expertise in this field, how do you explain that? What happens? Why is there the change?

Mr. KELLER. Well, starting one of these halfway houses from scratch is tough, because the group leader, who is the adult, has to take a group which is delinquent, and in trouble. He has to turn them around so that they no longer are interested in stealing, using drugs, and so on.

But the good group leader can do it. Once he gets the group turned around, and has this nucleus that has changed, then he can feed in more delinquents. Not all at once. It is a controlled process. You had better feed in only one or two kids a week into a halfway house program because it is important to maintain the "culture," which is the expression they use.

If you have a halfway house program with a positive, healthy culture, the delinquent kid comes into it, and his first attitude is he has got himself an "easy go." He didn't get sent away to a training school, and he figures he is going to con his way through the program.

But the other kids won't let him con his way. They are like him. They have been there, too. When he begins to lie and blame other people for everything, they say, "Wait a minute man. We are not going to accept that."

Mr. LYNCH. So a healthy adult model acts as something of a catalyst?

Mr. KELLER. That is right. When we began Criswell House, our first halfway house program, it was tough to get the culture going. But when it got going—and it has been going for years—it became well accepted in the community. The kids are part of Tallahassee's life. They are active in the community and go to school there. When we start a new program we may take a kid from Criswell House and add him to the staff. He helps to start the new program.

We call them "seeders." You take some kids that really have changed. They convince other delinquents they can change.

Mr. LYNCH. How do you actually go about selecting the appropriate kind of person to be a group leader, a foster parent? What criteria do you really use?

Mr. KELLER. The Congressman asked me questions somewhat like that a few minutes ago. Here is my chance to answer it.

I think what you do is get the right guy for what I call the bureau chief. Congressman, you are from New York, are you not?

Mr. RANGEL. Yes, sir.

Mr. KELLER. We raided your State. Your State has been wonderful to us. Milton Luger, who is a personal friend of mine, and, I think, one of the great people in the corrections field, helped us get started

in Florida by allowing me to raid your system and take Richard Rachin from your Shepherd House program in Manhattan. Rachin, in my book, is one of the top people in the country in doing groups. Rachin knows whom to pick. He knows who it is that relates with kids. It can be an exconvict. It doesn't have to be. It could be an exconvict, an MSW, a psychologist, an alcoholic. You build a team.

Mr. LYNCH. There is no objective test, in other words.

Mr. KELLER. That is right. There is no objective test. Maybe there will be someday, although I have yet to see the objective test you can count on that much.

Mr. LYNCH. Your marine institutes it seems to me are counterparts of our outward bound programs.

Mr. KELLER. Right.

Mr. LYNCH. What kind of kids do you send into that program?

Mr. KELLER. Serious delinquents. Our halfway house programs take kids, just like the ones that go into the institutions, and this is true of the marine institutes program, too.

Mr. LYNCH. When you say serious delinquents, these would be children——

Mr. KELLER. Robbery, breaking and entering, car theft, assault.

Mr. LYNCH. How many children do you have in Florida who are incarcerated?

Mr. KELLER. In institutions now, we have about 1,100. We have 300 in halfway house programs. That will raise to 500 by this fiscal year. We have 50 young people in group foster homes, which we need to expand. Foster care really works. It is one of the least expensive of the residential programs.

Mr. LYNCH. And the institutions in which the 1,100 young people are incarcerated, is it appropriate to call that incarceration, or are these holding institutions?

Mr. KELLER. I won't play with words. We don't like the word "incarcerated," because I think that if you were to visit the programs, they wouldn't give you that feeling. They look like regular school campuses. There aren't any fences or anything.

Mr. LYNCH. Is it your intention to maintain those institutions?

Mr. KELLER. What I would like to do is gradually reduce the training schools so that eventually Florida may have only one or two institutions. These institutions would have small populations of 100 to 150. I think the legislature in Florida will have to recognize it will be costly in such programs, because if you are really going to operate an institution that has special vocational training and has a connection with the University of Florida's J. Hillis Miller Medical Center, it is a lot more expensive than a community program.

Mr. LYNCH. Have you comparable data on recidivism rates, institutions as opposed to halfway houses?

Mr. KELLER. We discovered at the halfway houses that they do as well as at the institutions. Where the halfway house shows benefits is that the cost per day is less. Also, there is virtually no capital construction. You simply rent a place, or buy it far cheaper than you could build something nowadays. Young people then move through the program quicker than in a training school. Our average length of stay in an institution is 7 to 8 months. The average length of stay in the halfway house program is only 4 months.

Let me speak, if I may, about the issue of recidivism. The judge earlier mentioned that recidivism, of course, is going to continue to be one of the chief measures of judging a correctional program. In some ways it is unfair. I told Mr. Pepper that I have seen kids leave one of our halfway house programs who really wanted to do right. The guy had really a new set of values, but if he has nothing to return to except the same rotten situation he had come from, he returns to delinquency. We couldn't put him somewhere else. The time was up for him to leave, so back he went to a ghetto in St. Petersburg, or Miami, or Jacksonville, or Tampa. He was exposed to all of the old forces again. Maybe he still got hassled. The policeman who may have been his enemy before is again on him. Maybe when he tried to go back to school, the attitude there was: "We don't want you here." That is why it is so important to get the public educated. For example, if people look upon the marine institutes as coddling kids—"My kid doesn't get out on a boat, and have all that fun and so forth"—if people see it that way, I think they are mistaken.

Because, if I can take a kid who is turned off of the world, and turn him around so that he sees himself in a new light, so that he has some positive things he can be proud of, then the cost is worth it.

And the success rate, by the way, for the marine institutes is still excellent. Their kids really do seem to stay out of trouble.

Mr. LYNCH. Better than the halfway houses?

Mr. KELLER. They are somewhat more selective in the kids that go into them—certain intelligence level, and so on.

Mr. LYNCH. It is more difficult to be placed in the marine institutes; is that what you are saying?

Mr. KELLER. There are only four of them. Boys also have to live in that area. They are not residential programs. There is one near Ft. Lauderdale. You have to live around Ft. Lauderdale to get in that program. Boys live at home and go to the institute during the day.

Mr. LYNCH. Are they under your auspices through private contractors?

Mr. KELLER. It is an outfit known as the Florida Marine Institute. We have a contract with them.

Mr. LYNCH. How about the success rate in the wilderness camps?

Mr. KELLER. We are just beginning that program. The reason we did it was that the Eckerd people earlier took kids into their camp without any payment from us. They were our probationers. The Eckerd Foundation accepted them into the camp just to be nice. We don't find that very often.

We don't find very many private outfits that want to handle delinquent kids. They are scared of them. The Eckerd people are not.

We said, "Look, you are doing a good job with our kids, and you are actually taking them 'for free.' Suppose we create a camp for you in west Florida, and we will pay you to run it."

Mr. LYNCH. What does it cost you?

Mr. HELLER. About the same thing as a halfway house, about $13 a day.

Mr. LYNCH. Which is still approximately half, or less than half, the cost of institutionalizing the child?

Mr. KELLER. That is right.

Mr. LYNCH. No further questions.

Chairman PEPPER. Mr. McDonald.

Mr. MCDONALD. Thank you, Mr. Chairman.

Mr. Keller, you mentioned there were 1,100 juveniles in institutions, 300 in halfway houses, and 50 in group foster homes. Is that the total amount of juveniles in your DYS jurisdiction, approximately 1,450?

Mr. KELLER. Don't forget the 16,000 on probation and parole.

Mr. MCDONALD. I am sorry. What is the upper age limit under DYS?

Mr. KELLER. 21.

Mr. MCDONALD. How many juveniles between the ages of 17 and 21 are committed in adult prisons in Florida?

Mr. KELLER. Mr. McDonald, I don't have a figure on that. In our State, if you are over 17 and you commit a crime, you are in the adult system.

Now, we do have 17-year-olds who were sent to the prison system. I mentioned the Florida administrative transfer. If the prison system feels this young person ought to be out of prison, because of what can happen to a person of that age in prison, they send him to us administratively. We get together and arrange transfers which go on all the time.

There is talk of changing the age of juvenile court jurisdiction to 18; to move it up a year. I am in favor of that. That is going to have an impact on us in sheer numbers. That 17-year-old group is a major part of the people in difficulty. It is a high commitment age. We are interested in taking these. Also, I am in favor of the youthful offender bill, which would allow us to even take people up to the age of 21.

Mr. MCDONALD. But as it stands now in Florida, you can't initiate bringing that youthful offender from an adult prison to, say, Criswell House?

Mr. KELLER. The director of the prison system and I work pretty closely. He told us he would give us the names of all 17-year-olds he had in the system. We could interview those boys. If we thought we could work with them, he would be glad to hand them over to us.

Our prison system is overcrowded.

Mr. MCDONALD. Is Criswell rated as one of the best halfway homes in Florida?

Mr. KELLER. I think it is.

Mr. MCDONALD. It occurred to me when I toured it, people mention it every day, every week, many people are being brought through Criswell House. Is Criswell House the best because it is in Tallahassee? Are there other houses throughout the State that equal Criswell House?

Mr. KELLER. Yes. Criswell House was put there deliberately. I needed a place in the capital, where I could take legislators, and have them see it work.

For Congressmen who haven't seen one of these programs, you really have to see it; it is the only way you will be convinced yourself.

Here is a totally open program with kids about as open, responsive, and friendly as young people, as you would meet any place. I think they discard a lot of the defenses you find with average adolescents in high school. Our kids at Criswell House don't bother with that non-

sense. They come forward, tell you who they are, and ask if they can help you. They are nice kids.

Mr. McDonald. Why would Criswell House be so effective as opposed to others in the State?

Mr. Keller. I think they are about on the same level. It isn't that Criswell House is so unusual—for instance, Jim, when you came to Florida, it was very convenient to take you right from the airport to Criswell House.

Mr. McDonald. One of the young people had come from another group home and said it just didn't work. He was happy to be at Criswell House. My question is, do they get more funding at Criswell House?

Mr. Keller. No. A good thing about a halfway house program is that, if a guy isn't making it at Hillsborough House because he doesn't like the guys there, we move him where he can find some friends.

I can remember when I was a kid, my folks sent me to boarding school. I wish I had been out of that school and someplace else. Sometimes you don't fit in a particular place.

The same thing is true in a halfway house. You may get in Pinellas House, and run into a bunch of guys you don't click with. If we move you over to Tampa to Hillsborough House, you might find some buddies over there.

Mr. McDonald. Thank you. I have no further questions.

Chairman Pepper. Mr. Keller, how is Criswell House operated.

Mr. Keller. How do you mean, Mr. Chairman?

Chairman Pepper. It is operated under the direction of youth services?

Mr. Keller. Yes, sir.

Chairman Pepper. You own the house?

Mr. Keller. The State owns the house.

Chairman Pepper. Did you build it or rent it?

Mr. Keller. Again, we haven't built anything. All of our programs are things we have purchased. It was a white elephant on the real estate market in Tallahassee. It was used as the Florida Sheriffs Association's training academy. When the Florida Sheriffs' Association went out of that particular business, and turned that job over to the department of law enforcement, the building stood empty, which was good for us.

Chairman Pepper. How many boys does it house?

Mr. Keller. About 25. We also have a graduate program. Florida State University gave us a house they didn't need. We moved it to our grounds. For some of the boys who have no place to go home when they finish Criswell House, they can move into the graduate program, where they have to support themselves.

Chairman Pepper. What would be a typical day in the life of those boys?

Mr. Keller. Get up about 6:30, with all of those chores to do in a place like that. They have breakfast about 7; catch a schoolbus, which comes right to the house; and then they engage in the regular school program at Godby High School. When they return in the afternoon to Criswell House, there are chores to be done. The place has to be neat. Boys get different assignments. One guy takes care of the bath-

room; somebody else helps out with the cooking. After supper, they go into the groups.

The groups are the big thing. Nothing interferes with that. The kids realize the groups are the focus of the program.

Chairman PEPPER. They rap together, they have discussions, movies?

Mr. KELLER. No movies. It is just talk. It is the kind of thing you saw at Red Wing, exactly.

Chairman PEPPER. What Federal funds are you receiving in Florida for the group services?

Mr. KELLER. We find LEAA has been a lifesaver for us. That is important money. There has been a pitiful amount of money from YDDPA, the Youth Development and Delinquency Prevention Administration, amounting to $100,000 a year per State. That was never funded, really. Congress never put any money into it.

Chairman PEPPER. Do you recall how much you are getting from LEAA?

Mr. KELLER. Yes; we will get about $1.2 million from LEAA this year. Compared to the former title IV–A money LEAA was a poor relation. IV–A was great, while it lasted.

Chairman PEPPER. Mr. Keller, from your experience, if you were designated by the President and the Congress of the United States to curb crime in America, or be responsible for curbing crime anyway you could, what would you do to carry out that mandate?

Mr. KELLER. Mr. Chairman, I would change some of our national priorities. I think I would put heavy emphasis on the whole criminal justice problem. I am convinced—my viewpoint is biased, because I am in this business—it is the No. 1 problem of this Nation.

I think that the people in any kind of power position must realize we sort of reap what has been done before. We pick people up after they should have been helped earlier. I favor programs that would improve the living conditions in this country.

I am really talking about spending big money. I can recollect what it was like living in Chicago and seeing the slums of that city. They are horrendous slums. They are scary. You see them as breeding grounds for delinquents and criminals. It is a fearful way of life.

I lived on the South Side by the university near scary neighborhoods. Those are pockets in our rich society that are just producing criminals.

I think major efforts need to be made to change conditions like those. I think major efforts need to be made to improve schools. The schools must have programs that are relevant to kids' needs.

I feel sorry for the school people. They have so much to do. More and more things are being given to the schools to do. But if it isn't done at the school level the kids are going to end up with me, and that shouldn't be.

All that time the young person is in school is when he really needs the help, not when he is 14 or 15 and has become a "bomb-out" and turned off of society. These kids get more and more alienated and hostile. They fail at home; the police arrest them; they get kicked out of school; they begin to experiment with drugs as a method of escape.

By the time we get them it is not too late, but it is sad that it's that way.

The great thing about kids, or about people, is that you can see people change if they are placed in circumstances where they get some kind of opportunity and some kind of respect, and have a chance to make it.

I am very strong, by the way, on participatory management. I believe correctional administrators ought to listen to the people they are serving. We had a conference, Congressmen, a year ago, in St. Petersburg, where we brought staff and kids together for a day and a half.

The staff was from different levels of our agency. We had administrative types like myself, and we had houseparents, probation and parole officers, intake workers, and group leaders. We also had about 25 kids. The staff, frankly, outnumbered the kids 2 to 1, but that was because I was trying to train the staff.

The kids will level with you and tell you whether your programs are any good or not. If a kid doesn't see a program as helping him, then it is not helping him. If he thinks it is a lousy, stinking program and it isn't any good, then it isn't any good for him.

The reason I say that is because I sort of know which of our programs are better than others. After all, I live with this agency. When you have a good treatment program or vocational program which is really teaching kids something, they will tell you it is great. "I am really learning something in this program. I am really being helped."

The honesty of kids is one of the things that attracts me to kids, because they will tell you how they think.

Chairman Pepper. May I ask you a question? In that position, if you were asked the question, "Do you think crime would be more effectively curbed by improving all our correctional institutions in this country, the correctional program for youth and adults, and improving the court system of the country and giving summer jobs, recreational opportunities to children, particularly disadvantaged children as to whether that or reimposing the death sentence for the committing of violent crime or heinous character would be more effective in curbing crime," what would your answer be?

Mr. Keller. Mr. Chairman, I don't think the death penalty stops crime at all. Let me be candid on that. There are crimes committed, such as the Manson murders and the Speck murders. My first reaction is to eliminate such murderers immediately. I would like to wipe them out.

But that doesn't deter people from committing crimes of that type. The people who commit those crimes are sick individuals, twisted individuals, who come from generally rotten situations.

I read the case histories of the kids that come to this agency I am responsible for—the life situations of these people are often hideous. You mentioned the girls who have been molested by their own relatives. I have known kids that have been brutally beaten over and over again. You don't live through something like that without having it affect you.

If I could make an analogy: People seem to understand how a guy going through the Vietnam war can come out acting a little funny. They say, "Gee, consider what that guy went through. He was over there in the Hue campaign for 3 months." Now the delinquent: Think of the campaign he has been going through for 15 years. That is why he is like he is.

The death penalty just does not deter people if they feel like killing people. I would like to see people like Charlie Manson done away with. But, the way our system has worked, the only people who get done away with are the poor. If you have the money, or if you have a celebrated case, you will get an outstanding attorney who will generally keep you away from the chair.

Chairman PEPPER. I understand your answer to be that we could do more to curb crime, including heinous crime, by these things we are talking about now—improving the school system so as to make the school program more stimulating to the students and improving our correctional institutions, programs for juveniles and adults, and other programs—to make life more meaningful and significant to individuals.

Mr. KELLER. Mr. Chairman, the answer to that is yes.

What you are really talking about is restructuring the Nation's priorities; where you put your money.

Chairman PEPPER. You know, what you and these other gentlemen who told us about these innovative programs are really doing is offering opportunity to live more or less a normal life for a lot of people who haven't had that opportunity.

There was a young lady here yesterday, pregnant by a young man she was living with, who seems to have found herself under a new program. She wants to be a counselor in one of these youth program institutions. She didn't have any family problem, apparently. She didn't have any estrangement between her mother or father or any poverty or turmoil in the home, that seemed to disturb her.

But for some strange reason when she was about 13 years old she began to run away. I guess there are those peculiar manifestations on the part of individuals. By and large, these students that come into these juvenile court programs and into your program are students that ordinarily haven't had an opportunity for such as your wilderness program or had respect and dignity, and had not the type of environment or stimulating life they found in your halfway houses and the like.

You are really offering them something that is a new experience. They come out of the ghetto; they come out of environments which are discouraging, frustrating, and disappointing; and into contact with people who are stimulating and inspiring and the like. You are really offering them privileges that they have not actually enjoyed, if they have enjoyed any at all in their former life before they came there. That I think is one of the basic reasons for the success you have had in influencing the future lives of these individuals.

Would you see some elements of truth in that?

Mr. KELLER. I would.

Chairman PEPPER. One other thing. This committee held six hearings last year on drugs in the schools, starting in New York, then Miami, Chicago, San Francisco, Kansas City, Kans., and Los Angeles. We discovered the serious nature of the drug problems in the schools. In general have you observed that the tendency on the part of the school authorities has been to kick them out?

We have been talking about the Federal Government assisting these schools that have a financial crisis, helping them to put in these programs you told about, to make the school life more stimulating.

I remember we had a school supervisor in, I believe it was, San Francisco. He said his objective was to make each of his students experience one interesting thing every day. Well, now, you are not going to get so many dropouts if you have that kind of a school program, are you?

Mr. KELLER. That is right.

Chairman PEPPER. I wish you could counsel the schools and help them to devise a program that would keep more students coming to you.

Mr. KELLER. Let me grab that one for just a moment. We can, and the law in Florida says we should. Our problem is that when the money is divided up, legislatures generally don't see the importance of prevention. They have been very good to us with regard to improving correctional programs, community-based programs, and so on. But, if the groups work with these so-called bad kids in halfway houses and training schools, they will surely work in the public schools.

A number of our field services people, on their own initiative, are working with teachers to teach them how to "do groups." Instead of throwing kids out of school, get them together, and get them to talk the way they do in our institutions.

Let me be very specific about the results we have seen in our training schools. In the Florida institutions, in 1967, the way they kept control of the kids was to beat them. I have a leather strap in my office from the old days. That isn't necessary when you get people to talk things out.

Our runaways are way below what they used to be. We don't have the sexual attacks, the gang rapes that used to take place—which is what used to happen in the old days. We don't have the terrible racial problems we used to have. Our schools were torn apart at one time by racial conflict, because we were about 50–50. The kids now relate to each other as people. You never hear anybody talking about the black-white friction at these schools anymore. If that can happen in State reform schools, where the groups, frankly, are not as intense as they are in the community-based programs. These intense discussions can help the public school systems.

Chairman PEPPER. That is stimulating. This committee hopes we can make recommendations that will be helpful to you people who do have a vision of the future, a vision of what can be done.

The Federal Government can help the State and local communities in putting in these innovative programs. We are just proud we have a man like you in Florida.

Mr. Mann?

Mr. MANN. I would like to inquire further about the group foster home. How does that work?

Mr. KELLER. Right behind me, you will find Mr. Joseph Rowan. He is a walking encyclopedia on foster homes. It is simply a matter of good recruitment. You can advertise; you can put an ad in the paper telling people you are willing to pay them $8 a day to take care of someone's youngster.

If you take six of these kids into your home, in the course of a year's time, you will make $14,000. You need to check the references of foster parents closely because you have all kinds of people who will answer ads of that type. But you will find, if you do careful screening and

background checking, you can get excellent people who really like children.

The tragedy of so many of our foster home programs is that we haven't paid them enough so they can at least break even. A lot of people don't want to take a child into their home, with that terrific responsibility, if they are actually going to lose money on the deal. On $8 a day you don't lose. It is worth your time. Obviously one's social life is going to be inhibited considerably if you have five or six kids with problems in your home. Although you are going to be pretty much of a homebody, this would not prevent you from working. You could still go to work. The kids would be at school. You and your wife would have the pleasure of having these youngsters with you in the evening.

Mr. MANN. I guess to a large degree it depends on the home?

Mr. KELLER. It does.

Mr. MANN. How do you arrive at the best number of youths in the home?

Mr. KELLER. Well, there certainly isn't any hard research on it. We are going for six kids per home for this reason. The rationale is there are a lot of teenage kids who don't want to be the only kid in somebody's home. One child might find it difficult to accept you and your wife as substitute parents. But when you put five other kids there, who have also had problems, there develops a certain "we-ness." You have a group of kids. They do not feel alone, and you don't pretend to be their parents. You are the people who are in charge. You are kind, and so on. Again, it is the peer situation which is so important to teenagers. Mr. Lynch pointed out that a lot of kids get in trouble because they belong to a group, peer pressure, "Come on, man, you are afraid to go. You are chicken." The peer group pressure can get a kid turned around if the motivation is right.

Chairman PEPPER. Mr. Rangel?

Mr. RANGEL. No questions.

Chairman PEPPER. Mr. Nolde?

Mr. NOLDE. Do you agree with Mr. Schoen's view expressed this morning that juvenile programs such as we have heard about today can just as easily be transferable to adult centers?

Mr. KELLER. Yes.

Mr. NOLDE. Could you elaborate on that?

Mr. KELLER. I think in some ways the adult offender might be easier to work with than kids. Most adults are conscious of what life calls for. They may not know how to cope with life, but when you get somebody in his twenties, he is beginning to think about what he is going to be, or whether he is going to get married, and whether he is going to hold a job.

A 14-year-old doesn't care about that at all. A 14-year-old, in being a kid, is interested in having a good time. So, I think in a group that involves adults, you are more likely to get serious, responsible thinking about problems and what they are doing with their lives.

As I told Mr. Pepper a while ago, just from having known many offenders personally, I have been lucky because I haven't known many I considered vicious. I have known a lot of people in trouble, and a lot in institutions, but only a few I would describe as vicious people. They have done some bad things, but the reason they have is that most of

these people are very inadequate. They don't know how to cope with life. They don't know how to manage their finances; they are impulsive. They want something so they go out and buy it on time. When the payments become due they can't meet the payments and they become frantic. The "man" is there to take the furniture away or repossess the car. They don't have a job that will pay money to make those payments. So they do something.

Mr. NOLDE. What about the many offenders who have shown such a vicious pattern of criminality by the time they reach adulthood?

Mr. KELLER. Well, I am afraid at that stage you are dealing with people who must be put away and behind bars—if they really are that dangerous as individuals.

So here comes the youthful program administrator, putting in a special plug for his programs: I think, if you are going to reach people in trouble, you must reach them early and try to change the crime pattern.

If you can get a young person turned around, so the boy of 14 or 15 doesn't look upon himself as a criminal, then you have done something. Crime can become a lifestyle for some guys. By the time they get to be in their 20's or 30's, and have done a lot of institutional time, the people in the institutions are their friends, not those on the outside.

You may have read a book called "The Joint," by a man named Jim Blake, which is about Raiford. Blake said that after a while a confirmed criminal is more comfortable in prison than out because all of his friends are in prison.

Mr. NOLDE. Could you give us an estimate of how many offenders really need to be locked up, both juveniles and adults?

Mr. KELLER. I will throw out the same figure I did before. I think 70 to 80 percent of the delinquents I work with can be treated very successfully in community programs, which would leave 20–30 percent for institutionalization.

Mr. NOLDE. Do you have an estimate for adults?

Mr. KELLER. This is just a wild flyer. I would say maybe the same. I don't work in the adult field, so I shouldn't try to pass myself off as knowledgeable about a field where I haven't been. But my hunch is that a great many of those now in secure institutions could do fine in a more open program.

Mr. NOLDE. Thank you, Mr. Keller, for your excellent testimony. I have no further questions, Mr. Chairman.

Chairman PEPPER. Mr. Keller, we thank you very much. I know you came here at great sacrifice and out of consideration for this committee and what it is trying to do. We want you to know we are very grateful to you for doing it.

Mr. KELLER. I appreciate being asked to be here, Mr. Chairman. Thank you very much.

[Mr. Keller's prepared statement follows:]

PREPARED STATEMENT OF OLIVER J. KELLER, DIRECTOR, STATE DIVISION OF YOUTH SERVICE, TALLAHASSEE, FLA.

Thanks to two governors and legislators who have considered youth corrections primarily a state, rather than local, responsibility, the Florida Division of Youth Services represents very closely the model recommended by the National Conference on Criminal Justice only three months ago here in Washington. It is a unified system, with responsibility in one state agency for delinquency

prevention, citizen involvement, juvenile intake to the courts, probation and parole, training schools, community-based programs, and contractual service, such as foster homes. Just a year ago, legislation was passed, whereby responsibility for the detention of children before the courts will be shifted from the counties by 1978. If legislation, introduced by one of the Division's chief supporters, Senator Louis de la Parte of Tampa, passes this year, the entire process will be accelerated, with the transition taking place in the 6-months from this July to December, and guaranteeing that no child will be held in any jail by the end of 1973.

The pay-off from this unified system is already evident. In a state where the population has climbed by a million new residents in the last 5 years, and where the state prison system is bursting at the seams, the Division of Youth Services has empty beds in its training schools, is actually reaching for young offenders from the adult system, and has reduced both the number of court commitments and its own failure rate. This is significant in that the rate of juvenile population growth in Florida is higher than the over-all population rate.

The single state-operated intake, probation, and parole program assures every county in Florida the same level of service, regardless of the county's financial situation. Wherever possible, children are diverted from the official courts and corrections process, with parents and child given the option of non-official "consent supervision." Working with professional staff is a growing army of volunteers, people of all ages and backgrounds willing to work on a one-to-one basis with children needing adult friends. The impact of these unpaid citizens in helping children with family and school problems has been phenomenal.

A major premise of the division is that delinquent children, and those "in need of supervision", have a variety of problems. Hence, the Division must offer a variety of programs to meet these needs. With 11 group foster homes now authorized by the legislature, the Division has discovered that children with serious problems can be rehabilitated in private homes, provided the foster parents are carefully selected, and provided they are paid a reasonable sum to take somebody else's problem child into their home.

For children with more serious problems, the Division is gradually expanding its network of staff-operated group treatment homes, halfway houses, START centers, and TRY centers. The group treatment home, serving up to seven younger delinquents, is a conventional residence, but manned by a trained husband-wife team and a relief houseparent, rather than by foster parents. The halfway house may be a small apartment building, an old motel or nursing home, or a converted church. It houses from 20 to 25 typical delinquents, all of whom attend public schools or hold jobs in the local community. The START center (using terminology borrowed from New York's Division for Youth) is much the same as a halfway house, but it has an educational program to serve delinquent children too far behind academically to fit comfortably into a conventional school. The TRY center is also within the community, with a program comparable to that of a halfway house, but it lacks the residential component. The young people live at home, coming to the TRY center for all-day programs of treatment, school, or work.

With 25 state-operated community-based programs now in existence, the Division of Youth Services has proven that serious delinquents can be treated successfully in open, non-secure buildings fitting in with the structures around them. Although neighborhood anxiety has initially been high in some areas, the good conduct of the young people has, in every case, turned the majority of doubters into supporters. Local people have been extremely generous, inviting the young people into their homes, sponsoring recreation trips, and even donating funds and labor to build a one-room school building at one START center.

The key to the success of Florida's community-based programs has been the combination of intelligent, energetic staff with a form of treatment known as reality therapy or guided group interaction. Very simply, a "guided group," bring delinquent children together every day five days a week for 90 minutes of intense discussion. In these discussions, no holds are barred. Young people can pour out their anxiety and hatreds under the guidance of a staff member who says comparatively little, letting the young people deal with one another, who keeps the conversation ontarget, and who divert the discussion if a particular young person needs temporary relief. These guided groups demonstrate that teen-age children in trouble can be made to examine what they are doing to their lives and can learn to act in more responsible fashion. In so doing, the group members develop strong friendships and invariably become more open and

friendly in dealing with other people. Where they attend public high schools, the so-called "bad kids" of Florida have been praised by school officials as among the most courteous and friendly in the student body.

The "groups," as they are known in Florida, have also changed the atmosphere of the training schools. A few years ago the most difficult children were controlled in Florida's open, unfenced institutions through severe beatings with leather straps. Corporal punishment now plays no part in the institutional programs. Once young people are given the opportunity to talk honestly about whatever bothers them, run-aways go down, assaults on staff and one another diminish, and destruction of state property hits a new low. As the young people change, even old-line staff soften, confessing they no longer favor "the strap." When the atmosphere within a training school changes from one of repression, it then becomes possible to motivate young people with academic and vocational programs teen-agers recognize as relevant.

The major problem with too many training schools in our country, and this certainly holds true of Florida's two institutions for delinquent boys, is that they are too large. Changing anti-social or even criminal individuals to "good citizens" depends in large measure on the relationships established with staff and with each other. The larger the institution, the less likely a genuine treatment relationship will develop. The larger the institution, the more likely the system will become the primary consideration, rather than the welfare of the young people in it. Large institutions are often characterized by routine and written regulations, with little flexibility possible to meet individual circumstances

In large training schools, the best-trained personnel are the administrators who rarely have the opportunity for close, personal contact with individual young people. In truth, the persons with the greatest influence on delinquent children in most training schools are those at the bottom of the status ladder, poorly paid, and possessing only a bare-bones education. While some excellent employees function at this level, others are shallow, rigid personalities with little interest in adolescents. Under these circumstances, rather than confronting his problems, the institutionalized delinquent wants merely to "do his time and get out of this place."

Considering the present state of knowledge, training school for delinquent children will still have a role to play for a good many years to come. While 70 to 80 per cent of young people in trouble with the law can be successfully treated in community-based programs, some simply refuse to stay there. They run away occasionally stealing cars or committing other acts that arouse communities. Until our human sciences reach higher level than is now the case, such children must be removed and placed in training schools. But these institutions should be small, not more than 150 children, and with ample staff to do the job. In Florida, for example, where the institution for the most difficult youthful offenders has a population of only 150, the young people are housed with no use of barbed wire fences, guard dogs, and gun-towers. In fact, the Howell Lancaster Youth Development Center is an open institution, co-educational, and with only sixteen young people to a cottage. The secret of its success is the group program, plus sufficient staff to provide close supervision.

In discussing staff, the PhD and the MSW are not the first essentials. What is essential is an individual with genuine affection and understanding for young people, willing to work long hard hours. Naturally, if he has a good background in the behavioral sciences, he is that much more attractive to the recruiter. But it is the person, not the degree, that should come first. Some brilliant people, able to earn the very highest degrees universities can offer, should never work with human beings. They simply have no concern or empathy for other people.

Part of the tragedy of governmental systems is the inflexibility of state personnel requirements, where adequate pay levels are tied to advanced degrees, with little or no consideration given to other qualifications. Another sore point is the federal wage and hour requirements which force people ready to work with young people beyond an eight hour day to leave the institution grounds, either because overtime has not been authorized in advance by some superior, or because the institution budget is too limited to allow for overtime payment. The present situations, of course, are the products of previous abuses, where totally unqualified persons were given jobs for political reasons, and where employees were worked 70 hours or more per week, with no time to themselves. Still, from the point of view of the young delinquent who needs to talk with a

trusted employee, it is hard to understand why the conversation must be abruptly terminated at 4:00 p.m., and postponed until the next day.

In Florida, the goal is to gradually reduce the training school populations, ending with one or two small, intensive treatment institutions, serving only that small core of delinquents who are consistent failures in community programs. Legislators must understand that for this select group of young people, the cost per day per child will be high—as much as $30 a day. Close supervision and high quality academic, vocational and treatment programs are crucial. As for psychiatric staff, the very best assistance should be obtained on a contractual basis for the comparatively limited number of delinquent children requiring such help.

The Division of Youth Services is making ever wider use of contractual services in broadening its range of programs for young people committed by the courts. In order to provide a masculine, demanding experience to adolescent delinquents, the Division has contracted with the Florida Marine Institutes. In four areas of the state, this not-for-profit corporation places boys on boats, where they learn ship-handling, marine maintenance, fundamentals of oceanography and ecology, and, at the same time, develop self confidence, based on their ability to swim, to scuba-dive, and to face the open sea in a yawl or ketch. For somewhat younger children, a similar program to improve self-concepts has been developed in conjunction with the Jack and Ruth Eckerd Foundation. Fifty young people live in a "wilderness camp," which consists of smaller units at considerable distance from one another, scattered over several hundred acres of wild terrain. In each subcamp live no more than ten children under the direction of two college-age counsellors. The 10 to 14 year old children build their own tents, fashion many utensils and other items from their surroundings, prepare at least half the week's meals over open fires or in clay ovens, and undergo an "adventure trails" experience through pack trips, canoe expeditions, and constant contact with the outdoors. Children unreached by any other programs begin to show dramatic improvement in the "wilderness camp."

The Division holds the view that much more work must be done with troubled young people while still in the public schools. Suspensions and expulsions are not the answer. In addition to working on a limited basis with a few public school systems to give teachers and administrators greater confidence in handling behavior problems, the Division has contracted with both the University of West Florida and Florida Atlantic University to operate "branch campuses" on the grounds of the two large boys' training schools. At Okeechobee, 60 young men and women from Florida Atlantic live on the training school campus, attend classes in the institution, and work half-time as teacher aides and recreation aides. A somewhat similar program exists for twenty-five West Florida students at Marianna. In addition, both universities place an equal number of students in the Division's probation and parole offices. Here, too, the university students are valued assistants. Not only does the age of the university students make for easy rapport with the delinquent boys, but the FAU and West Florida students are learning how to deal with boys most teachers shy away from. Upon graduation, they will be able to work either for the Division of Youth Services or in school systems where many teachers feel totally unsuited for coping with problem behavior.

The most recent Division progress has been in the field of juvenile detention. As state funds have been provided, and with the financial cooperation of county governments, the Division is now operating detention service in the greater Miami area and in the ten counties composing Florida's Panhandle. Based on a state plan prepared by the nationally known John Howard Association, the Division hopes to build no more secure lock-ups for children. Instead, by using existing county facilities, by placing "detention cases" in open homes, and by allowing young people to return home under the extremely close supervision of a "home detention" program, the Division believes it can avoid placing many young people behind thick walls or steel while awaiting court appearances. Furthermore, the state plan points out that, when the system is fully operating and tied together by a transportation unit, the total cost for the state of Florida will be approximately the same sum now spent by the 20 counties (out of 67) offering secure detention care other than the county jail.

Relatively neglected areas in Florida at present are staff development and public education. As the state agency has grown larger, it is increasingly important that employees share a common philosophy and skills in dealing with young people in trouble. Not only must Division personnel learn from one another, but

they must also know how young people feel about the Division's programs. Participatory management sessions must be more frequent, permitting employees from various levels within the agency to come together with the young people committed to state care. Division personnel must hear from them whether or not the agency is perceived as hurtful or helpful. Only if the young people perceive what is happening as relevant to their needs will Florida have a youth corrections system worthy of the name.

In the area of public education, the average citizen, and notably the schools, must understand their roles in creating delinquents and in their reformation. Very often a young person will leave a Division facility with a genuine desire to "turn over a new leaf." Unfortunately, nothing in the home community may have altered. He may still be looked upon as a thief and an outcast. Under such rejection, the young person can soon return to his old ways. The public must understand that relief from crime of any kind can take place only when there is understanding of why people get into difficulty, and acceptance of new methods of treating offenders. If a marine institute program is looked upon as "coddling criminals," no progress will be made. If community-based programs are resisted with venom and threats, the country will continue to live with its old institutions so frequently productive only of more dangerous offenders.

The most serious threat to correctional improvements in the juvenile field has been the drastic cut-backs this year in federal funds. For example, under the old guidelines, the Division of Youth Services was using $10 million a year in Title IV–A funds of the Social Security Act. Traditionally, state youth corrections agencies deal with the children of the poor. A large percentage of the Division's young people come from families that are either present or potential recipients of public assistance. The Title IV–A funds, coupled with state general revenue dollars, made possible the consolidation of intake and probation with the already existing juvenile parole system. The consolidated system then made possible services where little or nothing had previously existed, and permitted the Division to reduce commitments and failures.

In the middle of the 1972–73 fiscal year, however, the "rules of the game" were suddenly altered drastically, causing all of Florida's social service agencies to find themselves in a severe financial crisis. Had the Social Security funds been permitted to continue under the old guidelines, the combination of federal and state dollars would have accomplished many objectives previously out of the question—genuine delinquency prevention efforts in cooperation with the schools, a vastly expanded program of citizen volunteers and public education, a staff development program able to train and motivate 3000 employees, and a research and evaluation unit to provide the sort of data legislators request, but seldom obtain on correctional programs.

The worst aspect of the federal cut-back, certainly, is that states do not know whether or not they can count on federal funds. Instead of coinciding with the state fiscal year, federal guidelines are apparently subject to change at any time. When the last change occurred in the Title IV–A regulations, chaos ensued in state agency budgets, including the Division of Youth Services.

I appreciate having had this opportunity to be heard.

[A brief recess was taken.]

Chairman PEPPER. The committee will come to order, please.

Mr. Lynch, will you proceed.

Mr. LYNCH. Thank you, Mr. Chairman.

Mr. Chairman, the next witness is Mr. Joseph Rowan, the executive director of the John Howard Association.

Mr. Rowan was formerly the chairman of the Minnesota Youth Conservation Commission and prior to that the director and consultant to the National Council on Crime and Delinquency. He holds a B.A. in criminology, a master's degree in correctional administration, and a master's degree in social work.

The John Howard Association, under his direction, has been conducting an intensive study and evaluation of juvenile programs in Florida, Wisconsin, Michigan, Maryland, and several other States.

Mr. Rowan, I wonder if you could address a few referatory remarks to the committee at this time.

Chairman PEPPER. Mr. Rowan, we are very pleased to have you here. We know the splendid record of the John Howard Association and what you are doing is certainly in the public interest. We are very grateful to you for being here with us.

STATEMENT OF JOSEPH R. ROWAN, EXECUTIVE DIRECTOR, JOHN HOWARD ASSOCIATION, CHICAGO, ILL.

Mr. ROWAN. Thank you very much, Mr. Chairman.

Mr. Keller covered very capably what has been developing in Florida over the past several years, and I would only like to touch upon a few points.

Florida was the 16th State in the country to adopt an overall comprehensive, continuous program for the handling of juveniles, in which everything from detention all the way through probation, institutions, aftercare, including many other adjunct services, are all operated, administered, and financed, by the State.

One of the sad situations which we have in this country is right today, while we are sitting here, juveniles are not getting as good probation services as adults, nationally. One of the major reasons is the unified development of statewide probation standards and a program for financing.

We have 37 States that administer and finance adult probation. We only have 16 States which administer and finance juvenile probation.

We are very happy to say that in Illinois, all of the dissident groups during the past year and a half have been a part in helping pull together and have agreed upon the package of legislation which went into the hopper last week to develop a State-administered, financed probation system.

Judges are supporting it, probation people are supporting it. So are legislators, and we feel it will go. So Illinois, hopefully, will be No. 17 to follow this approach for juveniles and No. 38 for adults.

Mr. Keller talked about the effects of guided groups interaction, or positive peer culture in Florida, and you witnessed the program in Minnesota—Red Wing. I was meeting with some top house and senate leaders of Virginia just the other day, Thursday of last week, and one of their senators was commenting the same way about his impressions about the guided group interaction program in Florida.

He visited the Marianna Institution. What Mr. Keller talked about from the standpoint of reducing racial tensions is very true not only in Florida but in Minnesota, and Michigan where the guided group interaction or reality-based-concept approach is being developed.

I had the opportunity of talking with some people in the panhandle of Florida, the public school system, and they told about how they saw the reality-based counseling program working so effectively with delinquents that they asked the fieldworkers if they could sneak in a few nondelinquents.

So after a while, the program, the staff that Mr. Keller was responsible for, started working with nondelinquents. The testimony from the teachers in the public school system has been a real tribute to the program of the division of youth services because this real delinquency prevention has not only been able to help calm down the schools from

the standpoint of problems caused by delinquents but this has extended into the nondelinquent category, which is going to have to be done in a lot more places in this country.

Mr. Keller touched upon the concept of home detention. St. Louis is where this concept was developed in September of 1971. Under home detention you take those youngsters who have been determined by intake and by the judge at the detention hearing, within 24 hours, that are not good risks. You put them back out into the community under intensive supervision, three eyeball contacts a day. One with the youth, one with the parents, one with the schoolteacher or employer. I would like to back up a minute.

Mr. Keller and others talk about intake. When the police arrest a youngster, he comes to the detention home where they should have intake workers on 24 hours a day, or at least as Florida has developed, the only State in the Union I know of that has 24-hour intake services around the clock throughout the entire State.

Now, all of this intake is not onsite. But I can assure you, and we have developed a major 5-year master plan study in Florida, if they can't afford and don't have the business for an onsite worker, he gets up at 2 in the morning, dresses, goes down to the jail and talks to the youngster, eyeball to eyeball.

The practice was started several months ago. This has had a drastic effect on reduced rate of detention there, approximately half in Miami and approximately half in Jacksonville.

Getting back to St. Louis, where they have got some serious problems, crime and delinquency: they have some serious ghetto problems and problems of financing juvenile and criminal justice programs. This home detention concept is the best one that I have seen since I started in the business many years ago. It has been the best thing since the wheel, so to speak, in our field.

First, the police bring the youngster into the detention home. If intake feels he is not a safe risk to be released back to the community, he stays. Then the next day the judge reviews the case and he makes a second determination of whether he should be released back to the community. It is after intake and the judge have determined that this youngster is not a safe risk to be released to the community that he is released under home detention, under intensive supervision. At least one contact a day with a streetworker, and these streetworkers, some cannot read or write, have to give a verbal report There are no educational requirements. They are paid the same salary as the child-care worker at the detention home.

The job which they are doing can be verified by talking with law enforcement and other people in the community, as we have done.

In St. Louis, with 308 unsafe risks released to the community, not one ran away over 13 months. While at the same time 10 youngsters escaped from the secure detention home where they were behind lock and key. There are a lot of morals to the story, which gets into what Mr. Schoen, Judge Arthur, and Mr. Keller talked about earlier. The volunteers get 10 days of training, minimal wages and some of these are on welfare. There are good people in the ghettos that don't have the degrees, but they can render a "we care" service. The most important ingredient as far as I am concerned from the time I have been in the

business—I have a few masters degrees to defend that statement and that is the only reason I mention it—is "we care."

When a youngster, regardless of how difficult he is, gets "we care" service, he responds. They do screen out murderers and the real serious cases with long records, but remember, the home detention cases are cases that are not determined to be good risks by intake and the judge during two previous screening contacts.

So just think what this would do by extending this concept of home detention to the probation field. In Minnesota, when I was there, from 1962 to 1967, we had caseloads of 35, a well-disciplined system, but time studies showed that with these caseloads per probation officer they cannot give any more than 50 minutes a month to both the youngster and his family. But under home detention, they get an hour or so a day.

Talking about probation: In California today, they are using probation in 84 percent of their dispositions. This is on the adult level. When you get down into the juvenile level, which your committee is more interested in this week, California is committing 30 percent of the kids to State training schools.

But you have to discuss both of these at the same time to put them into perspective. California has doubled the use of adult probation in the last 6 to 7 years. They have reduced the commitments down to 30 percent for juveniles.

All during this time, with the rising crime rates in many States, California has been able to reduce the crime increase from 22 percent down to less than 5 percent. We predict it is going to level off.

It must be kept in mind that California still has some major problems of population—but they are progressing.

Chairman PEPPER. In crime generally or in the juvenile area?

Mr. ROWAN. The crime rate across the board. They don't know whether it is adult or juvenile. That is the reason why you really have to discuss both at the same time. It is part juvenile, it is part adult. I was in California in March 1972 for a 3-day conference with law enforcement and research people, and some of the get tough boys were saying: "We are using probation too much. Look what has happened, our rising crime rate." But if they got out the FBI Uniform Crime Report, which they helped fill in as far as these statistics are concerned, they would see that the crime rate in California has dropped from 22 percent 7 years ago to less than 5 percent.

In Wisconsin, considering all convicted persons, they have 91.5 percent of all of the offenders in the State on probation, after care and parole in the adult level. Only 8.5 percent are in institutions. Here again it is a combined system like Minnesota. Wisconsin has an extremely low rate of institutionalized offenders. I want to cite another example of what I talked about earlier.

Wisconsin has the best adult probation system in the country. Both the National Council on Crime and Delinquency and we, have expressed comment on this publicly. And yet in Wisconsin we just finished a survey and they have one of the most undeveloped juvenile probation systems. Adult probation is operated, administered, financed by the State, and juvenile probation is a hodge podge. Some of it by the State on a free gratis basis, really. Some by welfare operated by the State;

some by welfare operated by the counties; some by the county courts themselves. It is basically a county system.

Ten out of 10 judges in Wisconsin said: "We have better probation services for adults in my county than we do for juveniles." So the moral of the story is, basically, in this country, they say the government is best which governs closest; but it really doesn't hold true in corrections.

State administered and financed probation has worked best for adults; basically it works best for juveniles in the States as we have shown.

Mr. Keller and others talked about group homes. We are very happy to say Wisconsin has 45 family-operated group homes. Florida has developed approximately a dozen in the past 6 months. Ramsey County, St. Paul, Minn., has 32. In 1962, they had zero.

Welfare departments said you can't find any group homes for delinquents. Minnesota, overall, how has 57, a number of them operated by the State, by Mr. Schoen's programs of 1957. Benton Harbor-St. Joseph, Mich., has developed seven family-operated group homes since last September.

In this country many of the corrections departments, unfortunately, have gone too professional. They have paid a lot of money, up to $14,000 a year, to take care of a youngster in a staff group operated group home or halfway house. About 85 percent of our delinquents, and the most difficult ones in the system, can be cared for in well selected, trained, and staffed family-operated group homes. Good, healthy, average American parents.

Two hundred dollars per child a month and a high success rate, Wisconsin has a 4-year research project. The worst delinquents in the system, over a 65-percent social deterioration compared to 15–16 percent social deterioration, where the kids went back to their own homes, and yet 28 percent fewer kids that were in the family-operated group homes went back to institutions and delinquency compared to the better kids that went back to their own homes. This is 4 years of research. No rent, no real estate, no petitions to keep halfway houses and State-owned and State-operated facilities from existing.

Getting back into another area, my first testimony before a congressional committee was basically regarding Cook County Jail, which got worldwide attention about 5 years ago. I testified before two congressional committees on it. National media carried stories on it. Electric refrigerators in cells of Mafia members. About 18 to 20 people unaccounted for from the standpoint of why they died inside that jail in 1967. They had eight suicides in 1970. We are very happy to say, and on a positive tone, in these presentations this week that they have had two suicides in Cook County Jail in approximately the past 2 years and 3 months. That is a far cry from 8 deaths in 1 year, 20 deaths in 1 year, most of them unaccounted for.

Cook County Jail does take care of youngsters 14 years of age and up that cannot be handled in the juvenile detention home. This is why I brought up this positive development—and it really is one.

As far as citizen volunteers are concerned. I strongly recommend Lafayette, Ind., if it hasn't been called to your attention. It would be good to have one of two women who got that program started, with the help of Howard James from the Christian Science Monitor, to

testify here. They asked Howard James to testify, or to talk in town, and he said, "I am not going to talk in town unless you can get 100 people agreeing basically, and unless you are going to do something about it."

In the last 2 years they have gotten 23 priorities accomplished and it is phenomenal what they have been able to do in mobilizing that community, a pattern which we feel needs to be extended all over the country. They have a youth service bureau started, a 30-bed private treatment institution volunteers in probation started which has existed in many places throughout the country. They have tutoring programs and minority studies in the schools. They have tax reforms brought about for special education programs, and I could go on and on for about 18 more priorities.

This was done through volunteer citizen effort.

In Minnesota, we took the worst 18 delinquents we could find in Minnesota in 1965 and when I proposed this idea to the commissioner, he said, "You are going to have to get a majority of the officials in this community to support it because I think it's risky."

So I met with the two sheriffs, the two judges, the two chiefs of police, and two county attorneys or their top representatives. We got six of the eight officials to support it. Two said they wouldn't support it publicly but they wouldn't criticize us publicly if it failed.

The idea was, if we could help 2 or 3 out of these 18 and stop them from crime, we could work with any youngsters less sophisticated.

All of these youngsters had two prior institutionalizations: one had nine. These youngsters came right off the streets, within 30 days, from Minneapolis and St. Paul, for offenses including armed robbery and serious assault. None of the eight officials vetoed our plan.

This program was research in 1972, 5½ years later. Of these 18 cases, the worst in the system, 15 never went into the adult field. They stopped as juveniles. Only three are presently in the adult system.

The six that were discharged at the end of the 6-month intensive reality-based group counseling program never violated later. This pioneering project laid the foundation for the guided group interaction concept that followed later.

Another aspect of that program—we had the parents of these delinquents meet every 2 weeks. The first request in Minneapolis, the second request in St. Paul, was "We want to meet weekly because we are getting help out of these sessions." During this 6 months, one or both parents attended every one of the group counseling sessions. Only one youth missed a session.

So I do not buy what a lot of people say is fact: That parents don't care. No parent wants to be a poor parent from the standpoint of raising delinquents. If we offer the help they will take it up and accept it.

The upcoming Juvenile Court Act by the National Council on Crime and Delinquency is going to remove truancy, incorrigibility, and runaway from the juvenile court, and we are long overdue on this. You asked a question earlier, Mr. Chairman, about the first thing I would do. I think the greatest impact in this country will be when truancy, incorrigibility, and runaway are removed from the juvenile court. We have propelled many youngsters into the prison systems that we have today. Half of the kids in Florida, half of the kids in most other

States, that are in training schools, reform schools for delinquents, are not delinquent.

They have been incorrigible and truant. Louis Wille, Pulitzer Prize winner for the Chicago Daily News, pointed out, right down the middle of the ghettos we have a high dropout rate in one school district, a low dropout rate in another school district, and from our standpoint we have been beating parents too long in this business, and from my standpoint and a lot of other professionals in my business, about half of the problem in the delinquency stems from inadequate educational systems.

When we remove either compulsory education laws or remove truancy from the criminal end of the juvenile court we are going to make major advances in this field.

As far as LEAA is concerned in this field, there is a tremendous lack of research. We are very happy to see research being developed in Florida, Wisconsin, Minnesota, Washington State, California, and a few other States. But basically, there isn't much research in this country of hard-fact nature with control groups and so on. Major amounts of money have been given out in this country. Wisconsin is a prime example. We are starting in a week or so the first major research project with LEAA funding in that State. Other States are the same way—they're just starting—awful late.

A lot of moneys have been spent, but no research to really know what we are doing. As far as long-range planning is concerned I can cite Maryland, Florida, Michigan, Kansas, Virginia; five States where we have been involved. Really, the only five States I know of that have had comprehensive long-range master plans developed which had outside professional involvement.

Sure, every State has to have a 5-year plan, but they are not comprehensive. They are not really detailed. They don't involve subjects in the system as Mr. Keller talked about, and we have seen a million dollars poured down one vocational training program and nobody ever asked the blacks whether they wanted to go into the tailoring business. They have since closed that business. Why? The black said, "This is a woman's job." And if you studied black culture this is true—this is the way they feel. So you have to involve subjects in the business.

As far as staff training is concerned we are very happy to say Minnesota and Washington State are spending at least 10 percent of their budgets on staff training. Over a million dollars in Minnesota, and yet in some States, Maryland, where we made a long-range study, $70,000 was being spent on training, for comparable budget, comparable staff, $70,000 versus a million dollars.

The last item, and then I will be glad to open up to any questions. We have got to involve the subjects in the system a lot more. I have been involved in about 500 studies of institutions and programs since 1955, and never once have I seen youngsters or adults lie on a pattern basis. I will say for the record here, having been in the survey business since 1955, inmates have been more truthful than staff as to how the programs are from the standpoint of caliber, qualitatively and quantitatively.

Mr. LYNCH. Mr. Rowan, I was remiss in not asking you to do this earlier. Would you very briefly describe what the John Howard Association is, how it got into the corrections business?

Mr. ROWAN. Thank you very much.

John Howard Association was founded in this country in 1901, patterned after the English John Howard Society in 1726, extended into Canada, the British Empire, and so on. We spent our first 50 years studying prisons and jails, trying to upgrade them, found out it was a pretty fruitless job.

You have to get started earlier, so most of our work is concentrated in the juvenile field, including prevention, upgrading the educational system, and getting started earlier in the community.

Mr. LYNCH. Under the former office of juvenile delinquency and youth development in the Department of Health, Education, and Welfare, moneys were made available for juvenile justice planning. Can you give us your judgment as to how effective those plans were and could you tell us whether or not they have been implemented on a nationwide basis?

Mr. ROWAN. Unfortunately, most of these have been in-house plans, and with in-house plans you can develop good results; but, also, they are mainly operational in nature, not involving strategic and tactical versus planning.

Mr. LYNCH. What do you mean by "in-house plans"?

Mr. ROWAN. Developed primarily by top administration in these various programs. And I say to you an outside consultant, including our agency, cannot go into a State and develop a long-range plan and hand it to you on a silver platter. There has got to be a combination of both the inside and outside. Like Maryland, we helped train the top 21 staffs for 25 hours on long-range planning. We believe in talking ourselves out of business by training the staff in these States to do long-range planning, to keep the plan current, so they don't have to call us back in.

Mr. LYNCH. Have you had an occasion, has John Howard Association had occasion to examine the State law enforcement plans, which, as you know, are required under LEAA for Federal moneys? Have you done a survey of the plans of all of these 35 States and jurisdictions?

Mr. ROWAN. No, we haven't. We have worked in various States: Michigan, Florida, Kentucky, Wisconsin, and Illinois. Those are basically the States we worked in the last several years.

Mr. LYNCH. When you indicated there were five States you knew of, you did not mean to indicate that that was the result of comprehensive surveys that you had done?

Mr. ROWAN. No; but from discussions with other national agencies, those are about the only five that are in existence as far as we know.

Mr. LYNCH. I would commend to you the State plan from New Hampshire, Mr. Rowan, which is very long range and very involved with juvenile programs.

What, in your judgment, is the state of juvenile corrections on a nationwide basis? We heard some remarkable programs yesterday from Massachusetts, today from Florida. Are these people on the frontier or is this a common thing across the country? What is the national status?

Mr. Rowan. Probationwise, as I mentioned earlier, adult probation is better than juvenile probation nationally in most States, quality and quantity. As far as other programs are concerned, basically, as I testified before other committees earlier in my life, we have had more brutality in juvenile institutions than adult institutions and it is probably true today.

Mr. Lynch. The question really was. Are we to regard the programs we have heard described from Massachusetts and Florida as at the forefront of the juvenile correction field? Are they leaders?

Mr. Rowan. Yes, definitely. Those five or six States that have been mentioned, are.

Mr. Lynch. You mentioned, I think you said 16 States had statewide juvenile probation systems. Why is it desirable to have a State system?

Mr. Rowan. It is easier to develop corrections in one system than 102 counties like Illinois, or 70-some in Virginia, and 67 or 66 in Florida. Continuity, coordination, developing minimum standards, staff training, recruitment, and keeping politics out of the system. Those are the major reasons why local systems are not developed.

Mr. Lynch. It goes to an issue of quality as well as efficiency?

Mr. Rowan. Right, both.

Mr. Lynch. Your association, I believe, has been doing an evaluation of programs in Florida. Is that correct?

Mr. Rowan. Yes; we have.

Mr. Lynch. What programs have you looked at in Florida?

Mr. Rowan. We made a statewide study and rendered the report on the 15th of February regarding juvenile detention and related programs. Earlier, our first study was for the House committee on criminal justice regarding the adult area, and that study compelled us to go back to the House committee and say, "If we are going to study the adult area, we feel we had better study the juvenile area," which we did, and that is when juvenile probation and intake became State functions. That was our No. 1 recommendation.

Chairman Pepper. House of Representatives of the Congress?

Mr. Rowan. House committee on criminal justice in Florida.

Mr. Lynch. What were the salient findings and recommendations in that study? If you could, relate them to us.

Mr. Rowan. The No. 1 study was that if prisons were to be stopped from the standpoint of admissions, you would have to start back in the juvenile area. While we were hired to make a study of the prison and probation and parole situation adultwise in Florida, in 1971, after the riot at Raiford, after a month and a half of study, we said we should concentrate on the juvenile area.

Chairman Pepper. Mr. Rowan, I am sorry, we have to take a 10-minute recess to go over and vote.

[A brief recess was taken.]

Chairman Pepper. The committee will come to order. Please proceed, Mr. Lynch.

Mr. Lynch. Mr. Rowan, before the recess, we were discussing the state of corrections on a national basis. I wonder if you could summarize that testimony for us in regard to what level of progress is being made in the several States in improving the juvenile correctional system. Do we have a reason to hope?

Mr. Rowan. Basically, in response to your question, the answer is "Yes"; the States that have been represented here, in Florida and Minnesota. We have talked about developments in Washington State, California, and Massachusetts. These are the cream of the crop, so to speak. This is not the picture throughout the country. And in many areas we have adult corrections which are far better than juvenile. Probation is the main one.

Institutions alike, as far as the lack of brutality. So in the juvenile field, they stuck to tradition to such a great extent; namely, institutions, institution, institutions; but I was happy to hear the tenor of discussions here today. A small percentage of the youngsters ever need be cared for in institutions. And even the worst ones, as we saw in that offender project involving 18 youths in Minnesota, do a lot better in the community.

Mr. Lynch. Is that the view of the John Howard Association, that that is a correct posture, that only a very small percentage of juveniles need to be incarcerated?

Mr. Rowan. Juveniles and adults both. Only a small percentage. I forgot to mention, Michigan, where we are involved in an overall master plan study for the legislature there. We are very happy to say, like in Pontiac and Ann Arbor, less than 10 percent of the kids are kept in juvenile detention pending a court hearing. Less than one-half of 1 percent of the kids are committed to State institutions, and that is the lowest we have run across in the country.

Chairman Pepper. Where is that?

Mr. Rowan. Michigan. Michigan has got some very good pockets, metro-urban communities, where they are using diversion to a great extent, more than any I have ever seen in the 18 years I have been in the survey business. One-half of 1 percent of the kids arrested get committed to State institutions. Less than 10 percent of them are detained, pending disposition by the court. Most places will run 20, 30, 40 percent.

Mr. Lynch. But it is your testimony that is not the case in the majority of the States?

Mr. Rowan. No. Kids are kept in jails in the majority of the States. The high rate of detention which will run 20 to 40 percent in most places I have studied since 1955. Probation, 90–95 percent of the use of the probation is the one-to-one counseling approach that merits about 10 to 20 minutes a month per kid, instead of 20 hours a month through the group process, group counseling, like goes on in Florida and Minnesota. There are only a handful of States that are using that approach.

So in the juvenile field, they just really have gotten going with these concepts that have been discussed here today.

Mr. Lynch. Based on your experience as a professional in the correctional field, and your many years of doing surveys, would it be your judgment that in the larger number of cases that incarceration is harmful rather than helpful for juveniles?

Mr. Rowan. Absolutely. The kids come out worse than they went in. They are criminalized.

Mr. Lynch. Can you venture, Mr. Rowan, an opinion—it seems to me this is a commonly held view in the correctional world now, that

perhaps a small body of professionals who work in this field generally agree on this issue—as to why it is that the States are not moving in this direction? Why do we still have juvenile prisons, as it were?

Mr. Rowan. Public attitudes prevail, right or wrong, and the greatest single need in this entire field of delinquency and crime handling is for better informed and involved public, which will then support sound policies and provide the tools to do the job properly.

Four out of five administrators in our business do not tell their story to the public about the good things as well as the bad. This is a major problem in this country. Corrections is 15 to 20 years behind mental health as far as public understanding is concerned. That is why I am very happy to see the committee doing what it is doing and getting the word out to the public.

Mr. Lynch. Who should bring to the public the knowledge that you have been discussing, Mr. Rowan; whose function is that?

Mr. Rowan. Correctional administrators need training very badly in public and citizen involvement, informing and educating the public, both the problems and needs, as well as the positive aspects of their programs. Through the LEAA programs it has been recommended by our agency that no grants be given unless representative citizen advisory committees work with them on the State as well as the local basis. But they really exist symbolically only, not real involvement by agriculture, business, industry, labor, laws, and news media. So it is a combination that is necessary.

LEAA, I think, needs to take more leadership and have some requirements with grants. No major grants without research components being built in. No major grants without a strong representative citizen advisory committee being built into the project.

Mr. Lynch. You would strongly advocate that juvenile justice programs, I take it, be designed with the assistance of, in fact, juvenile delinquents?

Mr. Rowan. Absolutely. Again, no long-range or short-range planning should be carried out without full involvement of the subjects.

Mr. Lynch. Mr. Rowan, we had a very thoughtful and articulate young policeman from Kansas City the other day, who in response to a question told us that the problem as he saw it was not one of solutions, it was one, in fact, of understanding what the problems were. Do we understand what the problems are in juvenile corrections?

Mr. Rowan. Not very well from the standpoint that I mentioned earlier. I only know five States, and you mentioned New Hampshire as the sixth State, with real in-depth, comprehensive, long-range planning. In order to have that you have to start with a determination of missions and goals. Most planning starts with operational planning, budgets, year-to-year.

So determining mission and goals first, which is strategic planning, tactical planning, which means determining objectives and then you determine programs to implement objectives and goals. Basically, we don't have that except in a handful of States. We don't know, really, what the goals and objectives should be.

Mr. Lynch. There are juvenile justice or juvenile help programs in a myriad of Federal agencies. Do you think that the Federal Government has fulfilled its responsibility to provide guidelines and goals, priorities, in the juvenile justice system?

Mr. Rowan. I feel that the same lack has existed in the Safe States Street Act as in the OEO. There weren't enough long-range planners around with any background in this business. We sort of trained them in our field—not in colleges and universities. It has only been within the last year or so I have really seen more emphasis on the long-range planning, and encouragement to States to get in independent bodies to do this on a teamwork basis, involving subjects in the system, involving staff, and not just administrators.

Mr. Lynch. Thank you, Mr. Rowan.

I have no further questions, Mr. Chairman.

Chairman Pepper. Mr. McDonald, do you have any questions?

Mr. McDonald. Thank you, Mr. Chairman. I have just one question for Mr. Rowan.

As you know, this week we are emphasizing the positive programs throughout the country, what is being done, what innovative programs are being implemented throughout the country. From your position with the John Howard Association, you have an overview. Can you give the committee an idea of what States would benefit most by reading the testimony being heard in these hearings?

In other words, what States are far behind? Can you elaborate on that, if you would.

Mr. Rowan. Yes. If you obtain from the National Education Association their study, which I think is 1970, of the number of ninth graders who eventually graduate from high school and start from the bottom and work out, that will be a pretty good correlation with developments that we have in the juvenile correction field.

Minnesota, which was represented here today, has the highest number of youngsters that graduate from high school and the lowest number of dropouts. Iowa ranks second, California ranks third. California is the largest State with the lowest number of dropouts. They really pump moneys into the educational system there.

Illinois, Michigan, Florida, Maryland, where we have worked, are down the list too far. And not to pick out regions, but you will find a concentration of the power States, the Southern States, with very high dropout rates: a low rate as far as completion of high school. Unfortunately, many kids that don't finish high school end up in reform schools, training schools—a better name, they are still reform schools. Many of them end up in prisons after that.

Mr. McDonald. What is the status in those Southern States and perhaps Texas? What is the status of juvenile correctional institutions?

Mr. Rowan. In Texas, 254 counties, each operate their own probation department. Basically, there is no State juvenile probation system. The high rate of commitment is to the Gatesville Boys' School, which is made up of about eight institutions. I had the opportunity of studying it a couple of years ago very briefly. You can go on and on and on, and I would say probably 40 States would fit into this category. Heavy, heavy use of institutions and underdeveloped juvenile probation.

Mr. McDonald. Is there a high incidence of brutality in those States?

Mr. Rowan. Yes, we encountered in this Gatesville Boys' School use of radiator brushes, use of corporal punishment. And I wanted to state earlier, which I think indicates some of the predicaments we are in, if you talk with many professionals, they say you can't believe kids, but I strongly support what Mr. Keller said and I will repeat.

In all of these studies, around 500 studies I have been involved in in institutions and other programs since 1955, I have never yet seen kids lie on a pattern basis. The Federal courts upheld the kids in Indiana on that appeal regarding brutality there. One of the Eastern States, one of the smaller ones, the attorney general's office ran polygraph tests. When we use a lie detector test, inmates and kids will be telling the truth when staff aren't.

Mr. McDonald. What is the problem in those States? Why are they lagging so far behind?

Mr. Rowan. The public demand is for punishment—lock them up, throw the key away. We were beating the people in the mental health business. We beat the devil out of them. It was the way of curing mentally sick people many years ago. Thank God, we have gotten away from that, but we are still doing it in the delinquency field in too many places.

One of our studies—I am not going to mention the State because we haven't verified it—showed they are beating kids in juvenile detention. We exposed this in Chicago in February with our report on Audy Home and our next report, issued soon, we will show that the beating has stopped. We put the spotlight of attention on Audy Home in Chicago, as we did several years ago. They have made improvement there.

Mr. McDonald. Thank you very much.

I have no further questions, Mr. Chairman.

Chairman Pepper. Mr. Mann?

Mr. Mann. No questions.

Chairman Pepper. Mr. Rowan, just a few questions. What would you, if you were a member of this committee, do with your knowledge of the importance of this juvenile problem in the country and its relation to crime? What would you recommend to the Congress and the country that the Federal Government do? And we can also make recommendations as to what the States should do. What sort of recommendation would you make?

Mr. Rowan. None of the Safe Streets moneys should be put into programs which do not have a research component built into them before the grant is given. The research component has got to come in with the grant application.

Secondly, representative citizen advisory committees of at least 15 citizens from a distribution of agriculture, business, industry, labor, law, and news media.

The third factor would be that administrators in this business have got to be trained. They are not doing it anywhere in the country. We are going to start with help from the Johnson Wax Foundation, the first training program in this country for correctional administrators I know of, on citizen involvement and public education. That is going to be a five-State pilot program, at Wing Spread, in Racine, Wis.

We recommended this to LEAA several years ago but they never followed up on it. None of the States I know of have ever trained administrators on public involvement, how to work with the news media, and so on. Until we do that, we are going to be talking to ourselves.

Chairman Pepper. There are no programs now for the training of juvenile administrators?

Mr. Rowan. Not on how to work with the public, how to work with newspapers, how to develop citizen advisory committees. I never got it in school and I don't know of any universities that are training in this area at all. We have public communications schools, sure. We have journalism schools. But they are not training correctional people.

So, in LEAA, the best dollar investment could be to train all of the 50 State administrators in how to work with the public. Do what Mr. Keller is doing. He came from the news media field. He knows.

The legislature—and I saw the legislature in Florida—reacted to his program. They believe him. He knows how to get the story out. He doesn't lie; he tells the bad along with the good; and he doesn't pull any punches. But few administrators, 9 out of 10, don't know how to do this. Even when they have a lot of good things to tell the public they don't go out and tell the public.

Chairman Pepper. Everybody, including the President, the Congress, and the legislators, proclaims they are very much concerned about crime and they want to do something to curb crime. How important in the curbing of crime do you consider this juvenile justice program that we have been talking about?

Mr. Rowan. It is urgent.

The juvenile delinquency and dereliction we have in the country is the most urgent problem. I agree with Mr. Keller, it is the No. 1 public problem, domestically, we have in this country. It is the most urgent because it affects our system of values, it affects our future as far as the adult crime picture is concerned, and the eroding of our value system. So I say it is No. 1 in this country.

Chairman Pepper. Would you include in such a program an effort to try to reduce the number of school dropouts?

Mr. Rowan. Yes. I think that the urgent need is to support the new Standard Juvenile Court Act, which the National Council on Crime and Delinquency will soon issue. There is going to be a lot of opposition to it. Judge Arthur alluded to it today. If that one single act is supported, that could be the greatest stroke for juvenile justice in this country.

Then it would force educational systems—and here again we are talking about the public—to put the spotlight an educational systems, to make them more imaginative. One principal said, "I work with the best and forget the rest." Well, this is what many educators feel. So, along with inadequate home situations has to be placed inadequate educational systems, as Pulitzer Prize Winner Louis Wille from the Chicago Daily News pointed out.

Chairman Pepper. Who will be proposing that act?

Mr. Rowan. The National Council on Crime and Delinquency which is the biggest national standard setting agency in this country, founded in 1906. I worked with them for 7 years. They are one of our competitors.

Chairman Pepper. A private agency?

Mr. Rowan. Private agency. They will be coming out with a Standard New Juvenile Court Act removing truancy from the juvenile court.

Chairman Pepper. When will that act be available?

Mr. Rowan. It is supposed to be 1973, within the next several months.

Chairman PEPPER. We certainly hope to see it as soon as it comes out. I would be very much interested in it.

Mr. ROWAN. Mr. Milton Rector is the executive director.

Chairman PEPPER. He is going to be testifying before this committee on Thursday.

Mr. ROWAN. Excellent.

Chairman PEPPER. So we will be able to get advance information on that from Mr. Rector.

Mr. ROWAN. Right.

Chairman PEPPER. Have you any figures you could give us that show the significance of the necessity of proper treatment of juvenile delinquents or the juvenile perpetrators of crime, to the overall crime problem? Would you say most of the people who are in the penal institutions for adults are people who have juvenile crime experience? How can you relate the one to the other?

Mr. ROWAN. There isn't any hard research to back this up, but from our studies of prisons, where we interviewed prisoners, the majority of people in adult institutions started out as juvenile delinquents. Eighty percent of our crimes are committed by repeaters, and so it is an endless cycle. It goes from dependency and neglect to delinquency, to crime. It is a well-worn path.

Chairman PEPPER. Do we assume from what you said that relatively few people commit most of the crimes?

Mr. ROWAN. Yes; 90 percent of our problems will come from 10 percent of the people, basically.

In the Bradley Buell study many years ago, when you look across, like in St. Paul, Minn., and I forgot where the other cities were, welfare, mental health, corrections, all of the way across, 90 percent of the problems from all of those agencies come from less than 10 percent of the people.

Chairman PEPPER. When I come to fully grasp the significance of it, that, to me, is a fact of enormous importance. It gives us place to concentrate instead of scattering our shots everywhere; if we can just concentrate on that problem of trying to prevent the recidivism we now have it would enormously reduce crime in the country; wouldn't it?

Mr. ROWAN. It would, and I think Milt Rector, when he testifies Thursday, will cite a study in Michigan—I haven't read it yet—but kids that are not brought into the juvenile justice system, even though they commit a delinquent act, were found by, I think, professors at the University of Michigan in a research project, to be better off than kids that were brought in the system. So getting caught is the first start of difficulty with many kids. They are brought into a system by well-intentioned people and they end up in prison, eventually.

We talk—and it is a paradox—about developing services for early detention, early referral, early diagnosis, early treatment. Yes and no, we have to evaluate it. In this country, according to the latest statistics, 45 percent of the kids nationally reported to HEW from the 50 States are still handled formally by judges. Our feeling, our agency recommends, at least 75 percent of the kids that come into intake, referred by the police, never need to go to the judge.

I was glad to hear Judge Arthur today say he feels as many kids as possible should not come into the juvenile court. Now, he has changed

his mind more toward my thinking in the last 5 years, since I haven't seen him that long.

Chairman PEPPER. How do we get them into the youth services authority without them going through the court?

Mr. ROWAN. Well, what is happening in Florida today, is Mr. Keller's staff interviews the youngster right away and talks with him and they see if they can give him help without formally going through the court system. So in Florida they are screening about two-thirds of the kids.

Chairman PEPPER. How do they know of the arrest of the child?

Mr. ROWAN. The police will arrest them and bring them down to the detention home and intake staff will interview them and the intake staff will screen them out and the judge will only see those that end up down here after the funneling process.

Chairman PEPPER. But does the judge refer them to the youth services administration?

Mr. ROWAN. The judge doesn't get at them until later. In other words, the police arrest them tonight; they are taken to the detention home; they are screened within 24 hours by the intake staff in Florida, which is the only State I know that has it statewide; and if that youngster is referred to a private agency or goes back to school, the intake staff may make some contact with the family. The judge never sees them. The judge has no involvement.

Chairman PEPPER. What is the authority of the youth services administration to do that?

Mr. ROWAN. The State law. The State laws allow this in most States. The legislature has passed the laws in Florida and other States saying that cases can be diverted at intake without going formally into the court. So 55 percent are handled this way nationally now.

Chairman PEPPER. By the way, what is the nature of the institution for youth at Marianna, Fla.? That used to be the main home for youth care? What sort of institution is it now?

Mr. ROWAN. It is a big institution, but you would have to really go there to see and feel this climate of the guided group interaction program.

Chairman PEPPER. Are they required to stay there by force?

Mr. ROWAN. Yes. It is an open institution, but the interesting thing is when we were in Florida this summer they went for several weeks with zero runaways from most institutions.

Chairman PEPPER. It is not a security institution now?

Mr. ROWAN. It is still the institution as before, but no kids are running away from it.

Chairman PEPPER. But they are not locked in? They are not confined now?

Mr. ROWAN. As you develop the guided group interaction program, doors are unlocked as they were at Red Wing. In other words, better staff and that group counseling, the peer pressures, take the place of the locks and the keys.

Chairman PEPPER. That is very good. I am pleased to hear that.

Mr. ROWAN. That is the same thing that happened in St. Louis under the home detention program that I mentioned earlier, which may have been lost in the discussion. But 10 kids escaped from the security

detention home with the lock and key, while of 308 kids out in the community not one ran away.

Chairman PEPPER. You said you need training programs for youth services administrators in certain areas. Do we need training programs for juvenile judges in the country?

Mr. ROWAN. Yes. Judge Arthur couldn't speak as frankly as I can. He is the president of the National Council of Juvenile Court Judges and one of the best in the business. What he was saying does not contradict what I say. They are woefully inadequate. The training is direly needed for juvenile court judges throughout the country. Nobody wants to be a juvenile court judge.

I am overemphasizing to get across the point. But judges rotate on the juvenile bench. They don't rotate other places. Nobody wants to be a juvenile court judge, and I say that from years of experience in the business and talking with juvenile court judges.

It is too hard on them. The Saturday Evening Post, about 15 years ago, ran a special article on "Why Judges Don't Sleep." But if they had training they could sleep better.

Chairman PEPPER. In Florida, we just have two kinds of courts for the trial of cases. One is the county court and the other is the circuit court, which is a court of general jurisdiction.

Mr. ROWAN. Yes.

Chairman PEPPER. For the major civil and major criminal cases. So the county judges perform juvenile judge functions. They have to be lawyers and qualified as judges. And the circuit judges may also dispense that sort of justice.

We do have a training program for circuit judges, trial judges, in New Mexico, I believe it is. So we ought to have training programs for juvenile judges.

Mr. ROWAN. Very much so. It is direly needed. There is training in other areas, but in the juvenile court area, not much. Maryland just formed a juvenile court judges association on our recommendation. That was one of our recommendations and they organized that in December or January.

Chairman PEPPER. The last question is. What in your opinion would be desirable for the Federal Government to do in respect to the provisions of funds? You say that will be set out in the bill that is coming from the National Council of Juvenile Delinquency and Crime?

Mr. ROWAN. Yes.

Chairman PEPPER. If you didn't hear it, you heard some of us say that Dr. Miller yesterday spoke about using the $2 million LEAA grant to get the new system inaugurated in Massachusetts. Other witnesses have indicated the States would need some empirical help from the Federal Government to transform the system from the old to the new.

Would you recommend Federal financing as highly necessary or desirable?

Mr. ROWAN. The National Council on Crime and Delinquency and our organization both support the concept for the time being, until community-based programs are developed, that no more moneys be put into new institutions, adult or juvenile. Sure, we have some terrible institutions throughout the country, but much more terrible community-based programs or not at all. So I support the same approach

that the National Council does, that LEAA moneys for the next several years should not go into bricks and mortar.

Chairman PEPPER. But you don't apply that prohibition to programs such as Mr. Keller described?

Mr. ROWAN. right.

Chairman PEPPER. Essentially, as they have in Massachusetts?

Mr. ROWAN. Staff and institutions, yes, and moneys in community-based programs; but no bricks and mortar moneys for the next 5 years. It will take at least that long to develop programs in institutions, which will mean staff and then community-based programs.

Chairman PEPPER. The prohibition of any funds, State or Federal, to build any huge State incarceration institutions, such as the things we have at Attica, and Raiford, Fla. I said publicly the best thing that could happen to those institutions would be to burn down.

Mr. ROWAN. Right. Bulldozed.

Chairman PEPPER. Bulldoze them so we can start anew. I wonder if it wouldn't be desirable for the Federal Government to propose to States that they would pay half of the cost of building these small institutions—I am talking about for adults now, the ones that need to be incarcerated in the security institution—not to exceed 300 population; and put them in the cities where the inmates come from, so they can see their families there and get jobs there when they become eligible for employment and the like.

Would you say that is desirable from the viewpoint of adult institutions?

Mr. ROWAN. Yes. The Federal Government can best help from the standpoint of setting standards and guides, and providing special services which States cannot provide. That is the major role the Federal Government should be doing. And here, again, we and the National Council agree that the Federal Bureau of Prisons really should get out of the prison-building business.

I know I will inherit some more enemies from this discussion, but the Federal Government, we feel—and by "we," I mean the National Council on Crime and Delinquency, Mr. Rector can speak for himself—oppose the development of the Federal Detention Center in Chicago; also Miami, they are going to build one; New York, also.

We feel the Federal Government can best use its money in local facilities and get out of the business of building Federal prisons in places like California, where they have closed six institutions or parts of them, and yet the Federal Government is building Federal prisons out there.

Chairman PEPPER. Do you recommend the Federal Government use the local facilities?

Mr. ROWAN. Right. Definitely. I think the Federal Bureau of Prisons should get out of the prison-building-and-management business and lend support from the standpoint of standards and practices and guidelines and all the rest along that line—none for mortar and brick.

Chairman PEPPER. And the Federal Government would pay the local authorities for the handling of their personnel?

Mr. ROWAN. Right. It would be a lot better. I know their argument Norman Carlson spoke before the board of directors and wanted to rebut the director of N.C.C.D., who spoke earlier and said the State

programs don't meet standards; we don't want to put Federal prisoners in them. That is the chicken and the egg argument. The Federal Government can put money in the programs and develop them so they will be good enough for all prisoners. State as well as Federal.

Chairman PEPPER. That is a good idea. It is a good way to induce the Federal Government to do it. It certainly is.

Mr. ROWAN. The same with juveniles. The Federal Government doesn't prosecute many juveniles because they don't want to get into that type of institutional program. They can do the same for adults, get out of that area.

Chairman PEPPER. Mr. Rowan, we may be calling on you to help us with our report.

Mr. ROWAN. We would be very happy. I feel there would be no better time that I can spend than in that area.

Chairman PEPPER. We certainly thank you for the contribution you made here today.

The committee will adjourn until 10 o'clock tomorrow morning.

Mr. ROWAN. Thank you.

[Whereupon, at 5:40 p.m., the committee adjourned, to reconvene at 10 a.m., on Wednesday, April 18, 1973.]

STREET CRIME IN AMERICA

(Corrections Approaches)

WEDNESDAY, APRIL 18, 1973

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON CRIME,
Washington, D.C.

The committee met, pursuant to notice, at 10:10 a.m., in room 311, Cannon House Office Building, the Honorable Claude Pepper (chairman) presiding.

Present: Representatives Pepper, Rangel, Wiggins, Winn, and Sandman.

Also present: Chris Nolde, chief counsel; Richard Lynch, deputy chief counsel; James McDonald, assistant counsel; and Leroy Bedell, hearing officer.

Chairman PEPPER. The committee will come to order, please.

We would appreciate it if the witness, Dr. Sarri, will come forward.

Mr. Lynch, will you proceed, please.

Mr. LYNCH. Yes. Thank you, Mr. Chairman.

Mr. Chairman, Dr. Sarri, with the University of Michigan, is the codirector of a project called "National Assessment of Juvenile Corrections." She also teaches in the School of Social Work at the University of Michigan, and holds a Ph. D. in sociology. Paul Isenstadt, who is accompanying her this morning, is the senior field director for the National Assessment of Juvenile Corrections at the University of Michigan.

Chairman PEPPER. Thank you. You may proceed.

STATEMENT OF DR. ROSEMARY SARRI, CODIRECTOR, NATIONAL ASSESSMENT OF JUVENILE CORRECTIONS, UNIVERSITY OF MICHIGAN, ANN ARBOR, MICH., ACCOMPANIED BY PAUL ISENSTADT, SENIOR FIELD DIRECTOR

It is obvious to nearly everyone that the juvenile justice system is falling short of its dual objections: Serving the best interests of individual youth while contributing to public safety by controlling and reducing youthful crime. The reports about substantial increases in crime among juveniles has resulted in mounting pressures on law enforcement, judicial, and correctional personnel to do something about adolescent lawbreakers. Just what the public wants done, however, is not clear for two contradictory demands are heard. On the one hand, those who officially deal with delinquents—police, juvenile court judges, probation and parole workers, and correctional officers—

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are told to get tough, to remove law violators from the community, and to punish in order to teach wayward youth a lesson, and to deter potential violators from committing delinquent acts. Simultaneously, they are also told to reform the delinquent, to treat him with humaneness, fairness, and justice, and to remove him from the community only as a last resort. Because the punishment message from the public has been stronger than rehabilitation message, and partly because juvenile courts have punished while intending to reform, official responses to delinquency most often have resulted in stigmatization, locking-out, punitive coercion, and education in crime. Instead the emphasis must be on increased opportunity for legitimate success, development of personal resources and the inculcation of pro-legal identifications, images, and associations. The most visible manifestation of such patterns is institutionalization of a juvenile in a public training school, often by means of questionable legal or quasi-legal procedures and often for acts that would not be violations of the law if they had been committed by an adult.

It is frequently asserted that children are the most valuable resource of this society, but with millions processed through the juvenile justice system in ways which inhibit their ability to function effectively in the society, one inevitably questions how this resource is treated. Necessary as the efforts are to strengthen and broaden law enforcement, drastic improvements are needed in education, employment, housing, race relations, and opportunities for youth to participate meaningfully in the society if we are to ameliorate the conditions that generate pressures toward crime. Apprehension and physical removal of the lawbreaker from the community may eliminate his or her ability to commit crimes, but these efforts are not likely to have any permanent positive impact unless societal conditions associated with crime are modified. The policy implication is that prevention of delinquency or criminal behavior must be the primary target for change. Until now we have focussed almost all effort on delinquents who are already apprehended and processed through the system, while recognizing that they commit only a small proportion of the total amount of juvenile crime.

The winds of change, however, are apparent in juvenile corrections due to the convergence of several factors: Discontent among juvenile correctional personnel with the relative ineffectiveness of their efforts thus far; advancements in knowledge about new approaches to correctional rehabilitation; high and rapidly increasing costs of incarcerating—public institutional care as high as $36,000 per child per year in some States—and last but not least, more widespread concern about justice, due process, and protection of the rights of juveniles in the justice system processing. One of the significant constraints on innovation and change is the lack of readily available knowledge about the operations of the system as well as a lack of systematic and ongoing research evaluation of programs.

The national assessment of juvenile corrections is a research effort supported by a grant from the National Institute of Law Enforcement and Criminal Justice of the Law Enforcement Assistance Administration. Its objective is to complete a systematic assessment of existing organizational patterns and service delivery, of legal provisions, of alternative programs, and of general offender career patterns. As policy-related research it aims to point out contradictory values and to

increase public awareness that attempts to pursue rehabilitative and punishment goals simultaneously often become self-defeating. Within this context, the project is attempting to identify the range and variety of policies and programs, their relative effectiveness, and how specific, more effective changes can be brought about. The principal policy issues related to dispositional alternatives that are being studied include:

1. What are the relative merits of different traditional and innovative correctional programs for (a) developing positive change in juveniles during their participation in the program, (b) protecting the community in the short run, (c) providing humane living conditions, and (d) enhancing subsequent nonviolative behavior in the community.

2. Under what conditions—type of offense, characteristics of offender, type of community, type of State—should different dispositional alternatives be employed?

3. What kinds of results can be expected from varying levels of expenditure among alternative programs?

To formulate a better defined basis for categorization and study, we have developed a typology of the major functions performed by different agencies within juvenile justice systems—a typology that can be substantiated or modified by empirical observations. Organizations are distinguished in terms of their primary functions: Prevention and social control, for example, youth service bureaus and community diversion units; identifying and nominating youth as offenders, for example, police and school referral units; processing and referring offenders, for example, court intake, diagnostic services; adjudicating offenders, for example, juvenile courts; containing and controlling offenders, for example, detention facilities, jails, custodial institutions, some probation and parole services; treating offenders, for example, some probation services, community-based programs, some rehabilitative institutions; and, reentry for offenders, for example, some parole services, work release, job placement, some ex-offender organizations. This typology facilitates differentiation between units having the same general labels, but who may employ contrasting technologies or whose intended purposes are clearly different.

TRENDS IN JUVENILE CORRECTIONS: STATUTORY CHANGE

The first trend that we wish to call to your attention today is of particular interest to legislators—that is, State statutes which govern the processing of juveniles into, through, and out of the juvenile justice system. One of the first activities undertaken when the national assessment of juvenile corrections began was an investigation of juvenile law in the 50 States and District of Columbia as it pertained to the definition, processing, disposition, and rehabilitation of juveniles. We needed to be better informed about juvenile statutory provisions governing courts and correctional units in order to design methodologies, procedures, and instruments for the assessment of service units in the various States. A second reason for the study was to determine the extent to which statutes changed in response to the requirements formulated by the Supreme Court in the *Gault* decision of 1967. We learned that between 1968 and 1972 a total of 33 States made major changes in the juvenile codes; many of these changes pertained to due process provisions to court structures and to age definitions.

The juvenile court was created primarily to serve the interests of the child by invoking protective power of the State and by providing treatment and rehabilitation rather than punishment. In theory, the juvenile court was to intervene for rehabilitative rather than punitive purposes, to avoid stigmatizing labels, and to seek to treat each child in an individually helpful way. We surveyed the statutes to determine the extent to which they actually reflect this societal mandate for without it one could not expect consistency in the types of programs provided and in the processing procedures. Our findings from examination of statutes of the 50 States and the District of Columbia indicate that there is great variation among the States in most of the major dimensions that we studied: jurisdiction of the juvenile court, definitions of delinquency, prescribed and proscribed procedures for legal processing of juveniles from initial arraignment through post-dispositional decisions; court structure and staffing; detention; specification of offenders' rights and due process provisions; disposition alternatives, and the limits of discretion. These variations extend within the States in several instances where there are variable provisions and structures in different counties.

Decisions of the U.S. Supreme Court have left to the States to decide the crucial question of who is a child and therefore who can be denied full constitutional protections and who cannot. It is not surprising that federalism has produced dramatic differences. Here we can only discuss a few of these differences. For example, which children will be processed in the juvenile court and which will go through the criminal system as adults is basically the function of three statutory variables: age, seriousness of offense, and grounds for transfer to the criminal system. In 34 States and the District of Columbia the maximum age for children is 17; in 10 States it is 16, and in the remaining 6 it is 15 years. But age is only one aspect of the definition. Some States retain sex differences even though they are now of questionable legality; others have complex and elaborate stipulations governing transfer procedures; others exclude certain serious offenses from the court's jurisdiction. Very few States have clear and unambiguous provisions necessary for the effective administration of justice in courts which are overwhelmed by large numbers of referrals and limited staff resources.

Another area that highlights some of the problems in juvenile statutes in the States today are the provisions governing the detention of youth. Most statutes recommend against placement of juveniles in jail, but in only five States is there an airtight prohibition. The kind of facility in which a juvenile is detained is determined, in large part, by State statutes, so if the State places strict prohibitions on the placement of juveniles in jails or lockups, counties will be forced to provide alternative detention facilities or not detain children at all.

The majority of States have statutes that permit the detention and/or jailing of juveniles although they recommend against overuse of such provision. Because of the loopholes and broad provisions, it is not surprising that nearly half a million children are held in detention within a year in the United States and more than 100,000 spend time in jail. In fact, in a number of States children may even be sentenced to jail as a disposition. Few juvenile codes contain provisions guaranteeing that a detention hearing must be held within a specified period of time after detention or that probable cause or likelihood of court appearance are to be the primary factors in determining whether

or not a juvenile is held. Thus, it is not surprising that in many States research has shown that status offenders, especially females, are detained more often and for a longer period of time than are males or juveniles who are charged with property offenses or crimes against persons. Obviously, if justice is to be administered equitably and under conditions where accountability is to be maintained, statutes must be more explicit and delimited in the discretion that is permitted.

Perhaps the juvenile code provisions that result in the greatest miscarriage of justice are those which define the areas of behavior that the juvenile court may regulate. All 51 jurisdictions bring into the purview of the court conduct which, if engaged in by an adult, would bring legal action. But, in addition, all the States also permit the court to intervene with behavior that is not illegal for adults—i.e., truancy, incorrigibility, running away, immorality, disobedience, promiscuity, or even just "idling." While all States have status offenses, as these latter behaviors are usually termed, there is considerable variation as to how they are treated legally. Recently, many States have adopted special legislation governing the processing of these "children in need of supervision" (CINS). Twenty-six States now have special categories for these juveniles, many of which require that they be referred for service outside the juvenile justice system—i.e., the State social services department. It is debatable, however, whether these provisions are sufficient to divert youth from the system for there is often some way of transforming them from a status offender to a delinquent after the second or third misbehavior. In one State with a separate category for status offender, 80 percent of the institutionalized girls were truants, runaways, or ungovernables. In another nearly 70 percent of all institutionalized girls were status offenders. Furthermore, it was not unusual to observe that females had longer periods of institutionalization than male juveniles who had committed more serious offenses

In 41 jurisdictions there is no requirement that there be separation of dependent and neglected children from delinquent children in the detention facility. At disposition 17 States allow delinquents and dependent and neglected children to be housed together. Because of vague provisions in the definition of who is a delinquent and governing the separation (of delinquents) from other children with social problems such as dependency and neglect, it is not surprising that they are found together not only in detention facilities and jails but also in private institutions and training schools. In several States large numbers of mentally retarded children were observed in the same institution with delinquent youth, with little or no variation in their program experience.

The most glaring feature of the juvenile codes is their ambiguity and deliberate grants of unlimited discretion. This permits gross inconsistency in the administration of justice. Although well-drawn statutes cannot insure the appropriate processing of juveniles in the justice system, it is unlikely that improper practices will be eliminated on a consistent basis without explicit statutory requirements. Many of the definitions and provisions contained in the recently introduced S. 821, the Juvenile Justice and Delinquency Prevention Act of 1972, are of the order of specificity to constrain inconsistent practices and the overuse of criminal sanctions.

Overreach of the law and overuse of criminal sanctions continue in many States despite their relative ineffectiveness in achieving the goals desired and in spite of the fact that they tend to have negative sec-

ondary and tertiary consequences. Many years ago, Roscoe Pound expressed grave reservations over the extent to which the education, health, and morals of youth have come under the jurisdiction of the juvenile court. When these problems are written into statutes as a basis for State intervention, parents, neighbors, schools, and social agencies are encouraged to avoid or refer their problems rather than to try to solve them.

Many students of juvenile justice have also recommended decriminalization not only of status offenses, but also of victimless crimes. In few States, however, have we observed any concerted drive in this direction for juveniles. In fact, there is some evidence that far more is being accomplished in decriminalization of behavior for adults than juveniles when a convincing argument could be made that decriminalization is even more urgently needed for juveniles. The objective of the system must be to minimize negative labeling, overuse of criminal sanctions, and intensification of State intervention.

INSTITUTIONALIZATION

A second trend, which is readily observed in some States and frequently discussed in most, is the reduction in institutional commitment, particularly commitment to public State facilities. Our research is concentrated on 16 States which were selected probabilistically, taking into consideration changes in admissions to State institutions in 1966 and 1971, along with several other factors. Admission rates were selected as criteria because we assumed that they provided the best indicators of statewide practices. Moreover, changes in these rates encourage attention to questions of diversion from the justice system and alternatives to incarceration.

It is generally thought that there has been in recent years and continues to be a substantial reduction in the institutionalization of juveniles. Fortunately, data about admissions to State institutions were available from the U.S. Children's Bureau for 1966 and from a LEAA-sponsored study for 1971. Admission rates were obtained by computing the numbers of admissions as a proportion of the juvenile population 5 to 17 years in each State. Findings from this analysis revealed marked variations among the States. The total number of admissions in 1966 varied from 9,158 youth in one State to 60 in another State. By 1971 that State with the largest number of admissions had dropped to 8,751, and the State with the lowest number admitted 50 youth. When rates (per 10,000 youths 5 to 17 years of age) were calculated, we observed a variation for 1966 between 2.71 and 30.90 in the lowest and highest States. The corresponding statistics for 1971 were 2.45 and 39.66. Thus, the lower end showed relative stability, but there was a substantial increase in admissions in the highest rate State.

States were then arrayed to ascertain the national pattern and difference scores were calculated. Rate changes in admission were found to vary from an increase of 15.96 to a decrease of 12.14 per 10,000 youth in the highest and lowest States. These rate changes indicated the direction and velocity of change in the 5-year period. In ranking the States to determine increasing or decreasing rates of admission to State institutions, certain arbitrary points were established since we wished to differentiate those States which were relatively stable with respect to admission. Thus, those which had rate change from +1.5 to —1.5 were considered "neutral" or stable, while those with

positive change (greater than +1.5) were increasing and those with negative change (below −1.5) were considered as decreasing in admissions. The final ranking indicated that 15 States had increasing rates of admissions; 15 States remained the same; and 20 States had decreasing rates of admissions to State institutions. Thus, the national picture is one of decreasing institutionalization, but the change is neither radical nor precipitous. Our field observations indicate that there continues to be a reduction in admissions in many States, but others are reporting increases, so it is probable that the pattern would be essentially the same if it were duplicated today.

It must be emphasized that these changes in admission patterns apply only to public State institutions. There is widespread use of local public institutions and of private institutions, so we cannot state for certain that there has been a reduction in the total amount of institutionalization of juveniles. The patterns suggest that there is a shift to the use of local facilities that permit families to remain in closer contact with their children and make it possible for the program to be more closely related to the culture and interests of the youth who are served in such agencies. Large congregate facilities in rural areas far from the homes of most of the institution's juveniles increasingly are being eliminated as dysfunctional for the rehabilitation of urban youth.

DIVERSION

A third trend, which we have observed in all regions of the country, is an increase in programing directed toward diversion from the juvenile justice system or "minimization of penetration" into the juvenile's life. Such efforts to direct youth from the criminal justice system reflect growing recognition that stringent intervention into the lives of youth will only stigmatize and further entangle them into deviant identities and associations. In several States that have agencies with broad mandates to deal with social control of juveniles the following tripartite plans have been designed: (1) Delinquency prevention programs aimed at the entire risk-prone adolescent population; (2) diversion services for predelinquent youth and status offenders; and (3) rehabilitation programs for those adjudicated for law violations.

We have just completed some research that examined diversionary effort after initial court contact and prior to adjudication. We recognized that the bulk of diversion has been and will continue to be by police because they select out for further processing only a small proportion of the juveniles with whom they have contact. Their utilization of counseling, informal recording of juvenile contacts, direct intervention with families, and ignoring of incidents results in the identification only a small proportion of juveniles for any further intervention.

Our examination of diversion activity began at the point of court contact because that is a crucial threshold with long-term consequences. Two characteristics stood out in the several communities in one State in which this study was completed, and we have no reason to believe that these findings were unique to that State. Diversion is an ambiguous and ill-defined term whose meaning not only varies between States, but within States and within communities. In the communities in which our observations were made rarely did even a minority of the probation officers within a unit agree as to what diversion is all about. Some referred to it as exclusively in the intake process; others defined

it as occurring anytime up to adjudication, and still others referred to diversion in conjunction with disposition. Some interpreted referral to an ancillary community resource as representing a failure on the part of their court's services. All agreed that intake officers exercised great discretion in the choice of diversion "tracks"—home, school, social agency, police, and so forth.

Ideally, diversion means referral out of the system to a person, group or organization that can provide services needed and desired by the youth. But many communities lack alternative service programs; intake officers are not knowledgeable about community resources; therefore, the usual pattern of response is "Counseled, Warned, and Released."

Our research, although incomplete, indicates that there is a pressing need for the study of careers of juveniles who are diverted. Information is woefully lacking about the similarities and differences between youth who are held and those who are diverted. If diversion is generally quicker, cheaper, and more humane, why does traditional processing of youth continue at the same level in so many communities? Local agencies we observed kept no records about those who were diverted; thus, any information about outcomes or recidivision were sheer guesses.

The faddist nature of diversion has resulted in a proliferation of diversion units within and without the juvenile court. But, no one has taken a close look at whether or not the juvenile subject to this effort is receiving a better deal. Participating personnel merely may have revamped terminology and procedures without seriously altering what happens to a juvenile.

In communities where the youth service bureaus and similar agencies are linked closely to the juvenile court, the linkage mechanism may lead to the involvement of many youth in a quasi-legal experience for behavior which would not have been acted upon in this manner had this interorganizational arrangement not existed. If diversion is going to accomplish the objective of referral out of the juvenile justice system, then it is probable that there must be a clear separation of the agencies providing diversionary services from the court. Our research also indicated the frequent use of informal probation for predelinquent behavior. It was achieved through an informal type of plea bargaining whereby the youth and/or his parents agreed to certain service requirements in return for not being formally processed. However, the utilization of informal probation lacked any adherence to the rights of youth and instead implied an adjudication of delinquency without any formal adjudication procedure. In fact, the original charge was held in abeyance contingent upon the juvenile meeting the often varied expectations of probation staff. Expectations ranged from tight controls inherent in formal probation supervision to noninvolvement with the juvenile unless he became engaged in deviant behavior. Court staff showed little concern about the rights of these youth or about the long-term consequences of this decision should the youth subsequently get into further difficulty.

COMMUNITY-BASED INTERVENTION

Disenchantment with institutionalization of juveniles in training schools is widespread, as we pointed out earlier, and has led to substantial reduction in institutional population in a number of States. This

disenchantment has led to a less than critical acceptance of noninstitutional alternatives as more effective despite the lack of evidence about community treatment programs. Much more needs to be known about the comparative outcomes of different models under different community conditions and with different types of offenders. We are seeking to meet this need at least partially by carrying out comparative studies of the nature, operation, and impact of a variety of community-based programs.

The concept community-based treatment is also ambiguous and means different things in different locations. Community treatment has been applied to probation, which is, in fact, the type of service program in which are found the largest numbers of adjudicated juvenile offenders in all of the States. Also included under the community treatment umbrella are aftercare and parole programs which bridge the gap between the institution and return to one's role in the community. However, probation and aftercare, often replete with large caseloads, continue to utilize fairly traditional approaches to working with offenders.

Community treatment has also become semantic trivia for locally based residential programs whose philosophies and treatment technology are representative of the traditional training school-institutional model, but whose physical location is in an urban community, the sole determinant in identifying the program as community based.

Within the past decade, there has been considerable innovation in what we are calling local intensive intervention programing. Both residential and nonresidential day treatment programs would fall in this category, including units referred to as group homes, halfway houses, community residential treatment, day care, group foster care, and semi-institutional or open cottage living. The essential defining characteristic is that there be frequent and continuing interaction with elements of community life appropriate for the particular age group in the unit.

We are now at the halfway point in the study of a sample of local intensive community programs, and have completed a census of the programs in the 16 sample States where extensive field data are being collected. Because these States were selected probabilistically, we have reason to believe that their programs are representative of the 50 States. Ultimately, we expect to prepare a census of the programs throughout the United States. Our research indicates, first of all, information about these programs is lacking within and between States, despite their popularity at the present time. Second, community-based programs are not randomly distributed throughout the States. We have identified a total of 288 local intensive intervention units for juvenile offenders in the 16 States. Of these 43 are day treatment, nonresidential programs, and 245 are group or foster homes and various types of residential treatment, with the former the larger number of the two types of residential units. Although there appears to be a notion that local community programs are small and relatively intimate, our information indicates that they vary widely in size. Day treatment units varied between 10 and 85 youth per unit with a mean size of 25. Residential programs (probably because they were dominated by group and foster homes) are slightly smaller with a mean size of 6 and a range from 3–54. These community programs

are concentrated in a few States, for in the sample of 16 States, there were 9 States which did not have any day care programs and 1 which did not have a residential community program. The average number of day treatment programs was just under 3 per State, whereas the average number of residential programs was slightly over 15, but the range was from none in 1 State to 55 in another State.

Great variation exists in the type of program and in the auspices under which they operate. The foster group home and the group home, as previously noted, normally represent the smaller residential facility. The foster group home may house one to four individuals, while the group home accommodates a population normally not exceeding eight residents. (The exact size is primarily determined by State licensing statutes.) The philosophy of the group home or foster home is often designed to create "a stable family life setting" supportive to individual residents, and permitting them to engage in varied community activities, that is, school, job training, employment, and recreation. Although States may operate numerous group home and foster group home programs under a uniform legislative mandate, the treatment philosophies, custodial philosophies, and utilization of community resources in reality are not uniform.

The group home or group foster home, by nature of minimal program design, minimal staffing needs, and minimal financial allocations, appears to be the first program design initiated by States with no existing community-based programs for juveniles. Since many foster group homes and group homes are located in rural areas and suburban areas, and most delinquents are from urban areas physically and culturally distant from the placement, ties with family, relatives, and significant others are widened. With the termination of legal jurisdiction, the juvenile is often forced to leave the foster or group home, and return to his home and associations without any preparation for reentry. For the urban minority youth, who compose a disproportionate number of our juvenile justice system, the lifestyle is often incongruous and only makes reintegration into the urban world more difficult. Race or ethnic origin often prevent the urban youth from remaining in the location of his placement after discharge since minimal educational or vocational opportunities exist there. It is increasingly important that group foster homes and group homes be located in urban areas when placement in the juvenile's own home is not feasible. Obstacles such as zoning limitations, neighborhood concerns, and school resistance must be dealt with. The utilization of neighborhood personnel in the planning and operation of group homes, as is the case in model cities programs, is a developing trend which openly breaks down community resistance.

The community treatment facility with the most publicized historical precedent is the halfway house or group care facility. The halfway house or group care facility normally will accommodate 8–30 youths. Although initially conceived as "stepping stone" between the institution and the community, a recent trend has evolved which identifies it as a diversification program for individuals who normally would be committed to a traditional State training school program, but who are felt capable of being maintained in the community. Strong involvement with community services, that is, school, work, and recreation are often coupled with programs within the residential facility utilizing various treatment technologies.

Halfway houses and group care facilities operate under State, local, and private auspices. Federal matching grants, such as title I, Omnibus Crime Control and Safe Streets Act, become a source of initial revenue, although State, local or private bodies must eventually assume total fiscal responsibility for program operation. The initial growth of both proprietary programs, as well as nonprofit corporate facilities, exists disproportionately in States which are able to purchase services for juveniles identified as State wards.

Group care facilities and halfway houses are more often located in urban and suburban metropolitan areas. Depending on budget allocation, the treatment program may range from a loose, unstructured program whose major emphasis is facilitating youth movement into school, work, or other legitimate roles, to highly structured, residential programs with treatment technologies so structured that admission criteria often are highly selective. Often excluded are aggressive or mentally retarded youth who, by lack of alternative placements, are committed to traditional training school programs ill-equipped to deal with their behavior. It also appears that group care or halfway house facilities are primarily located in States which emphasize a strong community orientation to juvenile corrections, and who openly recognize the limitations of the traditional State training school concept.

The semiinstitutional or open cottage living program often represents the largest community-based program, possibly numbering as many as 50 residents. It is this program which often develops an ancillary day treatment program for juveniles who are able to function at home, but whose behavioral problems often relate to school, or vocational, performance. The philosophy of avoiding the depersonalization of any residential placement for youth who can be maintained in his home is a basic premise in the operation of these and other day treatment facilities.

There is much discussion about the feasibility of an agency operating both residential and nonresidential programs under the same administrative structure. Staff effort and program impact are often directed primarily toward the residential population, with the result that the day treatment participants are labeled as second-class citizens. Separation of day treatment programs from residential programs seems desirable if greater impact is to be made in program planning for the particular needs of these youth. The fact that 9 of the 16 sample States have no day treatment programs indicates that this type of intervention is greatly underdeveloped; yet, it is relatively inexpensive when compared with residential programs and provides the opportunity to deal continuously with the problems which have contributed to the delinquent behavior.

Community-based programs, residential and nonresidential, are developing rapidly, but only in a limited number of States. Moreover, in no case, are they sufficient in number at the present time to handle all of the juveniles who are available for referral to such programs. Many States and communities have encountered considerable public hostility about community-based programs. They need knowledge about strategies and techniques for overcoming resistance and securing community support.

The fifth trend pertains to the design and organization of juvenile justice programs at the State level. As a foundation for assessment of the effectiveness of all types of correctional programs for juvenile offenders, we have obtained extensive information from and about all States' juvenile justice systems, codes, trends, programs, and the like, under both State or local government and private auspices. We have also conducted reconnaissance or State-level field visits to 25–30 States to meet with senior State officials—and citizens—responsible for juvenile justice in those jurisdictions. A reservoir of comparative information that exists nowhere else has been developed, but our understanding of these matters is far from complete, partly because of major gaps in official and other information within every State, and partly because of difficulties in making comparisons across States, which differ in so many respects, including their fiscal reporting systems.

Our experience and preliminary findings to this date, however, allow some forecasting of what the full findings may eventually reveal. Some of the main lines of these findings are relevant to the concerns of this committee:

1. To a very large extent among most States, juvenile justice is basically localized, and is only partially guided by State policy directives or administered and financed directly through State agencies and revenue funds. No State has yet moved to a truly comprehensive State-administered or supervised system for juvenile justice. There are some notable exceptions but it appears that about one-third of the States are performing their juvenile justice responsibilities essentially through decentralized and largely autonomous local agencies, while in the remaining two-thirds many crucial components of juvenile justice are subject to varying degrees of State policy and administration.

We are not yet ready to offer any concrete recommendations about the kinds or degrees of State centralization and consolidation that would be desirable. But our evidence indicates the extent to which juvenile justice is essentially marginal to all but a very few State governments * * * in the level of resources allocated to service programs, in accountability to regulatory requirements and State statutes, and in priorities for State planning. Some argue that policies and decisionmaking about youth in trouble ought to be made locally by those closest to these youths, as in public school districts. But this comparison is questionable for at least two reasons: Youth in trouble have few, if any, parent organizations or other concerned groups supporting their needs, interests and rights; and a not insignificant proportion of youths in trouble are committed to State facilities, thus simultaneously sending them away from their home locales and incurring high per diem charges against State funds.

2. The diversity of States in their population, economic, cultural and geographic characteristics led us to expect significant differences in their governmental arrangements pertaining to juvenile justice. But not as broad and diversified as we have actually found. States that are very similar in other respects demonstrate major variations with regard to statutory provisions, administrative structures, and policy di-

rections. And these variations appear as much the result of tradition or happenstance—or the occasional leadership of State officials—as of any other factors. Underneath these obvious differences, however, almost all States reveal a high fragmentation in services to young offenders, and awkward relations between governmental units among which these responsibilities are divided. Given the rather low level of concern about these matters in many States, they seem to find it extremely difficult to mesh or coordinate policymaking and program planning or service delivery for youth in trouble among State agencies, State and country or local governmental jurisdictions, as well as those concerned with broader services for children and youth. The State planning agencies that are mandatory under LEAA funding requirements are potential vehicles for bringing greater coherence, consistency and standards into planning programs for juvenile offenders, as are movements in many States toward consolidation of State agencies into larger administrative units. But the planning agencies are frequently preoccupied with law enforcement or criminal justice priorities that minimize the young offender populations, and amalgamation of State agencies does not necessarily result in greater cooperation or coherence.

3. Again with notable exceptions, the States generally evidence serious deficiencies in the extent and quality of basic information needed for sound juvenile justice policy planning and service administration. The lack of reliable State-level information is partly due to the marginality of these services, and partly to the tradition of localism, as we have noted. But even where very large State revenue funds are involved, few States have yet developed comprehensive information systems that can provide them with reliable data for monitoring programs (especially at the local level), for maintaining standards and quality control, for charting trends, and for forecasting. The relative absence of adequate information, of course, encourages polemical argumentation about "philosophies" of juvenile corrections and impedes rational policy development. Comparative information about other States—particularly those which States select for reference purposes—is even more deficient. State officials may hear about promising developments or trends elsewhere, but personal visits seem to be the only way that they can obtain first-hand knowledge for use in addressing their own situations. A number of States are very much concerned about their information problems and are working toward new systems. Unfortunately, these are unlikely to be compatible with those in other States, and there seems little that States can do alone to build better bridges between themselves.

4. We are searching very hard to discover fundamental juvenile justice (or corrections) trends that might be considered as broadly characteristic of the Nation as a whole. The differences and diversities we have already reported, however, appear at least as great as the similarities. We must be very cautious at this point in our research, but believe that we have identified some lines of movement appearing in enough States to suggest that they may eventually characterize much of the Nation. We will cite these as best we understand them, keeping in mind that there are numerous exceptions among the States:

One—there appears to be more and more concern about high cost programs for young offenders, particularly those involving substan-

tial capital investments. Despite the evidence that some States have not plateaued their rates of commitment of young offenders to State facilities, much information indicates that costly new facilities are being met with growing skepticism;

Two—more and more of the committed youths are being handled in programs other than the large, geographically isolated State "training schools," once the keystone of State juvenile corrections. Some of these facilities are still being built or are on the drawing boards, but more and more youths are being handled through an increasingly broad array of diversified programs;

Three—the range and varieties of noninstitutional programs for young offenders is growing rapidly, but the States themselves show time lags in their acknowledgement of the emerging variety of these newer programs, and have difficulty keeping track of them;

Four—although the States have less than complete knowledge about the full range of noninstitutional correctional programs now emerging—including halfway houses, innovative probation services, group home, et cetera—they do know with confidence that they are more economical or more effective than are parallel institutional facilities. To the best of our present knowledge, no State has developed reliable bases for predicting which types of programs will prove most effective with their total offender youth populations * * * although all are understandably reluctant to assign the most serious or experienced older youths to the low security programs.

Five—an increasing number of States are attempting to "normalize" the social environment of their correctional facilities. One evidence of this is the increasing number of coeducational programs in nearly all areas of the country. Other manifestations include innovations in education, in program foci, in the involvement of family, and in the participation in decisionmaking by offenders and exoffenders.

FEDERAL ROLES IN JUVENILE JUSTICE

Thus far we have confined our efforts to State and local level issues and characteristics. Obviously the Federal Government has a number of crucial roles to play if effective juvenile correctional programs are to be developed and to continue in many States. Among these roles are several in which it appears that the Federal Government has unique or special responsibility:

(1) Comparative evaluation research on both organizational processes and outcomes is urgently needed to provide bases for policy change and development, for program planning, and for engineering new technologies. The National Institute of Law Enforcement and Criminal Justice has supported significant research of this type, but it has been limited by the resources available to it. Many of the problems requiring research and demonstration transcend State boundaries; thus, they will have to be done with Federal support if they are to be done at all.

(2) Technical assistance must be provided to States in policy and program development, in the selection of technologies, in evaluation, and in the design and implementation of effective information systems. All of these are generally not available in juvenile corrections.

(3) Dissemination of objective, reliable, comparative information for policy and program planning is also needed. To be useful, such

information must be obtained and analyzed nationally and then disseminated to the States and regions. The U.S. Bureau of the Census provides one model of a critical national agency whose products are essential to social planning in many sectors.

(4) Training of correctional manpower is another priority need. Our impressions to date indicate that the training of personnel for juvenile justice has a very low priority. Moreover, where there are training programs, they often tend to be very parochial and reinforcing of the organizational practices in operation in that State. Thus, inadvertently, policies and practices that need to be changed are reinforced through training.

(5) Innovation in corrections is very evident in many States and communities, but far too often these innovations tend to be faddish, not well planned or implemented, and seldom are they evaluated effectively. Both evaluation and innovation must be encouraged and supported for they are long overdue in almost all areas of corrections. But, these activities must be supported in ways that add to knowledge development for juvenile justice throughout the United States.

Mr. LYNCH. Thank you, Dr. Sarri.

I wonder if you could tell us how your project is organized, how much money you received from the National Institute of Law Enforcement and Criminal Justice, what your staff complement is, and how you go about the task of doing this survey in the several States.

Dr. SARRI. We have a staff complement of approximately 20 persons, who are largely located at the University of Michigan, with our field staff going out from there to the various parts of the country.

We have a grant with a plan for continuing support for 5 years, dependent upon the usual renewal procedures. We are funded at the rate of approximately $400,000 per year, which covers most of the major activities of the research effort.

Mr. LYNCH. You have a 5-year commitment for funding?

Dr. SARRI. We have a 5-year plan for the completion of the research and an informal commitment that this will be supported, but it is contingent on renewal of grant applications.

Mr. ISENSTADT. The field aspect of the project itself will be completed within a 3-year period of time, that is evaluation of correctional units in the field.

Mr. LYNCH. If something should continue for 5 years, is it your intent to follow juveniles who have graduated from various programs in order to adjudge the effectiveness of these programs?

Dr. SARRI. Yes, we are anticipating following juveniles in some of the programs where we have already done field investigations.

Mr. LYNCH. Mr. Isenstadt, I understand, is your senior field director, is that correct?

Dr. SARRI. Yes.

Mr. LYNCH. I wonder if you could tell us, Mr. Isenstadt, what do you do when you go into a State, who goes with you, what kind of people are on your staff, what do you look at?

Mr. ISENSTADT. Our levels of entry into a State are variously faceted. In our 16 sample States that were discussed, we are also looking at and conducting probability samples regarding community-based, or the

LII unit, as well as the institutions, as well as subsequently juvenile courts and probation services, detention services. At the present time our policy has been to enter the States with the juvenile justice agency within that State, the juvenile correctional agency that the State operates, for meetings with State officials regarding the overall program within that State.

We then, with the permission of State officials, when the program is a State program, will conduct what we refer to as advance evaluations of sample selected units, either community-based or institutions, at which time we will develop a contract with that unit for ongoing field evaluation. Subsequently then, we send a field team. Our field team is made up of staff at the University of Michigan who are experienced in the area of juvenile corrections. They conduct a multiphased field effort directed at use of the staff, organizational patterns, fiscal dates, and major program issues within each particular unit.

Mr. Lynch. How much time do you spend in a given State?

Mr. Isenstadt. The initial entry into the State itself is 3 to 4 days, although in some States, by nature of size, we spend a longer period of time. The advance is a process of approximately a day and the intensive field evaluation has ranged from 3 days in small units to an entire week in the larger programs. Especially in the institutions, we anticipate spending approximately 7 days in each institution to get a full picture of the entire lifestyle of youths in that program, not just during the traditional working-hour day, but during the evening and weekend periods.

Mr. Lynch. How many man-days would that represent? How many people would you take with you?

Mr. Isenstadt. We will take a minimum on each team of three personnel: for large institutional programs, we anticipate five or more. The total man-days will average 10 for the small units and 35 for the large units.

Mr. Lynch. Are you limited to 16 States, or is this sort of the first go-round, or what does the number 16 represent?

Mr. Isenstadt. The number 16 was selected through our probability sample. Yes, for the full evaluation we are limited to units within the community based and institutions within the 16 States.

Dr. Sarri. I might point out, we also have, in addition, selected 100 counties of the United States. Again, on a probablistic basis for obtaining information about the operation of the juvenile courts. So we have a whole series of samples in order to permit us to get at different aspects of the programs. We knew we couldn't do a comprehensive research evaluation study in all 50 States, so we have developed different kinds of samples for the different types of programs we want to look at.

Mr. Lynch. I understand that from a statistical point of view, but would it not be desirable for a completely comprehensive analysis, if you had your choice, wouldn't you be doing this in every State in the Union?

Dr. Sarri. If we had our choice?

Mr. Lynch. If you had your choice. Or was this your choice to pick 16 States?

Dr. SARRI. It was our choice to focus on a sample of 16 States, which were carefully selected to represent the country. I think we felt it was important to do an indepth intensive study rather than a study of 50 States. We were interested in doing more intensive work and felt it was better concentrated, and if States were selected randomly with certain kinds of controls, we could generalize to the country as a whole.

We are doing a census of all programs in all 50 States. We analyzed the statute in all 50 States. We are doing a sample of courts. So by various means it will permit us to say something about the entire country.

Mr. LYNCH. But your judgment would be, the programs you are subjecting to field evaluation, research, would represent programs from all of the 50 States?

Dr. SARRI. Yes.

Mr. LYNCH. Could you enumerate the 16 States for us? Do you have that information available?

Dr. SARRI. Georgia, New Hampshire, Ohio, Pennsylvania, Tennessee, Wisconsin, Florida, North Carolina, California, Colorado, Massachusetts, Maryland, Montana, New York, Nebraska and Oklahoma.

Mr. LYNCH. Have you to date reached any conclusions about programs in the States of Florida and/or Massachusetts?

Dr. SARRI. No. We have not reached any conclusions about the programs in any of the States. We did complete in one State a study of diversionary programs.

Mr. LYNCH. Could you tell us what you have done to date in the States of Florida and Massachusetts?

Dr. SARRI. In the State of Florida we have recently completed the State-level entry and the interviewing of the various State officials in Tallahassee. We also completed the advance preliminary research in several local units?

Mr. ISENSTADT. There are seven units in Florida.

Dr. SARRI. They are located in all different parts of the State.

Mr. ISENSTADT. Both State and private units.

Mr. LYNCH. What do you mean by "unit," when you use it in that sense?

Mr. ISENSTADT. I am referring to a specific field unit, either a community-based program entity or institutional entity.

Dr. SARRI. There are seven of those in the State of Florida, and those all have had the preliminary onsite research. We are now engaged in the actual collecting of the intensive field data in Florida. In the State of Massachusetts we have not done any fieldwork thus far.

Mr. LYNCH. I have no further questions, Mr. Chairman.

Mr. MCDONALD. Dr. Sarri, from your list of 16 States, you did not mention any from the deep South, other than Florida.

Mr. ISENSTADT. Georgia and North Carolina.

Mr. MCDONALD. I missed that. How about Texas? Have you had any dealings with Texas?

Dr. SARRI. We have done reconnaissance work in Texas. It is not a State that is in our sample. In a number of other States, approximately 25, we have actually been in for purposes of the field visits, but not for a systematic data collection.

Mr. MCDONALD. Mr. Isenstadt, when you go into a State, basically, they know you are doing a survey of their juvenile correctional pro-

gram. Do they cooperate with your teams or does that depend on their relative status or stage of advancement, whether they are moving along the line toward community-based programs or whether they are still back in the Dark Ages, so to speak?

Mr. ISENSTADT. I think our process is such and has been standardized that we deal in various echelon levels with entry into a State which consists initially of phone calls, of communication, and very clear delineation about our policies, our grantor relationship, the issues regarding feedback, the issues regarding confidentiality. These important types of foundations we lay before we even physically arrive in the State itself. So we have had ongoing correspondence with all States involved in our sample extensively before we even send our first team into the State. They are very clear as to all their moves and steps and whoever we will be talking to in the State. And as such it has worked out very well for us.

Mr. MCDONALD. But in some States I am sure you expect to be critical of some of the programs you are going to look at. In those States do you anticipate problems in evaluating their programs?

Mr. ISENSTADT. I think certainly we are there to, in a sense, be critical. They are cooperative as far as access. So far as we have had no difficulty in regard to direct approach of State officials. It becomes very much our position and our professional scope to analyze and identify all issues, both overt and latent in the programs themselves, and, as such, we attempt to study the programs thoroughly enough to see this. But in terms of initial access and availability, we have had no difficulty.

Mr. MCDONALD. Dr. Sarri, I am sure you are aware of Senator Bayh's bill, S. 821, where the age for juvenile delinquency is lowered from 18 to 16. Can we have your comments on that aspect of lowering the age from 18 to 16?

Dr. SARRI. Well, I suppose one has to say it is a mixed blessing. There are certain obvious kinds of advantages because of the denial of certain due process procedures that are inherent in most of the juvenile statutes, so the 16-year-old would have the advantage of certain kinds of due process benefits he would not have otherwise.

I think, however, there are some potential disadvantages, and I would suggest, particularly if we think about the population of juvenile delinquents, the bulk of juvenile delinquents are poor, disadvantaged, jeopardized youth. If the processing into the adult system means that the consequences are further disadvantagement at an earlier age, then I think this would be unfortunate. I think this seems to be happening in some of the States where they have lowered their age limits. A 16-year-old sent to an adult maximum security prison—and this is happening—cannot benefit from that experience.

In those States that have the benefit of having programs for each age group, certainly then the handicap is far less. But many States do not have that and it means juveniles will end up in programs with adults. So it has to be seen as a dilemma.

Mr. MCDONALD. You stated before that it seems only the grapevine is the mechanism for communicating new programs and new ideas in juvenile correction. What do you see as an alternative or solution to the grapevine?

Dr. SARRI. I think, first of all, what we need to have is much more adequate information systems. There is relatively little accountability and relatively little formal communication. One often can find out how many delinquents are in a system in a given State. With regard to institutionalization, one of the important facts is to know how many juveniles are incarcerated in all kinds of programs—public, private, lockups, detention facilities, et cetera—and for how long, and with what kinds of consequences. The communication of this kind of information is essential and it needs to be formalized through some type of State and Federal mechanisms so there is some way to inform people of what has taken place.

In the past, I think, the Children's Bureau frequently did communicate with the various States and communities about different types of programs. There has been less of this in the past decade, perhaps, and I think there needs to be more formal communication. Most of the States have little way of knowing except, as I mentioned, the grapevine, journals, magazines, et cetera. No systematic input exists as to what is going on from other areas.

Staff are eager to learn. I think that does characterize many people in juvenile corrections today. They are willing to change. Most staff are dissatisfied with the state of affairs in their programs and want to have new ideas, new suggestions, but often don't know where to get them.

Mr. ISENSTADT. We have found this so in our movement into States, much interest into what we are finding out nationally, and a desire to obtain results.

Mr. MCDONALD. You stated juvenile programs have normally very, very low priority in the various States you visited. Juvenile delinquency has been in the public attention for many years. How do you attribute it still rates very low priority in the various States?

Dr. SARRI. That is a difficult question to answer. I think it is probably again a dilemma of the United States that we consider children one of our most valuable resources, and yet we seem to be unwilling to provide children the opportunity to grow up in a way in which they can become well-educated, mature, responsible adults. I think there is a notion that somehow it is more important to spend money on adult programing than on juvenile programing because the problem is more serious, there is a greater threat to society, et cetera. Perhaps we think that if we just sort of ignore the juvenile problem it may go away, despite the headlines it gets.

So we have a dilemma in this society. We talk about children being important, a youth-oriented society, and yet in education, in medical care; for example, one of the things that really stands out in my visiting of many correctional programs is the gross lack of medical care, health care. These are children being jeopardized by lack of medical care. If the commissioner submits a request to the State legislature for additional money in this area, it is frequently turned down.

Mr. LYNCH. When did you begin to study? How long have you been at it?

Dr. SARRI. Nearly 2 years, about 18 months.

Mr. LYNCH. Based on what you have done so far, what is your overall view of juvenile corrections in the United States? What kind of shape are we in?

Dr. Sarri. I would say that there are two trends that are evident and I certainly hope the one doesn't overcome the other. There is a strong effort toward rehabilitation, innovation, community programing, and that effort in many States, I am sure, will go forward regardless of what happens. In others there is at the same time a rather deliberate law and order effort which many States are having difficult in dealing with—public requests to "get tough." "teach them a lesson," particularly because of the violence of the crime of certain juveniles. That effort then is working toward punishment. So the two efforts exist side by side.

I think many States will not move away from their basic thrust toward a rehabilitation-treatment strategy. I think other States which have not had a strong emphasis in this area may have difficulty really getting that effort under way now, unless they get a lot of help, support, and encouragement. In many cases there is little encouragement to be rehabilitative. Look at State budgets in terms of how much money is spent—I recently examined data from one State in terms of the institutional programs. Approximately 75 percent of all of the money spent in the institutions went for salaries; and of that, 65 percent went for maintenance and custodial staff. So you had 10 percent to spend on the whole treatment-rehabilitation effort. That means not much can be accomplished when that is occurring.

Mr. Lynch. I take it the two trends you mentioned, the former is the professional trend of people who work in or who are on the fringes of the system; the second is more in the nature of a political problem, would that be accurate?

Dr. Sarri. No, I don't think the latter is just a political problem. I do think most people, the lay public at large, value their children greatly. Nearly everybody somehow wants juvenile delinquents rehabilitated.

Mr. Lynch. What I am asking: Is there any quarrel in the professional correctional world over the rehabilitation model?

Dr. Sarri. Rehabilitation is widely accepted as the goal.

Mr. Lynch. Who are the proponents of the model which you characterized as a law and order model?

Dr. Sarri. I think some of the law enforcement personnel, I think it comes from certain public attitudes which have variously evolved in the past few years. It comes because of a great deal of concern around the street crime and violence in the cities. Out of desperation, the public law enforcement personnel think that if we remove persons who commit these acts from the community, then the community will improve. I think there is a basic fallacy in this.

Mr. Lynch. It may be a basic fallacy. I would ask you, as a person who has been engaged in surveying correctional programs across the country, would you adhere to the view that there is perhaps an underdetermined or given percentage of young people that need to be incarcerated?

Dr. Sarri. I don't think anyone would quarrel with the fact there are young people who need to be incarcerated and need to be incarcerated in institutional programs. We don't have any technology which would say otherwise at the present time. But that does not mean that the kind of incarceration cannot have rehabilitative consequences. It need not be only custodial, as it is in many cases, just a holding opera-

tion. And for the public notion that people are educated for crime, I think this happens because people are just sort of held for long periods of time in wholly unsatisfactory situations.

Mr. LYNCH. You indicated that the cost of incarcerating a youngster can run as high as $36,000 a year. Do you know what State that is? Can you tell us?

Dr. SARRI. I prefer not to, because we have assured the States that during the process of the research we will maintain confidentiality.

Mr. LYNCH. I understand. But your testimony is that costs can run that high?

Dr. SARRI. Right. And that exists in more than one State.

Mr. LYNCH. $36,000 in more than one State?

Dr. SARRI. Right.

Mr. LYNCH. You also indicated a high proportion, especially of females, in the juvenile justice system end up being detained through what you refer to as "status offenses." I trust you mean by that, things which if they were not children would not be crimes?

Dr. SARRI. Yes.

Mr. LYNCH. What implications does that have for their future lives? What happens to those children?

Dr. SARRI. Well, particularly with regard to females, most of these problems center in relationships with their families, because most of female crime is interpersonal crime and the difficulty centers around family situations and family interpersonal relationships. If they are institutionalized and away from their family, and oftentimes hundreds of miles away from their families for months and years, it is very unlikely the problems which existed in that family are going to be solved through that particular technique. So the problem has to be dealt with directly.

Obviously, the other alternative is to see that this is a problem for other types of agencies, not the criminal justice system.

Mr. LYNCH. Is this a common situation in the States you have examined?

Dr. SARRI. Yes. The institutionalization of female offenders for status offenses is a relatively common practice.

Mr. LYNCH. What kind of alternative would you recommend?

Dr. SARRI. Well, I would think that certainly no one should be institutionalized, incarcerated in the criminal justice system for an act which if committed by an adult or a male juvenile would not be a violation. Females are incarcerated for promiscuity, but boys of the same age who apparently also engage in the same behavior are not incarcerated. It seems to me with regard to status offenses there is really very little validity for incarcerating such individuals in the criminal justice system. They may need help and very often need service, but it should be provided through child welfare agencies, mental health agencies, family service agencies, rather than defining such individuals as delinquents because of their behavior.

Mr. LYNCH. On Monday, Dr. Jerome Miller, who is now in Illinois, but was the commissioner in Massachusetts, and the deputy director of the department of youth services, testified about the Massachusetts system of, in effect, closing or at least not using old existing institutions and of going to group homes and foster homes, to handle youngsters

who are delinquent, who have in fact committed crimes. What is your view of that? Is that the direction in which States ought to be moving?

Dr. SARRI. The total elimination of institutions?

Mr. LYNCH. Yes.

Dr. SARRI. I don't see it as possible.

Mr. LYNCH. Well, that is not the question. The question is, Is that the direction in which we ought to be moving, whether it is possible or not?

Dr. SARRI. I would say no, not total elimination, but rather substantial reduction. I think we are going to have some institutional treatment for juveniles.

Mr. LYNCH. For what kind of juveniles?

Dr. SARRI. For those juveniles particularly who commit serious crimes against persons. I think we do not have any effective technology at the present time which would indicate that none would not need to be institutionalized.

Mr. LYNCH. If we could discount the young lad who is a serious offender, who committed rape, murder, heinous crimes, eliminate those and the obviously mentally deranged, should we be putting into jail other juveniles for less serious offenses?

Dr. SARRI. No. I think one has to have a very serious reservation about any convictions under which a juvenile should be placed in jail.

Mr. LYNCH. As you know, Massachusetts does reserve the right and still is, in fact, incarcerating very serious juvenile offenders. So I guess the real question is, Is putting those people aside, putting them away so they cannot harm society, is Massachusetts heading in the right direction, in your judgment?

Dr. SARRI. I think that the trend toward movement away from institutionalization is evident in a number of States, and it certainly is highly desirable. Also, the trend is evident in Massachusetts in the development of a wide variety of different types of programs which permit adaption to different cultures, different community conditions, and so on. It is evident in many States, and certainly seems desirable in terms of the data we have in terms of effectiveness.

Mr. LYNCH. Has any State gone as far as Massachusetts in that direction?

Dr. SARRI. We don't really know. The data we need regarding Massachusetts pertains to the total number of children that are incarcerated. There are children being held in county training facilities.

Mr. LYNCH. I believe it is 60.

Dr. SARRI. There are private institutions, local training schools, and detention facilities in Massachusetts. I suspect, although I don't have the data on Massachusetts, that it would be surprising if the total number incarcerated were as low as 60.

Mr. LYNCH. When I say 60, I mean delinquents who have in fact been sentenced to incarceration, not delinquents who are being detained for a week or overnight awaiting adjudication.

Mr. ISENSTADT. But the possibility of delinquents being placed in private residential facilities still would exist under service agreements, which would not be indicated in that figure.

Mr. LYNCH. You would advocate a complete centralized State-run department of youth, services, or youth bureau, or whatever you want to call it?

Dr. SARRI. I would not advocate a single model of State organization of youth services. I think there needs to be much more direction, support, and assistance at the State level, and in some cases greater centralization than presently exists. I suspect what we are going to find, after the research is completed, is that there are a series of different models which, given certain kinds of cultural conditions, organizational development, and certain economics, the findings will indicate that one model is preferable to another model. I think, by and large, there is more localism at the present time than is desirable, if you really want to have an effective system in a society where there is a great deal of mobility. If from one county to the next, the juvenile court in fact, operates under different statutory provisions, and the programs are entirely different, and yet youngsters and families move back and forth across the county boundaries, it becomes a very difficult system under which to socialize young people. We have run across counties where the laws are really quite different and the law enforcement procedures are quite different and juveniles have a great deal of difficulty in adapting to these differences.

Mr. LYNCH. Would it not therefore be desirable to have a central youth services board, bureau, department—whatever you want to call it—with overriding authority, but a good deal of flexibility?

Dr. SARRI. I think that would be desirable.

Mr. LYNCH. Are States doing that now?

Dr. SARRI. Some States are centralizing. On the other hand, you have a State like California, with a probation subsidy plan that is well known. California for a long time had considerable centralization, and has moved to a form of decentralization which is appropriate for its circumstances, and the kind of program development it has.

Mr. LYNCH. It is my understanding a central State authority still maintains an overriding control of that. They can track people in the program; can they not?

Dr. SARRI. Not any longer in California. They cannot because of the discretion that operates at the county level. They are only responsible for those who actually become wards of the youth authority. But the bulk of funding now in California is going to the probation subsidy to the counties, and there the State does not follow and have the same degree of control over the program.

Mr. LYNCH. I infer from what you have been saying that in going to a given State it is very difficult for you, as field researchers, evaluators, to even make a judgment as to how many children in the State are serving in various institutions or are under various probation or parole authorities. Is that correct?

Dr. SARRI. That is very difficult, and therefore we have been developing some techniques. Whereby we can get an accurate picture of at least the major programs that have youngsters. There are things like lockups and so on which are very, very difficult to study. These may be the places in which the most problematic experiences are had by juveniles.

Mr. ISENSTADT. Local jails and lockup facilities.

Mr. LYNCH. Mr. Isenstadt, in selecting States, did you utilize comprehensive law enforcement plans that are required under LEAA legislation?

Mr. ISENSTADT. Yes, we have; and we have received copies from all of the 50 States.

Mr. LYNCH. How many States include comprehensive juvenile justice descriptions and programs within those comprehensive State plans?

Mr. ISENSTADT. That would be difficult to say.

Dr. SARRI. A very small proportion.

Mr. ISENSTADT. We said approximately 10 to 11 percent of funding under the block grants that we have seen so far in these States has been allocated for juvenile-type services.

Mr. LYNCH. I have no further questions, Mr. Chairman.

Chairman PEPPER. Mr. Wiggins.

Mr. WIGGINS. Thank you, Mr. Chairman.

What is the objective of the National Assessment of Juvenile Corrections?

Dr. SARRI. Our objective ultimately is to develop empirical criteria, which can be used as standards for the assessment of a variety of different types of juvenile correctional programs. The secondary objective is to characterize and to assess programs which are operative in the various States of the country at the present time.

We are attempting to be able to assess and characterize the whole range of programs, not merely the innovative or the new programs, so we have a picture of what the juvenile justice system is.

Mr. WIGGINS. What are you going to do with the report?

Dr. SARRI. We are already in the process of disseminating reports. We have adopted the strategy that would be desirable to get information out about different segments of the research, as soon as it is prepared. So two of the reports have been and are being widely dispersed at the present time, and others will be coming out sequentially throughout the research period. There will be prepared at the end of the research a comprehensive report which will be submitted to the Federal Government, and we assume will be printed as a comprehensive overall report.

Mr. WIGGINS. That report will be an assessment of the effectiveness of existing juvenile programs in the States which you have selected. Will they receive a copy of the report?

Dr. SARRI. Yes: in establishing the contract with the various States which are engaging with us in the field research, we have assured them of feedback of information about the work we are doing in the State. For example, a State like Florida, which has seven units in the study, will get direct feedback information about those different programs as well as generalized summary information about the country.

Mr. WIGGINS. Do you propose to recommend to these States a model for them that they might wish to adopt?

Dr. SARRI. I think we will make recommendations. I doubt we will recommend a single model, but again, multiple models that seem more appropriate. I don't think there is a single effective model. There are many models which are appropriate to achieve the ends that are desired. The choice is depending upon do you want to pay, you can achieve a level of effectiveness. Ultimately it comes to be a political or administrative decision rather than a research decision.

Mr. WIGGINS. If anything comes out of this study, it will be because of the willingness of the States to adopt your recommendations?

Dr. SARRI. Yes.

Mr. WIGGINS. Would you think that the Federal Government ought to use its powers to compel the States to adopt suggested models?

Dr. SARRI. No; at least personally, I think it would be much wiser to support the States where they need additional resources, to move ahead in this direction. I think it is our observation thus far that, in the overwhelming majority of the States, there is a very sincere desire and considerable effort to wish to develop more effective programs. They lack resources, they lack support, they lack training and know-how. This kind of help can be provided. I would be skeptical about the value of compelling conformity in this regard.

Mr. ISENSTADT. But providing them with various models based on the specifics of that particular State socioeconomic, geographic, urban-rural makeup, and such.

Mr. WIGGINS. That would be providing them with information upon which they could act if they wished to.

Let's assume the Federal Government wishes to provide financial support to juvenile programs within each State. What vehicle do you suggest to accomplish that?

Dr. SARRI. Well, there are certain advantages in terms of the State planning agencies for certain types of funding. I think also those States which have State youth service or youth authorities, child welfare agencies of various types, in which the juvenile correction program is located, could receive funding support for extension of their programs.

It seems to me one of the things that the Federal Government might do would be through the use of grants to encourage the development of certain kinds of programs. For example, a State that might not have an extensive development for private and local community resources, and this kind of effort could be developed through the provision of grants that might be administered through the State agency.

I think if it was solely just the funding of State-level agencies we might not get the kind of innovation and change we wanted. So the use of the grant device does provide some flexibility and encouragement of innovation in the ways where just outright support to the agency, without any stipulations, might not achieve that result.

Mr. WIGGINS. Let's suppose that we agreed with your suggestion and created a system of categorical grants to States that submitted plans which held some promise. What agency of the Federal Government should evaluate it?

Is it a Justice function?

Dr. SARRI. It depends upon which aspect of the juvenile justice system we are talking about.

Mr. WIGGINS. I can't answer that, because that would be dependent upon——

Dr. SARRI. If you are talking about the correctional program, the provision of services, it seems to me that it's much more appropriately lodged in one of the agencies of the Department of Health, Education, and Welfare rather than a Justice function. If we are talking about certain operations of the juvenile courts with respect to due process and adherence to legal statutes, then, in those areas there may be a Justice Department responsibility for evaluation, or an interdisciplinary committee, such as exists at the Federal level where it is necessary

in a problem like juvenile delinquency to have interdepartmental arrangements for handling problems that transcend departmental lines.

Mr. Wiggins. Well, there has been a suggestion in some legislation that there ought to be a new Federal agency that focuses primarily upon the problems of juveniles and all of its interrelated problems, and that agency be funded with the power to provide grants upon submission of applications by appropriate agencies. How does that idea strike your fancy?

Dr. Sarri. Well, I haven't thought about it for some time. There was, a number of years ago, a proposal for that. I think it has certain kinds of advantages. I am not sure at the Federal level if we want to extract children from their families. That is why some of the values with the Department of Health, Education, and Welfare permit you to handle the problem of the youths and handle also the problem of the family and the community. So I think there are some advantages.

However, I think it is a potentially mixed blessing in that you would need to have certain kinds of linking mechanisms to other departments that also are concerned indirectly with the problems of youth. So just by having the Department of Youth you can't center all of the problems of children and youth in one particular location.

Mr. Isenstadt. We see that on the State level. There is still a high degree of localism in the fact the State system does not know where many of the youth are located, and I am concerned about that, too.

Mr. Wiggins. If the Federal role is a funding role, the mechanism for supervising that funding is a complicated problem because of the mixed nature of the problem. It is not just a criminal problem, obviously. It is a social problem; it involves family consideration; and the Federal Government is not presently structured to look at that total problem, at least through one set of eyes.

Let's go to another problem. A youngster, who either has a problem or who is involved in one not of his own making, is brought to the attention of government in a variety of ways, as you know. It may be that a youngster is initially brought to the attention of a policeman. It might be that he is referred from a doctor. It might be that a social welfare agency or institution sees a problem.

Most of the people involved in this field have felt that government should respond in a variety of ways, based upon the individual needs of that youngster. A few would disagree with that. Government should have the capability, at least, to reponding in accordance with the individual problems.

That requires the intervention of considerable discretion. My question is: Who should exercise that discretion, given the multiple ways in which the problem is brought to the attention of government?

Let's take specific cases. If a policeman observes misconduct which may or may not be a crime if committed by an adult, should that policeman have the discretion to refer the youngster into the appropriate channel which would be able to respond to that child's problem as perceived by the policeman, or should there be some other agency which makes that judgment?

Dr. Sarri. I certainly think the policeman should respond, as many people in the community should respond. Let's say, for example, the school truant. It seems to me rather than taking the school truant

to the juvenile court, where he may even be held—some juvenile courts hold in detention facilities as many as 40 percent of the children for truancy. Rather than taking the juvenile to court, processing through that system, there needs to be a mechanism in the school system to respond to that particular problem, or a modification—if society is changing with regard to compulsory school attendance—of the law in that regard. But the problem is relating to the school, the social institution of the school. It seems to me handling it through the criminal justice system is likely to aggravate the problem rather than to solve it.

Mr. WIGGINS. I can understand that, and agree with at least the objectives here.

But let's suppose the child does not wish to respond to this offer of alternative treatment. Don't you find often that there has to be some compulsion involved to move this child into the direction in which society thinks is in his best interest?

Dr. SARRI. Well, I suspect that is true in some cases, but I think in many cases we have moved almost immediately to the compulsion, rather than trying to facilitate the movement of the person back in the school. I happen to have done a great deal of research on school dropouts and tracking careers of children through secondary schools and found that many of those children who drop out subsequently get into delinquency—are very often the children who have been suspended and who have had a great deal of difficulty in school. The problem is not only this reluctance and hostility with regard to the school, he also may be a "pushout."

I think you are correct in what you say in some cases, but I also think that we often intervene too stringently with some compulsory techniques rather than offering to assist, and to focus on reintegration of the person back into viable roles. Granted, that if offers of help are not received favorably and this effort continues, and it is a violation of the statute, then there is only one alternative. But I think greater effort is needed toward the whole diversionary strategy at the present time. A whole series of other alternatives are available, so that the problem does not have to enter the criminal justice system.

Mr. WIGGINS. These other alternatives would have to be agreed to by the child, because if we are going to compel that child to surrender a portion of his liberty, his freedom to go some other direction, then we are going to have to accord that child some due process.

Dr. SARRI. Yes.

Mr. WIGGINS. And I speculate it is going to take the court to accord them.

Now, we may call that court part of the criminal justice system, if you wish, or we can call it something else. But the fact is, it is a judicial proceeding.

Dr. SARRI. Yes, but I do think we have examples in other countries. In England, in Scandinavian countries, they have developed community committees where there have been attempts to get community people to focus together on the problem of, if you will, status type offenses in the community and to insure due process through a quasi-legal procedure, if you will, and focus on reintegration of the juvenile back into the normal life of the community.

Mr. WIGGINS. They did not have judgment to adopt a constitution like ours, and accordingly we are not in a position to assure due proc-

ess through a community organization in this country. If a youngster asserts a denial of due process through such an ad hoc committee, he is going to have a judicial review of his claim.

Dr. SARRI. Right, and then it is going to have to go to the juvenile court. All I am suggesting is there are probably a series of earlier alternatives which could be explored and developed far more fully, rather than immediately saying the first alternative is to say we will have a formal hearing, a formal processing.

Mr. WIGGINS. I understand that, and I am sympathetic with the goals. But as in all things in life, there are many contradictions here. We would like to provide the maximum flexibility in dealing with the youngster, but society's judgment must be brought to bear against that youngster for his own best interest, as society sees it. It may take the intervention of some formal body, which will be, in fact, a court. It doesn't have to be known as the juvenile court, it doesn't have to have criminal jurisdiction necessarily, so that it possesses a stigma of an instrument of the criminal justice system.

But my guess is that the youngsters on the street still call it juvenile court and they will possess that social stigma, whether we wish to so label that court or not.

I don't have great solutions to these difficult problems, but it just seems to me that judgment has to be exercised, discretion has to be exercised, for the benefit of the child who is in trouble, or who has been catapulted into trouble by perhaps his parents. And in the nature of things, I suspect that that judgment is best exercised by a court, call it what you will, a hearing officer, but part of the justice system rather than a bunch of well-intentioned individuals—without government direction and supervision—seeking to impose their will upon children.

Dr. SARRI. I don't have any quarrel with you. What we are suggesting is what needs providing are more service alternatives to help the people. By and large the system of intervention we have at the present time tends to result in overfocus on detention, punishment, control, rather than provision of mechanisms whereby the person can be reintegrated.

The only other concern I might mention is with regard to discretion. I think discretion in many areas needs to be optimized with the due process potentials. However, when we know, for example, that discretion in certain areas inevitably leads to continuing abuse—for example, the fact that more than 100,000 children are jailed each year in this country—it seems to me there is a need in the statute to have far less discretion about the use of jails, because they become an easy alternative when you can't think of anything else.

Mr. WIGGINS. I would suggest, Doctor, the answer is not to limit the option of jail because there will always be, as you state it, a youngster who ought to be institutionalized in a confined environment; but rather to give the court exercising that discretion greater alternatives and to make them viable options.

Dr. SARRI. Yes.

Mr. WIGGINS. But I still tend to think the person who ought to make that judgment ought to wear a black robe and be a very wise man, rather than a very well-intentioned community worker.

Mr. Isenstadt. We are even seeing in the case of some court practices related to informal probation where individuals are in fact in a quasi-court role, where they have not been formally adjudicated, they in a sense are maintained on a quasi-probation status with the idea being if they violate they will then go before the court on a petition. This is a problem in that it is not fully encompassed under the court's authority, but the youth is often made to feel it is the court's authority.

Mr. Wiggins. Somebody is going to attack that one of these days and disrupt the whole system.

Mr. Isenstadt. It has the plea-bargaining concept of the adult system wrapped into it.

Mr. Wiggins. Thank you, Mr. Chairman.

Chairman Pepper. It is obvious that in this area, as in so many others, we have to balance interests, one against the other, to try to determine what course we will pursue when we do evaluate different interests or even conflicting interests. In latter years the courts have quite properly taken recognition of the fact that young people are citizens, that they are entitled to the protection of their constitutional rights, and that the fact they don't know enough to ask for the protection of those rights doesn't necessarily mean they don't have them and they should not be given an awareness of the fact they do have them. Adults are given the information to the effect they have such rights they may claim.

However, I share the view that in general these programs must be under the jurisdiction of the courts, because when you take the custody of an American individual and transfer that individual from his lawful parent or parents, or lawful guardian, into the authority of some other person who has the power to affect the physical disposition and the fears of that individual, there has to be, obviously, either knowledgeable consent, or there has to be the imposition of sufficient public authority.

However, it should be an administrative duty for the courts to try to work informally as much as possible, too.

It might well be all of these referrals to a State youth service agency, for example, should come through the court, whether there be a record made or not. The court should actually see that individual and consent or acquiesce to the referral of that individual to the supervisory agency. The court, of course, if told to do so, could relegate the individual to a court of general jurisdiction, where the individual would be tried for the commission of a serious crime as an adult; or the court could simply say, "I think this is a case where we should try to rehabilitate the individual and see if we can do something in that direction."

But the important thing is that we should give to these young people who have fallen into crime some sort of care, some sort of attention, and some sort of help that will aid them into taking a course in life that will lead them away from the commission of crime, instead of making them hardened criminals.

I find in these programs, such as are being administered in Massachusetts and Florida, and I understand in California, the provision of assistance to young people that they didn't otherwise have. For example, you take a boy out of a ghetto home, that kind of an environment, who turns to crime because of parental neglect, because of bad

conditions that prevail there, bad conditions he has among his associates, and then a wise judge, as my colleague said, permits him to be referred to an able, adequately funded, and knowledgeable service program for youths. That boy in a little while might be enjoying recreational opportunities, a new kind of environment, new associations, a new inspiration that he never knew before. He has access to a world of which he has not been a part.

We heard yesterday from Florida's youth services director, Mr. Keller. He told about some of these plans. They have "Operation Wilderness" where a lot of these boys go into a wild area, and camp, boat, and they talk and do one thing and another. They have an interesting and exciting experience, the kind of things boys like to do. It is an adventure for them. It is stimulating them to a new kind of life.

We saw five young individuals, two boys and three girls, here at that table this week, who are in a new Massachusetts program. Those youths were looking at life entirely different. One girl now wants to be a counselor in one of the youth services organizations. A boy, who had been on drugs, had a smile on his face and had quit drugs, and was now going to work and looking forward to going into the Marine Corps. Every one of them said they had gotten a new outlook on life, a new feeling about life, a new sense of its importance to what it could mean to them to live different; a better type of life as we call it.

I know in the Miami area, until relatively recently, we didn't have these progressive programs. Boys and girls were locked up in a dirty jail, crowded in with one or another, or into a youth corps or youth camp, and it was degrading to them rather than uplifting and stimulating.

What I hope you are going to do, Dr. Sarri and Mr. Isenstadt, and all of you who worked together, is to advise the country as to what you find from your inquiries is the best and most effective program. I hope that you recommend that the Federal Government should have a larger share in these programs.

The Massachusetts youth program was made possible by a $2 million grant from LEAA. That is one of the best things I have heard of LEAA doing. I wish they had done more of that, rather than putting a lot of money in brick and mortar or certain kinds of capital equipment as they have done in the past.

But I personally think that we can find—either an agency consisting of personnel from HEW and from Justice—a Federal agency to evaluate the State plans. I personally think that the Federal Government ought to make funds available to the States that submit a program which shows that they are going to improve their situation materially. I don't favor large institutions. I think all large institutions ought to be discontinued. I like the home programs they told us about here, where they put them in private homes, small institutions, and facilities where they pay somebody to look after them and supervise them, rather than building a big building.

You said some States are spending as much as $36,000 per child. Look at what you could do with the $36,000. As one of the witnesses pointed out, you could pay people so much a week in foster homes, you could provide clothes and other things for them.

It seems to me that you can perform a very valuable service, and I am pleased that you had Federal aid in your program. But don't be too hesitant to advise the public what you think is best.

I wonder if you would care to make a general observation, as to what are your conclusions so far, from examining the systems in 16 States. If this were a congressional committee that had authority to give approval to a Federal program, what would you tell us, if you were writing the law you think, in the light of your investigation, would be best?

Dr. Sarri. Our observations would be in agreement with your observations about the value of diverse small-community programs located close to the home and the community of the youngster who is a target of the intervention, so that it can be adapted to the very different cultural needs. If there is a possibility of rebuilding family relationships, school relationships, employment, et cetera, that these can be built when they are contiguous to each other. Certainly, it seems to me, that pattern is to be supported. It certainly looks, from the information we have available, it is viable.

It is also desirable this be encouraged under various types of private as well as public auspices. While we want to be sure the public participates in decisionmaking when we are making status changes so that due process rights of individuals are protected, this does not mean the service cannot be provided through the private, voluntary, and full range of different types of organizational structures and models. I think that is to be encouraged.

Chairman Pepper. Do you also agree it is desirable to have overall authority and supervision by a State agency?

Dr. Sarri. Yes, so there is accountability and there is direction, support, encouragement. I think that is essential.

Mr. Isenstadt. But that a private agency not be in any way penalized by the nature of its auspices in terms of receipt of funds for innovative and new programs?

Chairman Pepper. Certainly not. I think it was the Massachusetts plan where they will pay a private agency and are glad to get them. They say private people will respond if you pay them a reasonable price.

Dr. Sarri. Some of the most innovative programs have taken youngsters who have been in correctional facilities for long periods of time, so-called hardened juvenile delinquents, and have, in very creative ways, worked very effectively with these youngsters in the problems of reintegration. Some of those problems are some of the most difficult. These again have been small-community programs. They have been able to handle the whole operation in ways that were seldom done in the past.

Chairman Pepper. The correctional system we are talking about, whether court or administrative institutions, nevertheless we are taking what society has pushed into them, as it were. They come from the schools, where they have been guilty of derelict conduct; they come from the community, where they were dropouts, where they have been guilty of criminal conduct. In other words, we don't get any chance to keep them from coming there. The correctional system has to take what they can get, like the penal institutions.

Has your study made any inquiry into what you could recommend to keep young people from getting in a career of crime that is not now being done?

Dr. Sarri. We talked a little bit earlier about diversionary programs and I think that this is a way of really stopping the inevitable delinquent career at a very early point. Because what very frequently happens, if there is an apprehension for some kind of mild misbehavior, school truancy, incorrigibility, and so on, the individual is socialized into a delinquent career because of associations he makes. There can be diversion through the provision of services to such youth rather than just judicial processing.

Chairman Pepper. How about the schools? What can the schools do to prevent crimes among young people?

Dr. Sarri. Well, one of the things that can obviously happen, modification of school disciplinary procedures that are operative in some communities whereby, if a youngster is caught smoking, he is suspended from school for a week, and such action starts a kind of problem for him. If there can be ways in which indefinite suspension of 9-, 10-, 11-year-olds from schools can be prohibited, then I think you want to climb that way.

Chairman Pepper. You are saying it would be desirable to have effective programs in the schools to deal with those who begin to indicate tendencies toward delinquency?

Dr. Sarri. Inevitably, a lot of the problems have to be solved in the family and the school sector if we are going to prevent crime. It is not by apprehending criminals or delinquents that we will really reduce the crime, but rather by getting at the problems that exist in the neighborhood and trying to see these kinds of problems are solved.

Chairman Pepper. Take, for example, the boy or girl who is about to become a dropout. Once that boy or girl becomes a school dropout, he is a pretty likely candidate for the juvenile court and correctional system, isn't he?

Dr. Sarri. Yes. The research there is really quite clear. It really indicates that is what really happens to a substantial number.

Mr. Isenstadt. He is continually confined.

Chairman Pepper. There is one of the last chances to save a boy or girl from the criminal system—if you can do something at that time to find out why that boy or girl drops out of school, what is responsible for his not keeping up with the class, why they are not enjoying the school. Is it the curriculum, is it some sort of defeat that they have?

Dr. Sarri. There is one other area which we haven't really looked at in this society, and that is employment opportunity, work opportunity for adolescents. There is a good deal of research that indicates there is a very strong relationship between unemployment and crime, particularly the adolescent.

Chairman Pepper. They would work part time and particularly summer involvement for a lot of the young people. You think that would probably reduce their getting into crime?

Dr. Sarri. It appears so, particularly for those crimes that might be called utilitarian crimes, such as theft. I am not saying violent crime against a person is likely to be prohibted by employment opportunities, but much of the crime is theft and robbery. This could be reduced by more employment opportunities.

Chairman PEPPER. I want to ask you one last question. How do you evaluate the importance of dealing effectivety, if possible, with the problem of juvenile crime or juvenile delinquency in relation to the overall crime problem?

Dr. SARRI. The problem of juvenile crime? I think it is at least as important as the adult crime problem. In many ways more important, because these are young people who are going to live in the society for 40, 50, or 60 years, and we would like to think they can contribute meaningfully to the society.

Chairman PEPPER. Thank you. You have given us very valuable testimony.

Mr. Rangel.

Mr. RANGEL. No questions. Thank you, Mr. Chairman.

Chairman PEPPER. Dr. Sarri, we want to thank you and Mr. Isenstadt very warmly for your coming here today and giving us the benefit of these very valuable studies you made. Thank you very much.

[The following was received for the record from Dr. Sarri:]

[Excerpt from NAJC "Sampling Plans and Reults," March 1973]

SELECTION OF STATES

The discussion of this and all following selection stages is developed in accordance with the topics introduced above, namely, (1) the definition of the population to be sampled, (2) the substantive requirements of the selection procedure, and (3) the computation of the sampling probabilities or the actual sampling strategy.

DEFINITION OF THE POPULATION

All 50 states constitute the population for the selection of states, thereby excluding the District of Columbia and the U.S. territories from the sampling. These are sufficiently different from the rest of the nation as to justify their exclusion at this point in time; if the resources of the project are sufficient, they will be considered at a later phase.

SUBSTANTIVE SELECTION REQUIREMENTS

The following requirements were stipulated by the RDS for the selection of states in accordance with the substantive orientation of the project as a whole:

(1) Select each state proportional to its population 5–17 years of age.

(2) Select at least three states from each census region of the U.S. (because of overspecification in the RDS [p. 69] this criterion had to be relaxed from four to three states).

(3) Organize the states according to their change in admission rates of 5–17 year olds to public institutions for delinquents and select a specified number of states from those with increasing, neutral, and decreasing rates of change (see below).

(4) Classify the states according to their juvenile justice systems and select a specified number from each type.

(5) Sixteen out of the 50 states are to be selected. Requirements (3) and (4) above call for some explanation.

Control for Change in Admission Rates

The reason for employing admission rate changes to public institutions for delinquents for sampling purposes has been elaborated in the RDS and merits repetition at this juncture. Focusing on admission rates has several important advantages:

> It can be drawn from the most reliable data already available; it provides the best single indicator of state-wide practices; and it encourages attention to questions of both *diversion from* the justice system, and *alternatives to* incarceration—both highly salient issues in policy and program planning. Reliance on admission rates avoids the problems associated with using the less reliable and more volatile police arrest or court processing

statistics. State admission rates tend to absorb both state-level and local-level (county or municipal) processes because in all but a few situations state funds are, directly or indirectly, the predominant resource supporting institutionalization costs—including those of most private facilities handling delinquents. Although the delinquent youths committed to institutions typically constitute only a minority of all those involved in juvenile corrections operations, each state's volume of institutional admissions serves both as a constraint on (or stimulus to) prior stages in juvenile processing and as a precondition to most aftercare services. (RDS, p. 66)

The rates of change were computed for the years 1966–1971 and are based on public documents. The admissions during fiscal year 1965–1966 were obtained from the U.S. Children's Bureau publication, *Statistics on Public Institutions for Delinquent Children: 1966* (Washington, D.C.: U.S. Government Printing Office, 1967; admissions during fiscal year 1970–1971 were obtained from prepublication results of the LEAA-sponsored, U.S. Census Bureau study, "Juvenile Detention and Correctional Facilities Census." The same questions as were used in this mailed questionnaire completed by every institution were used in the 1966 Children's Bureau study. As with 1966, separate data were obtained for each institution. The rates were computed per 10,000 youths 5–17 years of age. The significance of this statistic is spelled out in the RDS as follows:

> In states with *increased* institutional commitment rates it would be desirable to find out whether there have been corollary increases in the use of alternative correctional programs, how institutions have been expanded or adapted to accommodate larger numbers, and how the greater costs have been supported. In the states with *decreased* institutional admission rates we will be even more interested in how offenders are being handled through non-institutional programs, whether and how juveniles are being diverted away from the corrections system, whether expenditures have also decreased, and how costs compare with states that have increased admissions. In the states showing *no rate-change*, it would be desirable to examine how the patterns have been stabilized, the consequences for other units within the juvenile justice systems, and how their costs compare with the other categories. Aside from what can be learned about these questions through direct study of sample service units, we will be constrained to rely on state reports and available data since the project has insufficient resources to collect full-scale information about these state patterns. (pp. 67–68.)

These rates were found to vary from +15.96 to −12.14 per 10,000 youths 5–17 years of age over the years 1966 to 1971. Using rates instead of absolute numbers is better in studying the occurrence of an event across different populations because rates are standardized for different sized populations. However, rates of change are a somewhat more complex statistic and hence more open to misinterpretation. These rate changes must be read properly; they do not indicate the absolute frequency of institutionalizing juveniles but only the direction and relative velocity of change during the past five years. Indeed smaller numbers may conceal a more conservative attitude than do larger ones—it all depends upon where a state was in 1967. In order to determine the most appropriate cutting points to form strata of states with decreasing, neutral, and increasing admission rate changes, three different sets of states were formed by choosing ±2.0, ±1.5, and ±1.0 as partition criteria, respectively. Three samples were then selected in order to study the effect of choosing different cutting points.

As soon as these three samples were selected a battery of distributions of relevant variables (sex, race, degree of urbanization, etc.) were run in order to compare the similarity of the three samples with the nation as a whole. *Only* these distributions and *not* the names of the selected states in the three samples were submitted to the senior research staff in order to determine the most appropriate cutting points. On this basis it was decided that ±1.5 would produce the most desirable set of sampling states. Hence states with an admission rate change of +1.5 or larger constitute the stratum with increasing rate changes, those between +1.5 and −1.5 are called neutral, and those with −1.5 or less make up the stratum of states with decreasing rate changes. Table 1 displays the changes in admission rates stratified into increasing, neutral, and decreasing strata. Six, two and eight states were to be selected from the increasing, neutral, and decreasing stratum, respectively.

TABLE 1.—*Rank order of States by changes in rate of admissions to State juvenile correction institutions, 1966–71*

	Rate change
Increasing:	
Alaska	15.96
Delaware	9.81
Rhode Island	5.49
Nevada	4.87
Arkansas	4.49
Mississippi	2.81
Wisconsin	2.76
Tennessee	2.74
Alabama	2.49
Georgia	2.19
Ohio	2.12
New Hampshire	2.12
Maine	2.05
North Dakota	1.67
Pennsylvania	1.61
Neutral:	
Wyoming	1.26
North Carolina	1.25
South Dakota	1.20
Idaho	.77
Michigan	.26
Florida	.22
Connecticut	.17
Kansas	−.29
Vermont	−.65
Missouri	−.67
Indiana	−.77
West Virginia	−1.26
Kentucky	−1.34
Texas	−1.34
Virginia	−1.36
Decreasing:	
California	−2.22
Washington	−2.30
Nebraska	−2.31
New Mexico	−2.82
Iowa	−3.28
Oklahoma	−3.33
New York	−3.36
Arizona	−3.56
Minnesota	−3.79
Massachusetts	−4.01
Hawaii	−4.05
Montana	−4.28
Utah	−4.48
South Carolina	−4.99
Colorado	−5.40
Illinois	−6.29
Maryland	−6.97
New Jersey	−7.01
Louisiana	−7.80
Oregon	−12.14

Control for Justice Systems Types

The need for controlling the sample selection by means of justice system structures becomes apparent as soon as it is realized that these structures and their component units are not similarly distributed or ordered among the states. It is therefore important to examine whether administrative patterns resulting from different structures influence the operations of direct-service units. Extensive literature review suggests that controlling for the degree of consolidation of juvenile justice systems with *other* service agencies (e.g., with agencies for adult offenders or with agencies serving the mentally ill), and for the degree of centralization of probation, would help us to study the effect of this critically important systemic variable.

Centralization of probation and consolidation of the juvenile justice system were defined as follows: Probation services are considered to be centralized if there is a single state agency which is given complete or partial responsibility for administering these services. In most states this is not a clear either-or situation, rather it is by "central tendency" that we code each state in such a dichotomous fashion. On the other hand, a state's institutional and aftercare services are considered to be functionally consolidated if these services for juveniles are administered by an agency that also administers other juvenile services (e.g., Children In Need of Supervision [CHINS] or mentally retarded, etc.) or services for adults or some combination thereof. Consolidation and centralization are by no means the only two criteria available for assessing the administrative patterns of juvenile justice systems, but they are believed to be of importance in studying organizational effectiveness and efficiency. They are not only in the theoretical mainstream of organizational analysis but also lend themselves reasonably well to operationalization and measurement prior to field entry. Table 2 presents the typology of states resulting from crosstabulating consolidation of the juvenile justice system and centralization of probation. It was stipulated that the sample had to be drawn in such a way as to produce at least one state of each type from the above typology. This was accomplished, but recoding after the sample was drawn moved Pennsylvania from cell VIII to cell VII, leaving cell VIII empty.

Given these sampling requirements a sampling strategy had to be chosen that would meet all these requirements and still result in known probabilities. Controlled selection was the obvious choice.

TABLE 2.—DISTRIBUTION OF STATES WITHIN JUVENILE JUSTICE SYSTEM TYPOLOGY

		Consolidation			
	No juvenile plus adult, no juvenile and other	Juvenile and adult, only	Juvenile and other, only	Both juvenile and adult, and juvenile and other	
Centralized probation	I—Alabama, Connecticut, Mississippi, New York, North Carolina.	II—Indiana, Louisiana, Minnesota, New Hampshire, North Dakota, Rhode Island, Tennessee, Vermont, West Virginia, Wyoming.	III—Arkansas, Florida, Georgia, Idaho, Kentucky, Maryland, Oklahoma, Utah, Virginia.	IV—Alaska, Delaware, Maine, Wisconsin.	28
No centralized probation	V—Massachusetts, Missouri, Ohio, South Carolina, Texas.	VI—Arizona, Colorado, Illinois, Montana, Nebraska, New Mexico, South Dakota.	VII—California, Iowa, Kansas, Michigan, Nevada, Oregon, Pennsylvania.	VIII—Hawaii, New Jersey, Washington.	22
	10	17	16	7	50

SAMPLING STRATEGY

The constraints on the sample outcome were formidable because the three control variables (regional distribution, admission rate change, and juvenile justice system types) generate a 96-cell typology (4 x 3 x 8=96 cells). There are only 50 states to fill this three dimensional typology and only 16 are to be selected. Moreover, each state is to be assigned a probability proportional to its youth population. Finally these proportional probabilities are to be computed for each stratum of admission rate changes in such a way as to assure that 6, 2, and 8 states will be selected from the increasing, neutral, and decreasing stratum of admission rate changes, respectively. States with increasing or decreasing admission rates over the five year period are more densely represented in the sample than states without any significant change in admission rates because we expect to learn more from the former in terms of program planning and policy making. Similarly, states with decreasing admission rate changes appear more informative for NAJC purposes than states with increasing admission rate changes. For this reason the former were favored in the sample composition.

In order to meet all these requirements it was practical to select the states in two steps. The first step took care of the proper distributions across regions and

strata of admission rate changes and produced a set of 40 qualifying states. (Owing to successive subtraction of probability values, 10 states dropped out in the course of this step.) These 40 states were then used as input into the second step which resulted in the selection of the final 16 states properly distributed within the juvenile justice system typology.

This procedure is rather tedious and time-consuming but nevertheless straightforward. An example may be helpful: Each state starts out with a probability proportional to its youth population 5–17 years of age, controlled for its position on the admission rate change variable.[1] North Carolina, for instance, is a "neutral state" (i.e., $<|1.5|$ rate change per 10,000 for 1966–1971) and qualified for the second step. It had a probability of .314 of falling into the final selection. A series of samples—each consisting of 16 states and meeting all constraints—were drawn in such a way that each state appeared in the series as many times as was necessary to account for its entire probability value. Thus North Carolina showed up in .314 samples of the series and failed to do so in .686 samples of the series. But since a state as an indivisible entity at this stage either shows up in a a specific sample or fails to do so, it is necessary to allocate to each sample in the series a probability which would determine its chances of being selected as the final sample. Thus if the first sample of 16 states in the series is given a probability value of, say, .094, all states that belong to this specific sample had their original probability reduced by .094, whereas nothing was discounted from the probabilities of those states that did not appear in that specific sample. If North Carolina fell into the sample, its new probability would then be .314—.094=.220. This process was continued until the probability values of all 40 states reached .000. Thirty-five samples were necessary to use up all original probabilities. And all of these 35 samples met all the requirements specified above. The probabilities of these 35 samples were then used to form a cumulative frequency distribution ranging from .000 to 1.000. Finally a random number between 1 and 1.000 was chosen to determine which of the 35 samples would be chosen as the final selection.[2]

Appropriate officials in all selected states have been contacted and informed about their inclusion in the study in order to gain their full cooperation and participation in the data collection. Also given in Table 3 are the original and the normalized probabilities of each state based on their youth population 5–17 years of age controlled by their position on the admission rate change variable. The probabilities in Table 3 will constitute an ingredient in computing the selection probabilities for the counties and service units to be selected. These probabilities are subsequently used to compute the sampling error, a topic to be discussed later in this paper. Now we turn to the selection of counties—the second sampling stage according to the *Research Design Statement.*

Chairman PEPPER. We will take a 5-minute recess for the reporter.

[A brief recess was taken.]

Chairman PEPPER. The committee will come to order, please.

Mr. Lynch, will you proceed?

Mr. LYNCH. Yes, Mr. Chairman.

Mr. Chairman, the next witness is Dr. Robert Harder, who is the State director of social welfare for the State of Kansas. Dr. Harder holds a doctor of theology degree from Boston University. He was a former member of the Governor's staff in the State of Kansas and served in the State legislature from 1961 to 1967.

Dr. Harder, if you have a statement, would you give it at this time?

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[1] The probabilities were separately computed for each stratum of admission rate changes by dividing the youth population of that state by the youth population of all the states falling into that stratum and multiplying this value by the number of selections to be made from that stratum. The 1970 population in each state between ages 5–17 was obtained from the U.S. Census publication *General Population Characteristics: Final Report*, PC(1)–B.

[2] For greater detail see Leslie Kish, *Survey Sampling* (New York: John Wiley & Sons, Inc., 1965), pp. 488–495.

STATEMENT OF DR. ROBERT HARDER, DIRECTOR, STATE DEPARTMENT OF SOCIAL WELFARE, TOPEKA, KANS.

Dr. HARDER. Thank you very much for the opportunity of being here this afternoon. I have prepared a statement and I will not read it. I am submitting it as a part of our total report from Kansas.

Chairman PEPPER. Without objection, Dr. Harder's statement will be incorporated in the record.

[Dr. Harder's prepared statement will appear at the end of his testimony.]

Dr. HARDER. What I would like to do is summarize basically what is in that report. Kansas is a small State. We have an overall population of about 2.3 million, so some of these things I am talking about this afternoon related to Kansas would not necessarily be appropriate to many of the other States throughout the country.

Over the last 5 or 6 years, there has been a great deal of concern in Kansas about how you work with the older delinquent.

Chairman PEPPER. Excuse me. You have a good State, although it might be a small State. You certainly have a fine Governor. He is a good friend of mine.

Dr. HARDER. Thank you.

Mr. Chairman, another gentleman you may know is Mr. John Montgomery.

Chairman PEPPER. Yes, sir; a great pleasure. One of the dearest friends I have. You took him away from Florida.

Dr. HARDER. He has made a valuable contribution to our State.

In Kansas over the last 5 or 6 years there has been a great deal of discussion about how you work with 15-, 16-, and 17-year-olds. In many ways the question is not resolved. It is a question not dissimilar from many other States.

In the recent session of the legislature, after a year's study, a legislative interim committee reported out that the State of Kansas, while it had previously embarked on the idea of building 10 regional detention facilities—each facility accommodating approximately 50 boys—was to start immediate construction on 3 of those 10 facilities at an overall cost in excess of $3 billion, the interim committee made a recommendation that construction be held in abeyance. Instructions were given to the State board of social welfare to develop a plan that would emphasize the use of the community-based homes and, additionally, there would be some type of research evaluation program conducted at the same time in the interest of the legislature and the Governor having some material out of which they could make a policy decision.

Chairman PEPPER. I certainly want to commend your State upon that wise decision.

Dr. HARDER. Thank you, sir. I will convey that back to the proper people.

Additionally, when all of this was moving through the legislative mill, at the same time the Governor submitted a reorganization order, the first under a new constitutional amendment, to reorganize the State board of social welfare into a secretary position, and the secretary will have overall responsibility for the programs of vocational re-

habilitation, the social welfare, and hospitals and institutions, which additionally covers the juvenile facilities for delinquent boys and girls.

So that became a second important piece of our overall design, because it opened up the door to general planning.

The third legislative thing that happened was that the legislature and the Governor agreed to State administration and State financing of the welfare program. So this gave us a first opportunity to divide the State of Kansas into regions and operate our welfare program, our social service program, on a basis other than 105 counties.

That is the background against which we are presently operating.

I will be talking with you about really a philosophy we want to promulgate within our State. We hope we can get it transmitted out to all of the regions so we have people thinking along the same lines.

When we turn our attention to the juvenile, we have certain goals in mind. I should add that in Kansas at least some of us think that, while we talk about this kind of a goal or program in relation to the juvenile, we think it is also appropriate to the mentally retarded, and a person with a mental illness.

What we want to do is to insure that: No person is lost in the shuffle; each person achieving to his highest potential; a continuum of care—to which I will return—progressive steps; and hopefully the return of the individual to independence.

In the past there has been too much warehousing of people. When governmental agencies get involved in some of the social problems we face, one solution that often comes up is let's build a building and put the people in a building. The minute you build the building and put the people in, either juveniles, mentally retarded, mentally ill, it also means that society in many ways is excusing itself from that particular problem. The youth population coming up in Kansas and across the Nation is too great, the problems are too severe; we cannot possibly build institutions fast enough to cope with the problem. We are of the opinion an alternative strategy has to be developed.

When we talk about a continuum of care, we mean progressive steps of care leading to independence. We think a lot of this happens now, but it happens on a potluck or a chance basis. With the legislative background we have, we think we now have the door opened to us to really develop a total kind of concept to provide care, not only to the child or youth in trouble, we have a concept here we think will provide care also to the mentally retarded and to the mentally ill.

The earlier witness mentioned at times the mentally retarded get mixed in with the juvenile delinquent. We think under this kind of system there will be an opportunity for the right kind of diagnosis, so if a child is mentally retarded we won't run the risk of that child ending up in a delinquency-type facility.

What we have starting at point A is a "call for help." The call for help may come in a variety of ways. Maybe it is a kid in school that has lost interest in school. We view that as a call for help. A school official would pick up that call. He would get in touch with other people within the community to work with the child at an early age.

From the standpoint of intervention, we would first place emphasis upon support to the family.

We don't think the kid should be jerked out of the home as a first piece of governmental intervention. We think there should be

an effort made to provide support to the family in the interest of trying to keep the child in the home. If you look at it just from an economic standpoint, the cheapest place to rehabilitate people is still within their own home. That is part of the philosophy that is involved here.

If that doesn't work, the next point would be foster care, outpatient care, depending on what kind of problem we had. We think there are many instances when the child simply can't make it in the home. Maybe it is a situation where there are eight kids in the home, perhaps the mother and the father can cope with four of those kids, but they need some relief with the other four. We would see boarding care for the four kids temporarily.

Maybe there are other instances when the kids have to be taken out completely. That would be the next step in our continuum. If that doesn't work, we move to step D, and we talk in terms of small group homes. This is the kind of philosophy that is not new in Kansas. We have used the community-based home for the last 20 to 25 years. We have felt all along that there should be a delicate blend of many kinds of resources, and that there should not be an overemphasis of one against the other. Granted, at one time too much attention was directed toward detention facilities, but at least they are not being built at the present time.

Then step E, if necessary, institutionalization. We think there are boys and girls who have certain kinds of behavioral problems that simply can't be handled with any small group setting of this sort. They would be too disruptive. There is the chance of them being harmed or harming someone else. In those situations we would see them going into what we call in our State the Girls' Industrial School and the Boys' Industrial School; the girls' school, with fewer than a hundred capacity, the boys' school running about 195.

In Kansas we have not had to face the problem of shutting down large institutions, we simply never had them in Kansas. Our problem now is to make sure our services blend together in a continuum, so we get people fitted into the right place at the right time.

Then we would say at point E, after the behavior has stabilized, return the same route; institutionalization, and perhaps into some kind of sheltered living, outpatient care support and then independence. If we are really going to cope with the youthful population, we really have to think in terms of many of these kids getting to some point of independence. We cannot develop a public policy of an increasing number of kids now in some way dependent upon government as their means of existence. It is of critical importance that we keep that idea in mind in the interest of getting the kids out of institutions, out of the community-based homes, and away from even having to have some support from a mental health center or a social worker.

How do we see all of this happening? Another way of diagraming our continuum of care would be as follows: While it looks like a kind of a jumble, we think it is all significant. We start with the home. Perhaps there is some breakdown in the home; there is an entree here to community service programs. There is an entree to the school, because certainly, in all efforts, we would emphasize the importance of staying in school. If the problems get severe, juvenile court and the welfare departments stand ready to provide certain kinds of services.

Perhaps at this point, it is determined they need some additional help; foster parents, group homes, or in some instances, institutional care.

Let me emphasize, in this kind of a concept if it is going to succeed it is going to succeed because we made it work at the community level.

We are interested in the deemphasizing of a State agency. We think a State agency has to have overall responsibility, they have to provide supervision, they have to provide guidelines for the kinds of programs we want to carry out, but we don't think the State department of social welfare in its services to children and youth should be running community-based programs.

Chairman Pepper. How about the division of funds that are made possible in the programs. How much of that is State and how much is local?

Dr. Harder. We think it is important to blend all of the kinds of financial resources available to us. LEAA helps in funding some of our community-based homes. They provide some seed money, some bloc grants, to help purchase a home and to do some early staffing so they can get up and get going.

Then through services to youth in the State welfare department, we start purchasing service on a youth-by-youth basis, so the home can start counting on continued support. We are paying from $310 to $450 a month, depending on the kind of program and the kind of facility.

Additionally, in our services to children and youth, there is a certain part of the money that comes from aid to dependent children for foster care. So the Federal Government is involved in financing that part of it. Also, through title IV–B of the Social Security Act, direct child welfare services, another piece of money is made available, and we use it in purchasing some of the boarding home and group care which we are talking about in this kind of plan.

I brought this map along to indicate to you, while presently we have 105 counties, with the passage of the State administration of the welfare program, we will be dividing the State into six regions, as you see on this particular map. Within each region we will have at least one person on the regional staff who will be a specialist in services to children and youth. His responsibility will be to work with the schools, juvenile courts, and with other agencies that are involved with kids in the interest of developing some kind of a regional concept for providing services within these geographic areas.

In the larger population areas, which would be Wichita, Topeka, Kansas City, or Johnson County, we obviously will have more than one staff person. The function of that regional person will be to coordinate the resources. Additionally, we see with this kind of a concept and with great variances in population, through a regional concept we can blend our resources together.

Under our concept, we would see several counties going together to establish a community-based home or service. Then the kids from those particular counties would have that as a resource; the juvenile judges would have it as a resource; and the social workers would have it as a resource. We think there is merit in this kind of a concept.

With that kind of opening statement, I will stop. If you have questions, I will be glad to answer them.

Mr. LYNCH. Dr. Harder, what in your judgment is the appropriate role of a State government in the area of juvenile delinquency and, indeed, in the larger area of youth services in general?

Dr. HARDER. I think the State government's responsibility is to do overall planning, to do monitoring, to run program surveillance, to stand accountable for actions being taken that are department actions. It has the responsibility for helping communities finance the kind of projects talked about earlier.

I don't think it ought to run community-based homes. I think it has the responsibility to have the backup facilities, the State institutions, the boys' industrial schools, the girls' industrial schools. I don't think that is an individual community responsibility, because it provides a service to all kids regardless of where they are in the State. Anything below that, the State has a supervising and monitoring responsibility.

Mr. LYNCH. The first item that you listed was the responsibility for planning. Do you in the State of Kansas actively engage in long-range planning, vis-a-vis the juvenile justice system? If so, what long-range plans do you have?

Dr. HARDER. It would be misleading for me to say we do long-range planning at the present time. We think the legislation as now passed and with the vehicles available to us through this kind of legislation, have the mechanism for doing some long-range planning. We have a good and close working relationship with the Governor's Committee on Criminal Administration.

Mr. LYNCH. That is the State law enforcement planning agency?

Dr. HARDER. That is right.

Mr. LYNCH. Is your department represented on the governing board of that agency?

Dr. HARDER. We are represented on the committee that deals with juvenile programs. We are not on the governing body.

Mr. LYNCH. But you do have an input on juvenile matters into the State plan itself?

Dr. HARDER. That is correct.

Mr. LYNCH. Could you tell us what in your judgment is the relative cost of providing intensive social services of various kinds to kids in community-based facilities? Is that terribly expensive?

Dr. HARDER. In the homes that we are talking about sometimes we will spend $4,000 to $5,000 a year in maintaining a child in that kind of a facility. In contrast, if the boy or girl finally ends up at the boys' industrial school or girls' industrial school, our expected expenditures there would be between $9,000 or $10,000 a year.

Mr. LYNCH. So it is probably half of the cost of institutionalization?

Dr. HARDER. That is correct. Of course, another phase that we will be emphasizing under our new State administration, will be placing more emphasis upon working with the kids in their home communities, even apart from their getting involved in the community-based home.

Mr. LYNCH. You indicated the cost is approximately half. How about the level of effectiveness? Have you been able to make a judgment as to how well the homes do as compared to institutionalization?

Dr. HARDER. No; we have not done any kind of systematic study in that area. We have asked the legislature for $15,000 to do evaluation on the group home concept. If that is approved, we will have $15,000 to do a systematic job of evaluating a sample of kids in different kinds

of facilities and then reporting back to the Governor and to the legislature our findings.

As I understand it, Achievement Place, who you will hear from this afternoon, has done fairly systematic studies on work in one given facility. We don't have anything at the present time on a statewide basis.

Mr. LYNCH. But it is your intention to get that data eventually?

Dr. HARDER. Yes; we don't think we can go back to the legislature apart from giving them hard information as to cost and effectiveness.

Mr. LYNCH. You also indicated, in describing what the appropriate role of State government was in this area, the task of coordinating, if you will, monitoring programs. In your judgment can a number of public and private agencies perform services for juveniles on a cooperative and effective basis?

Dr. HARDER. Yes. We are not completely happy with the mechanism we have in Kansas at the present time, but in view of the fact we have some 40 homes in operation and these are run by either community groups or by private agencies, we think it is testimony to the fact that it can be done. We don't think it has been planned out well enough. We don't think the linkages have been made as they should have been made; but we think it is possible.

Mr. LYNCH. I find your concept of the continuum of care, which is the term you used to describe it, an interesting one. Is that something that could be easily adapted to other States?

Dr. HARDER. I think it could be adapted to other States if they set their minds to wanting to do it. It can be adapted to different kinds of problems we have to work with in this whole area of social programs. One of the great faults we have had in the past, those of us who have worked in the area of social services, is that we have not put together a good system; and because we haven't, we have been accused of being tenderhearted and softminded. In the plan under discussion, the basic data would be on a computer tape. By this means we can start to keep track of the people who are calling for social services in the State of Kansas.

Our overall goal would be to hook in all of the kinds of services; mental health, mental retardation, the juveniles involved in the juvenile justice system, and the predelinquent. We hope to have the system develop in such a way that when a person—child, youth, adult—comes to make an inquiry at a welfare office or school, a query could be made into a central data bank and a printout made available on that particular individual.

Mr. LYNCH. How many detention facilities does the State presently operate for juveniles?

Dr. HARDER. We presently operate the Boys' Industrial School and Girls' Industrial School. The Boys' Industrial School has a capacity of approximately 195. The Girls' Industrial School has a capacity of approximately 98. We have what we call an "annex" that is actually under the management of the Boys' Industrial School, and it accommodates approximately 80 boys. These are boys that it is deemed there has been enough work with them, that they can participate in the local schools. Additionally, we have a Kansas Children's Receiving Home which accommodates 30. We have 50 beds set aside at two of our hospitals to work with the mentally ill individual. Then at

our vocational rehabilitation center, we have 19 beds. These are devoted to boys who have had some kind of preliminary contact with the juvenile courts. So it is a total of about 475 beds that are actually available.

Mr. LYNCH. Would those 400 juveniles be better served if they were in small group homes located throughout the State?

Dr. HARDER. No; we think that this is the complement to the community-based home. Until we can get the concept I have tried to outline here really functioning in a total way, I would view the necessity of the State to be involved in these kinds of programs on a continuing basis.

As we become more effective in working with kids in their homes, conceivably we might be able to cut down on some of the beds we are listing here. But in the next 2 to 3 years, I don't think it is realistic to eliminate beds. They are necessary as a backup.

Mr. LYNCH. Why do you not want the State to operate the community-based homes?

Dr. HARDER. If the State moves in to operate the community-based homes, we are letting the community off the hook. They will feel the State has assumed that responsibility. The interest and the concern for the kids will lessen. In the overall we will all be put at a disadvantage. The community-based home is going to function only if it is really and genuinely a community facility. It has to have enough acceptance in the community so the kids can go to school in the community. It has to have enough acceptance so the kids can go to the swimming pool, the public library, and the list goes on and on.

I think the minute the State takes on that responsibility you lessen the chance of that kind of acceptance in the community.

Our second important point, is that from the standpoint of the resolution of the problems related to kids, it seems to me the community-based home is one dramatic physical way of saying that we have got some problems in this community related to kids and that is why that home is there. It helps to focus attention on the fact we have some kids in trouble who need the adult help of people within that community.

Mr. LYNCH. I have no further questions, Mr. Chairman.

Chairman PEPPER. Mr. McDonald, do you have any questions?

Mr. MCDONALD. Yes, thank you, Mr. Chairman.

Dr. Harder, could you explain to us what kind of programs go on at the industrial schools?

Dr. HARDER. The industrial schools are pretty much self-contained. They have their own separate schools offering a full curriculum, so the boy or the girl, if he stays that long, would have enough credit to graduate from high school. Or, if he is there for a short time, he can take courses in the school and credit can be transferred to another high school in the State of Kansas.

Additionally, there is some effort at both the boys' industrial school and girls' industrial school for vocational-type programs. But this has limited impact.

Mr. MCDONALD. These facilities are secure though? The juveniles can't enter and leave as they please?

Dr. HARDER. No. There are no walls, no fences. There never has been.

Chairman PEPPER. You mean in your State institutions you don't have them boxed in?

Dr. HARDER. No. There is a fence like there is a fence around a farmyard, but there is not a high fence, a retaining fence.

Mr. MCDONALD. What do you do then for people you want to keep locked up? Where do they go?

Dr. HARDER. At the Boys' Industrial School there is a security cottage.

Mr. MCDONALD. Approximately how many youths are there?

Dr. HARDER. I am sorry, I don't recall right off hand.

Mr. MCDONALD. Percentagewise.

Dr. HARDER. I have been in it. My guess is it would be fewer than 25 out of the 195.

Mr. MCDONALD. One more question. At the industrial school, is it an indeterminate sentence there where they just stay there until you feel they are ready to go back down into one of the other programs?

Dr. HARDER. That is correct.

Mr. MCDONALD. I have no further questions, Mr. Chairman.

Chairman PEPPER. Dr. Harder, do you have the juvenile court to refer young people into the system?

Dr. HARDER. Yes. There is a close working relationship, generally between the juvenile court and the whole welfare department. The juvenile code in Kansas is written so the juvenile court has the judicial responsibility. We have the case history and the social workup responsibility. At times there are tensions, understandably so. But I think increasingly we are getting those tensions worked out. I think one of the serious problems in the whole area of juvenile justice is that we have juvenile judges who are not trained as attorneys. Because of that, I think there are times the judges make improper decisions. Additionally, in the past we have not had any kind of a total concept. If the courts, and other social service agencies and community services are going to be used effectively, we have to develop more of a team approach than we have in the past.

Chairman PEPPER. Undoubtedly, your legislature will give consideration as to whether or not juvenile judges should be attorneys.

Dr. HARDER. Yes. I think in the future, as we move to more of a regional concept in the State, this opens the door to have trained attorneys serving as juvenile judges on a regional basis.

Chairman PEPPER. If a youth has committed some crime or serious offense and comes within the jurisdiction of the juvenile judge, does the juvenile judge impose a sentence upon that individual, or refer that individual to the social welfare department and youth service to have custody and to release or recommend a release of that individual when they think it is proper to do so?

Dr. HARDER. It works both ways. They have the option to use either device. We increasingly are saying to them that we can do a better job of working with the kids if we are brought in early and not on the day the sentence is being made. We are making headway in that whole area. In the instances when we are dealing with nonattorneys, they are less apt to see the importance of social or youth services.

Chairman PEPPER. I think you are quite right in emphasizing the importance of the community in the rendition of the service to the individual. How would you divide the expense of the rendition of the service between the State and the county?

Dr. HARDER. Actually, I would divide it three ways. The Federal Government, through the Social Security Act and LEAA, has a certain responsibility; the State government has a certain responsibility; and there should be a certain amount of local tax effort and united fund money available.

The bulk of the financial responsibility in most instances probably rests with some kind of governmental unit, but I think the community fund, or united fund, has a responsibility for helping the program to get started and to pick up those kids that cannot be picked up by the public welfare department or the social service department.

Chairman PEPPER. You do think the Federal part in this program you speak of should relate only to the inauguration of the program, to enable the State and/or local authorities to inaugurate the program, to get it into operation, or should the Federal function extend beyond that and also provide a deposit of funds to the maintenance and operation part of the program?

Dr. HARDER. I think the Federal responsibility should be a limited responsibility. The same thing I said about States not getting involved in community-based homes, and services is even more true with Federal involvement, although there needs to be a Federal commitment of dollars. There is a Federal responsibility to make information available of the kinds of programs going on over the country.

Additionally, there is a certain responsibility to set forth to the State of various models which have worked. The States can pick and choose, without the Federal Government rigidly saying this is the only way we are going to fund a program in your State.

I think another responsibility that could be a Federal task would be some type of overall program evaluation. There is no need to invent the wheel over and over in the separate States. Program evaluation could be a Federal responsibility, federally funded and federally directed.

There are some other vehicles which are readily available. Under the Social Security Act, IV–B, the money authorization has never been met by appropriations.

That is the money available under "Child welfare" for direct child welfare services. The appropriation is $44 million. The authorization is $196 million. Without any additional legislation being put on the books, the Congress can make additional money available, and in most of the States as I understand it, and that is the money that goes to help maintain community-based homes and to buy foster care. This is a significant step which could be taken tomorrow that would aid immensely in making sure these programs get on down the road and are effective.

The second thing, which should happen—and I don't direct this at the Congress alone—but at the Washington level; if we are really concerned about the kids in the United States, one of the important things that ought to happen in Washington right now is that all of the bad mouthing of the program Aid to Dependent Children ought to stop. Because a lot of the kids we are seeing in these community-based homes are kids that are connected to the welfare department through ADC, or what we call ADC foster care. If Washington is really concerned about the kid population in the United States, if it really wants to talk about rehabilitation, if it really wants to keep these kids in school, then

Washington is long overdue in reorienting itself. Washington must quit bad mouthing the ADC program. It is not only a lot of mothers we are talking about, it is a lot of kids we are talking about.

We are doing our country a great disservice as we continue to beat that drum, simply because it seems to be smart politically. It is going to do harm in the long run to the kids that I assume all of us are interested in.

Chairman PEPPER. One last question: What do you see as the role that the schools might pursue which would tend to diminish the numbers of young people who come into the delinquent or correctional program?

Dr. HARDER. There are two important functions a school needs to assume right away. One is the schools need to look at their curriculum in such a way that they start making determinations as to what the kids need and not simply what is comfortable for the teachers to teach.

The second thing is that schools need to be viewed, and the teachers need to view themselves, as one of the first ports of call. When I had the diagram up, I set aside a "call for help"—I think there are kids that call for help in the first grade or at the kindergarten level. They need help; the teachers know it, and we know it. We don't do an adequate job of making sure those kids sending out messages of help actually get wired into some kind or helping system. We must make every effort to save those kids, instead of pushing them out of school and out on the street.

Chairman PEPPER. I participated in a hearing before the Educational Subcommittee of the House Education and Labor Committee, presided over by the able chairman of that committee, Mr. Perkins of Kentucky, in Miami recently. It was reported by school authorities there from several States that at the present time, under the present funding of programs that we have in operation, only about one out of three of the disadvantaged children who are supposed to be the beneficiaries of title I of the educational program are getting any help. There is not enough money to help but one of three of the children that would be in this disadvantaged class.

When I asked these educators what happens to those disadvantaged children who don't get this effort, they said they are primarily school dropouts.

Now, then, I didn't need to ask them what happened to the school dropouts. We heard here, just this morning, we heard time after time, those school dropouts are the best candidates for juvenile crime and juvenile court. Yet, there is a proposal by the administration to reduce those funds further, make less money available instead of more.

So if we really, as you say, want to do something about these problems, if this country and the Government of the United States and the government of the several States really want to do something about crime, they have got to put the money that needs to be put into the school system into home aid programs, into child care programs, and into programs that have to do with those who are delinquent later on and need to be given an opportunity to be rehabilitated. And, of course, into programs that have to do with rehabilitation of adults, as well.

Dr. HARDER. That is right.

Chairman PEPPER. But what we like to do, as was done here a while ago, is to call for the death penalty. That looks like that is a hard line, that is a hard-nosed public official that really wants to do something about crime—recall the death penalty. We had the death penalty in this country for a long time and it didn't stop crime.

These same people that want to restore the death penalty are taking credit for the reduction of crime, and there hasn't been anybody executed in this country for several years.

Then they come out and want to send some drug pusher to the penitentiary for life, or a very long time. If he would be one of the top fellows, I would be willing to do that. Put him under the jail if you can get him under there, for that matter. But I haven't heard any of these people whose hearts are bleeding for the victims of crime in this country that have talked about more money for the school system, more money for our social service programs, more money for community aid programs, more money for correctional programs, and the like.

It is whether you really want to do something about the problem or whether you just want to make a political upheaval.

Dr. HARDER. While I make a plea for more money, I make it on the basis that the States can demonstrate to the people we have to work with that we can do a job. We can work creatively with the kids. We are willing to be accountable for our actions. In the area of accountability in social services, we have been negligent. I am not in opposition to accountability, that whole concept of accountability.

Chairman PEPPER. Neither am I. Congress has never intended there be an abuse in the use of the money we make available. It is primarily, as I understand it, the job of the States to tighten up the administration of the programs. Let's see every dollar get at least a dollar's worth of good service.

Dr. Harder, there is a rollcall and we have to go. I want to thank you very much for coming. Please give my warmest regards to Governor Docking and my good friend John Montgomery.

[The following material was submitted by Dr. Harder:]

PREPARED STATEMENT OF ROBERT C. HARDER, DIRECTOR, STATE DEPARTMENT OF SOCIAL WELFARE, TOPEKA, KANS.

At times, we find it extremely difficult to work with the young person who does not fit into preconceived molds as to how a child ought to act. He gets labeled a troublemaker, a delinquent, a slow learner, retarded, or many other labels which fit our need for pigeonholing but do very little in the interest of helping the youth. Once we get the young person labeled, then he is properly packaged and we are then in a position to cast him out of the immediate society in which he finds himself. Casting out may seem a harsh way of putting it, but when we think in terms of a stay in some type of facility or institution and then refer to his returning to the community, it seems to me that it presupposes there has been a casting out and entrance into an institution. There are occasions when a young person needs to be removed from his home and his community and it should be done. However, this decision must be made in the interest of his own well-being as well as the community's. I am fearful at times that the casting out strategy becomes our only strategy in working with the youth who may be creating a problem within our society.

Don't get me wrong. I am not going to build a case for saying that youth does no wrong. Neither will I align myself on the side of saying anything goes. In fact, I tend to be fairly firm in some of my own concepts as to discipline, order and responsibility on the part of the youth to his family, to his community and to the total society.

We need to view the behavior of children and youth as well as our expectations of them on a continuum. The continuum would have, on the one side, a complete and total permissive atmosphere, anything goes; the other side of the continuum and at the extreme point would be a philosophy of treat them rough—give them little opportunity for speaking out and for participation in their own destiny. From the standpoint of approach and style, I think both extremes are unacceptable. I would break into the middle of that continuum with a concept of high expectation, demands and responsibility, involvement in decision-making and a genuine concern and care for the humanness of adults and youth.

In Kansas there is a statutory provision providing that the State Board is to develop a child welfare service program and shall administer or supervise child welfare activities including the care and protection of dependent, neglected, defective, illegitimate and delinquent children and children in danger of becoming delinquent. The Board shall cooperate with the federal government, through its appropriate agency or instrumentality, in establishing, extending and strengthening such services and undertake other services to children authorized by law. The State Department of Social Welfare is the designee for carrying out those problems related to the implementation of the interstate compact on juveniles. In the amendment of the juvenile code, it provides that the juvenile judge may call upon the county departments of social welfare to do case histories and assessments in relation to those young people who have been brought to he court's attention. In the 1972 session of the legislature, legislation was enacted providing that the State Department of Social Welfare would be the reporting body and follow-up agency on matters related to child abuse.

The state department is involved in the placement of many of the youths going into the various state institutions. Through the vocational rehabilitation program, the department has a tie to a youth adjustment center at the Kansas Vocational Rehabilitation Center. The department is involved in the joint licensing of boarding homes and day care centers. Increasingly, we are finding that our involvement extends beyond those families who are dependent upon public assistance or those children and youth who are connected to our departments as state wards. In many instances, agencies are serving as broad social service agencies. They are finding themselves being called upon to work in this whole area of programs related to children and youth. Increasingly, we are concerned about doing more than ambulance work. We would like to be in a position to give guidance and leadership in developing prevention type plans in the interest of minimizing the need for institutional, out-of-community, out-of-home care.

At the present time, we are involved in an experimental program in Western Kansas covering nine counties called the Wheatlands project. Through this project, there is an effort to provide additional help to the various educational and social institutions and juvenile courts in the counties in the interest of developing alternatives to the young people becoming actively involved in the judicial system. In Wyandotte County, we are presently working to establish an umbrella-type youth agency whose responsibility will be to coordinate the youth services available in the Wyandotte County area. In both instances, the emphasis in these projects is on coordination, problem solving, anticipation of needs and then developing a strategy to make the best use of the available resources. We want to develop strong, creative and concerned programs for the children and youth in these respective communities.

I have given some philosophy and the statutory mandate under which we operate. Philosophy and laws alone don't solve problems related to children and youth.

Our department has to face the social forces which are calling forth new solutions and new strategies.

Our society is faced with an increase in family breakdown resulting in divorces, separations and desertions and, if there are children involved, then a high probability of children needing help. There is an increase in drug usage. There is an increasing number of youthful offenders. There is an increase in the number of dependency and neglect cases.

Lest we focus too much attention on the youth, we need to remember that the adults in our society play a key role in problem developing and problem solving. There are too many adults who would like to warehouse the kids and keep them out of our society. We think there are serious questions to this approach.

To break forth with new ideas and develop new strategies is the real challenge before us. Barriers must be broken down, gone around and overcome.

In a governmental setting, political opposition to new thrusts, altered approaches, a heightened emphasis can be one of the strong barriers to be overcome.

As you can gather from my earlier remarks, our approach is community based. Such an approach means that we are not going to hide the kids. As far as possible, we want the kids to remain with a community setting. The community is the place where the kid will have to learn how to survive. This approach may well mean community opposition.

Adult neglect is another formidable barrier. For many of us, we think that if we can label and pigeonhole, then we have solved the problem at hand. Wouldn't many of us as adults have to admit that we get wrapped up in our own world of work or boating or fishing or some other leisure activity and we fail to take into account that there are kids all around us who need the help and support which only adults can give?

Your interest and mine is in solutions and strategies.

The State Department of Social Welfare is a governmental body. As such, we operate in an executive, legislative, and political framework. We have to work in concert with key executive and legislative leaders to bring about change.

In Kansas, a legislative study committee reporting to the 1973 Legislature indicated that the appropriating of $3.2 million to build state-operated detention facilities should be delayed.

The Committee is of the opinion that the non-institutional approach may have merit and that it would be in the best interest of the state to delay the construction of additional institutions for juvenile offenders until it can be determined which alternative is the most effective in meeting the needs of the state in the delivery of youth services.

The Committee recommends that pilot community-based treatment projects be established. These projects should be initiated in both urban and rural areas. Pursuant to this recommendation, the State Board of Social Welfare should develop detailed pilot project proposals and submit such proposals to the legislature and to this Committee for consideration. Such proposals should include a complete description of the plan, including staffing patterns, necessary funding, administrative structure and evaluation techniques. In order for a judgment to be made about whether a community-based program does indeed represent a viable alternative to the more traditional institutional approach, the plan should be devised so that some comparisons between community-based programs and institutional programs can be made. Comparative costs and effects on recidivism are the two most critical elements to be considered.

The Office of the Governor, on April 2, 1973, made the following recommendation to the Legislature:

"I recommend that this 1973 Legislature include the pilot project as proposed by the State Department of Social Welfare in the omnibus bill. The proposal provides for two community-based homes, intensive work with a select number of young persons, and a program for evaluation. The proposal requires $202,533 in state funds. The amount of state money is based on the assumption that the state can make use of certain federal funds under the social service provision of the Social Security Act."

In Kansas there is significant executive and legislative support for the concept of community-based homes.

In that we have 42 group homes accommodating approximately 335 youth and 18 group homes accommodating approximately 145 youth, we think there is community support for the concept.

The strategy we see is that of continued community concern.

This continuum would envision that each community would have within its structure a mechanism for, first, giving support to families. The best place to develop healthy and sound kids is in the home. This presupposes the home has stability, has concern, and has an interest in humane treatment. These ingredients within the home do not come automatically nor do they come easily. The various kinds of helping agencies at the local level must give support and help to homes. Then, homes can develop in a positive and creative way which, in turn, will support the kids within the home.

If the home breaks down, the next level of community concern would be small group homes within the community which could accommodate six to eight children or youth. In this type of group home, the youth could continue a more or less normal existence in the community in which they were living. The group homes

need the support of the various institutions within the community. They will need the understanding of people within the neighborhoods where the group homes are located. They will need the support of the educational system so the kids can continue their education without any type of stigma.

If the child or youth cannot make it in a group home, the next level would be Boys Industrial School or Girls Industrial School. These are well run programs, but I do not think the state needs to embark on a program of small Boys Industrial Schools over the state. That program would be expensive. It would not match the possibilities of care in local communities.

Through this plan of operation, I hope you can envision with me the concept of *continued community concern*. All three words are important. *Continued*, because we cannot let down in our interest for children and youth. *Community*, because, if we are going to have an effective program, it must be based in the community.

We must get over the feeling that we can pigeonhole and label kids and cast them out of our community. We are duty bound to find solutions and develop strategies so the maximum number of youth are kept within our community. It is within the community that these problems have to be solved. It is within the community that the adults are reminded of their responsibility for the kids within that community.

The third important word is *concern*. Perhaps it is self-evident as to what I mean, but let me underline it. I am fearful that at times our concern is expressed by labeling and in constructing buildings. This is not the concern that I am interested in. I am interested in the kind of concern that says to these young people: "We care about having you within our society. We expect you to perform as responsible citizens. We are interested in you as human beings. We want to enter into conversations with you, so together all of us may help in shaping the future of our communities, our state, and our land." It is this kind of hard-going, demanding, self-giving concern that I am talking about. It is not a concern that is willing to feel the job is done when a person is labeled or when we have him properly placed in some building.

With the passage of a bill permitting state administration of the welfare program in Kansas plus an executive order reorganizing the State Department of Social Welfare, Vocational Rehabilitation and the Division of Institutional Management, we think we have one additional important piece which will help us carry out the proposed strategy.

While in the past we have had to deal with 105 counties, in the future we will be dealing with 6 regional offices under which there will be district offices. Through this plan of operation we will be able to give more specialized services to youth in trouble. We will be in a better position to provide program resources to local community. Through a regional concept we can reach out and serve as a catalyst to draw together the various agencies working in the area of services to children and youth.

Through the vehicle of the executive order, we now have the opportunity to provide a umbrella of social services. Hopefully, we can begin to give a continuum of care to all of our citizens. Our goal is to prevent people from being lost in the shuffle. Our goal is to ensure the development of an individual to his maximum potential.

To get the job done, we will have to follow the lead of the scientists and the technicians: that is, discarding old concepts, the patient building on previous experience, team work, no resorting to fads, experimentation with evaluation, and the pooling together of various resources. The second step we would have to take is a commitment to a certain type of strategy, and I would make a plea for *continued community concern*. Three, as adults, I think we have to examine our own ideas and attitudes related to the children and youth. As adults, I think we must be willing to respect them as children and youth. We must be willing to make demands upon them, but also, we must be willing to work with them. We must be in conversation with them in the interest of molding and shaping a common destiny. Fourth, undergirding our work, there must be an enhancing of self-respect and self-confidence on the part of children and youth as well as the adults.

As one man has said, "There is nothing more difficult to take in hand, more perilous to conduct, or more uncertain in its success than to take the lead in the introduction of a new order of things."

MESSAGE FROM THE GOVERNOR—(MONDAY APR. 2, 1973)

To: The Kansas Senate and House of Representatives.

In my legislative message and budget report to the 1973 legislature, I stated that I would transmit further recommendations regarding services to children and youth in Kansas. This message contains my recommendations to be included in the omnibus bill.

The special Public Health and Welfare Interim Committee appointed by the Legislative Coordinating Council studying the area of juvenile services and facilities recommended to the 1973 legislature that funding for regional juvenile facilities be delayed. The committee, in its report, made this statement:

". . . The cost estimate of $3.26 million for the three facilities is entirely too expensive for the type of program being proposed. Further, there has been developing in various states across the nation a trend toward less regimented non-institutional approaches in working with juvenile offenders. Massachusetts is one state in which this approach has been translated from philosophy into actual practice. In Massachusetts, for all practical purposes, state institutions for juveniles have been closed. California, Florida and Minnesota also are states being cited as leaders in this area.

"The emphasis in the non-institutional movement is on placing the youth in community-based facilities, often group homes, in as nearly a normal environment as is possible. This can be accomplished, in part, by state contracts with private persons or agencies. Proponents of this approach contend that the community-based treatment philosophy can be more successful and less expensive than an institutional program."

The committee recommended that community-based projects be established on a pilot basis. The committee suggested that the State Board of Social Welfare develop detailed pilot project proposals. These proposals have been developed and reviewed by the Governor's Office and by certain members of the legislature.

I recommend that this 1973 legislature include the pilot project as proposed by the State Department of Social Welfare in the omnibus bill. The proposal provides for two community-based homes, intensive work with a select number of young persons, and a program for evaluation. The proposal requires $202,533 in state funds. The amount of state money is based on the assumption that the state can make use of certain federal funds under the social service provision of the Social Security Act.

During the course of the 1973 session, representatives of the United Cerebral Palsy of Kansas organization conferred with members of the legislature and officials of the Department of Social Welfare concerning projects specifically designed for persons who suffer from cerebral palsy. United Cerebral Palsy of Kansas has suggested a $60,000 program to include a select number of cerebral palsy patients in state institutions who could benefit from a deinstitutionalized program. The appropriation for this program should be made to the State Department of Social Welfare so the department can make maximum use of possible federal funds. After observing the operation of this program, the state can determine whether to move more actively in this area.

ROBERT B. DOCKING,
Governor of Kansas.

[EXCERPT FROM GOVERNOR DOCKING'S LEGISLATIVE MESSAGE, JANUARY 1973]

CHILDREN AND YOUTH

In the past several years there has been discussion concerning the state's responsibility for the teenager in trouble—particularly 16 and 17 year olds.

A special interim committee has studied the possibility of building three regional detention facilities at an approximate cost of $1.2 million each. The annual operating cost would be $500,000 per each center. The interim committee has now recommended that the state should hold in abeyance the building of those facilities. I concur with that recommendation.

As an alternative we should consider a statewide plan for establishing community group homes. Achievement Place in Lawrence has received national recognition for its program of greater participation in schools and a lower return rate to the facility.

The concept of Achievement Place is that of a small group—six to eight persons—under the direct supervision of parents who have a responsibility for teaching and guiding the young people into good education and work habits.

I am recommending that serious consideration be given to state encouragement of community-based homes. The capital investment for each facility is $20,000 to $30,000 in contrast to $1.2 million, the cost of a detention facility. The yearly operating cost is approximately $4,000 per individual in comparison to the $10,000 which would be the cost in a good institutional setting.

I am considering a proposal for later submission to the legislature.

Chairman PEPPER. We will recess until 2 o'clock this afternoon.

AFTERNOON SESSION

Chairman PEPPER. The committee will come to order, please.

Our first scheduled witness this afternoon was to be Senator Birch Bayh. Senator Bayh has been unavoidably delayed so we will receive this prepared statement for the record.

[Senator Bayh's prepared statement follows:]

PREPARED STATEMENT OF HON. BIRCH BAYH, A U.S. SENATOR FROM THE STATE OF INDIANA

I want to thank the distinguished Chairman of this Subcommittee, Congressman Pepper, for giving me the opportunity to talk with you about a matter of mutual concern—America's juvenile delinquency problem. As Chairman of the Senate Subcommittee To Investigate Juvenile Delinquency, I care deeply about finding answers to this problem because it seriously threatens the welfare of our children, our greatest national resource.

I am troubled by the continuing rise in juvenile crime in this Nation. The hard facts are that we are facing a problem of extreme seriousness which will not go away by ignoring it. Juvenile delinquency takes an alarming toll every year. It also causes incalculable damage to the quality of life in this country, resulting in both economic and human loss as well as threatening the personal security and well-being of many Americans. According to the latest FBI figures, young people under 25 account for more than three-fourths of the total arrests for serious crimes in this country. During the last ten years, arrests of juveniles for violent crimes increased by 193 percent; arrests, for property crimes such as burglary, larceny, and car theft, jumped 99 percent. Our failure to deal effectively with the spiralling juvenile crime rate is dramatically underscored by the failure of our current system. The recidivism rate for institutionalized delinquents is the highest of any age group—between 74 and 85 percent. Many if not most adult criminals have a juvenile record.

During my two years as Chairman of the Juvenile Delinquency Subcommittee, we have conducted extensive hearings and investigations on juvenile justice and corrections, and the role of the Federal government in the prevention and control of juvenile delinquency. Expert witnesses, including State and local officials, representatives of private agencies, social workers, criminologists, judges, and criminal justice planners have testified at length on all aspects of the existing juvenile justice system. These witnesses have generally agreed that the present juvenile justice system is bankrupt and that the Federal effort to prevent and treat juvenile delinquency is uncoordinated, fragmented, and ineffective.

The Juvenile Justice and Delinquency Prevention Act of 1973, S. 821, is the vitally needed response to this tragic failure. I developed this measure during the 92nd Congress, when it was introduced as S. 3148. After extensive hearings, I joined with my distinguished colleague from Kentucky, Senator Marlow Cook, the ranking minority member of the Subcommittee, in introducing a revised and improved version of the bill last February. We are gratified that the distinguished Chairman of the House Education and Labor Committee, Mr. Perkins, and the Chairman of that Committee's Subcommittee on Equal Opportunities, Mr. Hawkins, have introduced a companion bill, H.R. 6265.

S. 821 and H.R. 6265 provide the structure for national leadership and the commitment of resources necessary to create a powerful partnership of Federal, state and local governments and private agencies to prevent and treat juvenile delinquency and to improve the quality of juvenile justice. The Juvenile Justice

and Delinquency Prevention Act emphasizes the critical need to prevent delinquency: it provides for the development of services and programs that will reach out to children in danger of becoming delinquent and assist them in resolving their difficulties at home, at school, and in the community. The bill also seeks to develop alternatives to the traditional juvenile correctional system, such as shelter care, group homes, and probation subsidy programs. It provides strong incentives to divert children from the juvenile system through community-based diagnostic and rehabilitative services and programs and to work with parents and other family members to retain the juvenile in his own home. My bill recognizes that the primary responsibility and hope for meaningful delinquency prevention and treatment lies with the local community where the child's problems first begin.

The critical need for this legislation is clear. Our hearings have revealed beyond any shadow of doubt that problem children rarely receive the help they need. Instead, these children are incarcerated in antiquated, custodial institutions where they are frequently beaten, neglected, and homosexually assaulted. Witnesses before the Senate Subcommittee repeatedly emphasized that large custodial reformatories or training schools do not rehabilitate juveniles. Instead, these young people may be forced to learn criminal skills to survive inside the institutions. This is doubly tragic when we consider that these children are so often "more sinned against than sinning." Approximately half of the institutionalized juveniles are locked up because they are runaways, truants, or are not wanted at home. These children have not committed a criminal offense; rather, they are the victims of parental and societal neglect of the worst sort.

Our hearings revealed that there are productive ways of handling children in trouble which offer a real chance of ending the cycle of delinquency, incarceration, and more serious criminal activity. S. 821 reflects the consensus of people working in the juvenile delinquency field on the effectiveness of community-based facilities and services for delinquents and neglected, abandoned children and other potential delinquents.

Some State and local governments and private agencies have successfully utilized the community-based treatment techniques outlined in this bill. In the course of hearings on the Juvenile Justice and Delinquency Prevention Act, we learned of states which have developed group homes and residential treatment centers as viable alternatives to incarceration. I understand that you have already heard of the successful experience of the State of Massachusetts in closing down traditional juvenile institutions and placing the juveniles in group homes and other shelter care facilities. Kentucky is another state which is developing alternatives to incarceration like those provided for by S. 821. Kentucky has recently phased out Kentucky Village, a reform school for delinquent youth which contained as many as 700 young people, and has created a variety of alternatives in its place, such as small, decentralized intensive residential treatment centers with a maximum individual capacity of 40 young people. Group homes and halfway houses have also been developed to avoid institutionalization for some juveniles and to assist youth in making the transition from institutional living back to their home communities. "Hard to place" delinquent youth who had been in training schools for as long as five years have been placed in foster and group homes. The recidivism rate during the first year of this new program was a remarkably low ten percent. S. 821 would make it possible for Kentucky to increase its present level of community-based services and to continue towards its goal of further reductions of institutionalization.

Delaware has moved to reform its juvenile corrections system since the conditions in its juvenile institutions became the subject of private and public investigation in 1969. As Mr. Robert Cain, Director of Delaware's Division of Juvenile Corrections, testified before our Subcommittee, "children in the custody of the State for 'rehabilitation' were being exploited, abused, and punished beyond belief." Since that time, progress has been made in developing medical, educational, testing and recreational programs in detention centers; utilizing diagnostic-medical-reception centers in institutions to develop individual treatment plans for juveniles; providing improved academic and vocational education in institutions; and creating meaningful post-institutional aftercare. Prior to 1971, there were no alternatives to incarceration for juveniles in Delaware. Since that time, a few group homes, utilizing available community resources, have been developed as alternatives to institutional care and as post-institutional homes. In spite of these encouraging gains, more than 47 percent of the juveniles in Delaware institutions are there for acts which would not be a crime if they were adults. According to Mr. Cain, to carry out a plan to

move these juveniles into shelter facilities where they belong would require Federal resources and direction as provided in S. 821.

There are other encouraging examples of youth programs designed to give children the support they need in my own State of Indiana. The Youth Advocacy program in South Bend, Indiana, provides a wide range of services for young people, with the primary goal of preventing delinquency. The legal services component, which is working to protect the rights of youth, most recently won a landmark case involving the rights of juveniles locked up in the Indiana Boys' School. Another part of the South Bend program is an alternative school system which provides school programs for drop-outs. The Youth Service Bureau in Peru, Indiana, operates a hot-line and a drop-in center for young people who need immediate help with their problems. The Howard County Youth Service Bureau in Kokomo, Indiana, provides crisis intervention service. Its work is so effective that the juvenile court judge utilizes it in some cases as an alternative to probation.

California has developed a probation subsidy program, which is one of the alternatives to institutionalization encouraged by S. 821. In such a subsidy program, a unit of local government is reimbursed for every juvenile retained at the local level rather than sent to a state correctional institution. The operation of the probation subsidy program in California from 1966 to 1972 resulted in the reduction of commitments to the State by 10,624 juveniles at an estimated savings of $68 million. This worthwhile program benefits the taxpayer, provides assistance to local governments, and encourages treatment of the juvenile in his home community where the possibility of rehabilitation is the greatest.

The Juvenile Justice and Delinquency Prevention Act, S. 821, emphasizes the importance of private agencies in developing and providing youth services. The YMCA has told us of their 50 programs in inner-city facilities which receive referrals from juvenile courts. These youth-residential centers work with young people on a one-to-one basis to solve each child's particular problem whether it be school, job, drugs, or difficulties in the home. The YWCA has also started programs to work with girls who have been identified as having trouble in school or in the community, before the difficulty leads to serious trouble. Dr. Karl Menninger, the noted psychiatrist and criminologist, testified before our Subcommittee about the success of the Villages, a concept of foster group living, which he developed, in caring for neglected and homeless children. Given adequate support and encouragement, these private, voluntary efforts can unquestionably be effectively adapted in other communities.

The Juvenile Justice and Delinquency Prevention Act strongly emphasizes the role of volunteers in delinquency prevention and treatment programs. In hearings on S. 821, we have learned of many encouraging examples of volunteer programs. For example, the National Congress of Parents and Teachers has developed a program in cooperation with the National Council of Juvenile Court Judges called "Volunteers in Court" to train volunteers to work with the court, the family and the child in trouble. The volunteer programs run by Indiana University at the Boys' Training School have been remarkably successful in helping juveniles return to productive, healthy lives in the community. On the national level, Big Brothers of America has recruited more than 75,000 volunteers to work on a one-to-one basis with fatherless boys who need guidance and support. However, even this nationally known program cannot, at present, utilize more volunteers unless additional resources are found for the professional supervision essential to an effective program.

The desperate need throughout the country for demonstrably effective delinquency prevention and treatment programs underscore the urgency of enacting S. 821 into law. S. 821 establishes the structure and provides the resources for the national commitment needed to help our children before they become delinquent and to rehabilitate them if they do get into serious trouble. The Federal effort to prevent and treat delinquency has failed to provide the direction coordination, and resources required to deal with the enormity of the delinquency problem in this country.

Testimony before our Subcommittee by officials of the Department of Health, Education and Welfare and the Law Enforcement Assistance Administration confirmed the sad truth that juvenile delinquency is at the bottom of the Administration's list of crime control priorities. The inadequacy of the Federal performance is further exacerbated by the Administration's efforts to cut back drastically social services for young people and their families.

The hard facts are clear. The issue we are facing today is whether we are going to make the kind of national commitment required to turn the tide of de-

linquency. There can be no half measures, no false economies. Unless we make a total response to the needs of our children, we will be destroying not only their future, but the future of the entire nation.

The Juvenile Justice and Delinquency Prevention Act builds on existing knowledge of the best ways to help children in trouble. Nothing less than this comprehensive bill will provide the resources and leadership commensurate to the size of the delinquency problem. Now it is up to us in Congress to make sure the jobs gets done.

Chairman PEPPER. Mr. Lynch, will you proceed.

Mr. LYNCH. Yes, thank you, Mr. Chairman.

Mr. Chairman, I am happy to present to you and to the members of the committee, Dr. Dean Fixsen. Dr. Fixsen works in the department of human development in the bureau of child research at the University of Kansas. He holds a Ph. D. degree from that university and he is a codirector of the achievement place research project.

Accompanying Dr. Fixsen this afternoon is Dr. Montrast Wolf, who is with the department of human development in the bureau of child research at the University of Kansas. He, too, holds a doctorate from Arizona State University and with Dr. Fixsen, is a codirector of the achievement place research project.

Doctors Wolf and Fixsen will make a presentation to the committee, Mr. Chairman.

Chairman PEPPER. We are happy to have you, Doctors.

Mr. Winn, would you like to say anything by way of presentation?

Mr. WINN. Mr. Chairman, I appreciate the opportunity. I have already visited with our guests. They happen to represent my own home university and come from my congressional district. I think Mr. Lynch has done a very fine job of introducing them.

I think the committee will find the achievement place research program very interesting, and I might say that the community in the Lawrence area, which is a college town, has been very supportive of this program. I believe the committee will find it a very interesting and novel approach.

I want to thank you, Mr. Chairman.

Chairman PEPPER. Dr. Fixsen, we are very glad to have you here.

STATEMENTS OF DR. DEAN FIXSEN, RESEARCH ASSOCIATE, AND DR. MONTROSE M. WOLF, PROFESSOR, ACHIEVEMENT PLACE RESEARCH PROJECT, UNIVERSITY OF KANSAS, LAWRENCE, KANS.

Statement of Dr. Fixsen

Dr. FIXSEN. I would like to begin with a few slides describing the program. Later on we will talk about some evaluation data that will describe the effectiveness of the program in relation to other kinds of programs designed to treat youths. We will also discuss a training program as a means of disseminating the program across the Nation.

The Achievement Place program was begun by a group of interested citizens and organizations in the Lawrence community. The local juvenile court judge and the JayCees were especially active in developing the program. The JayCees wanted to develop an alternative between institutionalization—which is a very serious move, since it removes the child from his community, from his parents, his friends and teachers in the school system—and the only other alter-

native open to the judge at that time was a probation program that had only minimal supervision of the kids. They thought for many kids there should be some third alternative, some medium point between probation and institutionalization.

About a year after the program began, we applied for and were successful in getting a research grant from the National Institute of Mental Health, Center for Studies in Crime and Delinquency, which is directed by Dr. Saleem Shah. From that time on, we have been conducting research on how to develop a model program. We have been supported now with NIMH research grants the last 5 years.

Achievement Place is a community-based, family-style, behavior modification, group home treatment program for delinquent youths in Lawrence, Kans. The goals of Achievement Place are to teach the youths appropriate social skills such as manners and introductions, academic skills such as study and homework behaviors, self-help skills such as meal preparation and personal hygiene, and prevocational skills that are thought to be necessary for them to be successful in the community. The youths who come to Achievement Place have been in trouble with the law and have been court adjudicated. They are typically 12 to 16 years old, in junior high school, and about 3 to 4 years below grade level on academic achievement tests.

When a youth enters Achievement Place he meets the other youths in the program and is given a tour of the house. Then he is introduced to the point system that is used to help motivate the youths to learn new, appropriate behavior. Each youth uses a point card to record his behavior and the number of points he earns and loses. When a youth first enters the program his points are exchanged for privileges each day. After the youth learns the connection between earning points and earning privileges this daily point system is extended to a weekly point system where he exchanges points for privileges only once each week. Eventually, the point system is faded out to a merit system where no points are given or taken away and all privileges are free. The merit system is the last system a youth must progress through before returning to his natural home. However, almost all youths are on the weekly point system for most of their 9- to 12-month stay at Achievement Place. Because there are nearly unlimited opportunities to earn points most of the youths earn all of the privileges most of the time. Once in a while one or two youths will fail to earn enough points to buy all of their privileges and once in a while a youth will earn so many points that he becomes the new "point champion."

The privileges that are available to the youths are basics, which includes the use of the telephone, tools, and the yard; snacks after school and before bedtime, watching TV; and hometime which permits the youths to their natural homes on the weekend or to go downtown. These privileges are naturally available in Achievement Place and add nothing to the cost of the treatment program. Other privileges that can be earned are $1 to $3 allowance each week and bonds which can be accumulated to purchase clothing or other needed items.

A typical day at Achievement Place begins when the manager awakens the boys at about 6:30 in the morning. The boys then wash their faces, brush their teeth, and clean their bathroom and bedrooms. The manager, who is elected by his peers, supervises these morning chores by assigning specific cleaning tasks to his peers, by monitoring

the completion of these tasks, and by providing point consequences for their performances. While some of the boys are cleaning their rooms and bathrooms other boys are helping Elaine prepare breakfast.

After breakfast the boys check their appearance and pick up a daily school note before leaving Achievement Place to attend the local public schools. Since Achievement Place is a community-based facility the boys continue to attend the same schools they had problems with before entering Achievement Place and the teaching parents work closely with the teachers and school administrators to remediate each youth's problems in school. The feedback teachers provide for each youth is systematized by having each teacher fill out a daily report card each day. A teacher can quickly answer a series of questions about the youth's behavior by checking "yes" or "no" on the card. Some youths do not require daily feedback and they carry a weekly school note to class each Monday. In either case the youths return their completed report cards to the teaching parents and they earn or lose points depending upon the teachers' judgment of their inclass performance.

When the boys return to Achievement Place they have their after-school snacks before starting their homework or other point-earning activities. In the late afternoon one or two boys usually volunteer to help Elaine prepare dinner. During the meal or just after the meal the teaching parents and the youths hold a family conference. During a family conference the teaching parents and the youths discuss the events that occurred during the day, evaluate the manager's performance, establish or modify rules, and decide on consequences for any rule violations that were reported to the teaching parents. These self-government behaviors are specifically taught to the youths and they are encouraged to participate in discussions about any aspect of the program.

After the family conference the boys usually listen to records or watch TV before figuring up their point cards for the day and going to bed at about 10:30.

The main emphasis of the program is on teaching the youths the appropriate behaviors they need to be successful participants in the community. We have found that a community-based group home that keeps the youths in daily contact with their community offers many opportunities to observe and modify deviant behaviors and to teach the youths alternative ways to deal with their parents, teachers, and friends. These behaviors are taught by the professional teaching parents who direct and operate the treatment program. The teaching parents live at Achievement Place with their family of six to eight delinquent youths and provide them with 24-hour care and guidance. The teaching parents also work with the youth's parents and teachers to help solve problems that occur at home and at school.

Statement of Dr. Wolf

Dr. Wolf. Although we have evaluated many of the specific procedures the teaching parents have developed to teach appropriate behaviors we have only recently begun to evaluate the overall effectiveness

of the Achievement Place program. Our preliminary data include measures of recidivism, police and court contacts, grades and attendance at school. We have taken measures for 16 youths who were committed to Achievement Place, for 15 youths who were committed to the Kansas Boys School—an institution for about 250 delinquent boys—and for 13 youths placed on formal probation. All 44 youths had been released from treatment for at least 1 year at the time we collected these data and all had been originally adjudicated by the Douglas County Juvenile Court, Lawrence, Kans. All of the youths were potential candidates for Achievement Place when they were adjudicated.

The boys were not randomly assigned to each group. Rather, they were committed to each treatment by the local juvenile court for reasons that we cannot specify. Therefore, any differences among the three groups can be attributed to initial differences among the boys committed to each group or to the effects of each treatment. That is, the differences among the groups may be due to a population effect or to a treatment effect. However, in the past year we have begun randomly selecting youths for admission to Achievement Place. We plan to collect followup data on these youths to provide an experimental evaluation of the long-term effects of the Achievement Place treatment program.

Figure 1 shows the average number of police and court contacts for each youth before, during, and after their respective treatments. As shown in this figure, the Achievement Place youths and boys school youths each had about four contacts with the police and court during the year preceding their formal adjudication while the probation youths each averaged about 2½ contacts. During treatment the probation youths each averaged over one police and court contact while the Achievement Place youths and boys school youths each averaged about one-half contact during treatment. During the first year after treatment the probation youths and boys school youths each averaged about 2½ contacts with the police and court and this decreased to about 1½ contacts during the second year after treatment ended. The Achievement Place youths averaged about one-half contact with the police and court during their first year after treatment and this decreased to zero contacts during the second year.

These data indicate that the Achievement Place youths and boys school youths were similar before and during treatment but were very dissimilar after treatment. The boys school youths once again returned to a fairly high number of police and court contacts while the Achievement Place youths maintained a low number of contacts with the police and court.

Figure 2 shows the percentage of boys in each group who received treatment after their release. These percentages are based on the num-

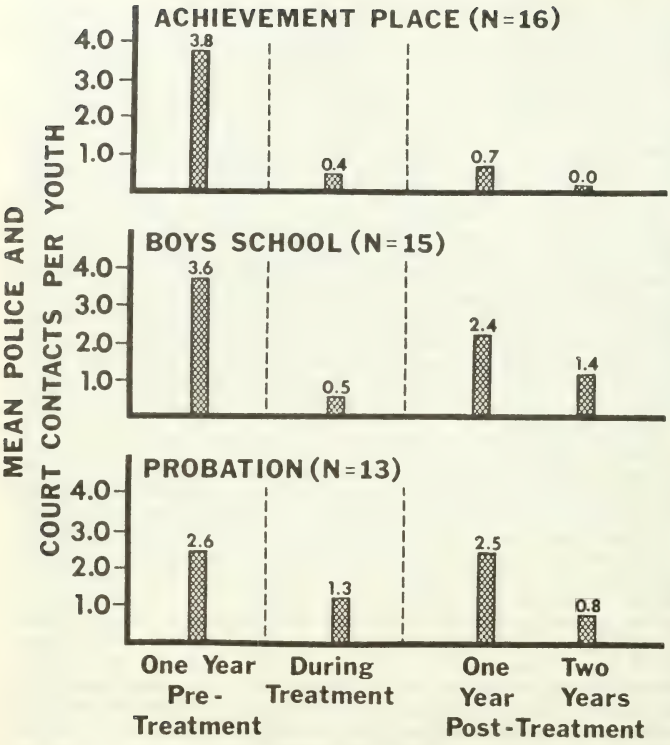
ACHIEVEMENT PLACE (N=16)
BOYS SCHOOL (N=15)
PROBATION (N=13)
MEAN POLICE AND COURT CONTACTS PER YOUTH
4.0
3.0
2.0
1.0
3.8
0.4
0.7
0.0
3.6
0.5
2.4
1.4
2.6
1.3
2.5
0.8
One Year Pre-Treatment
During Treatment
One Year Post-Treatment
Two Years Post-Treatment

FIGURE 1

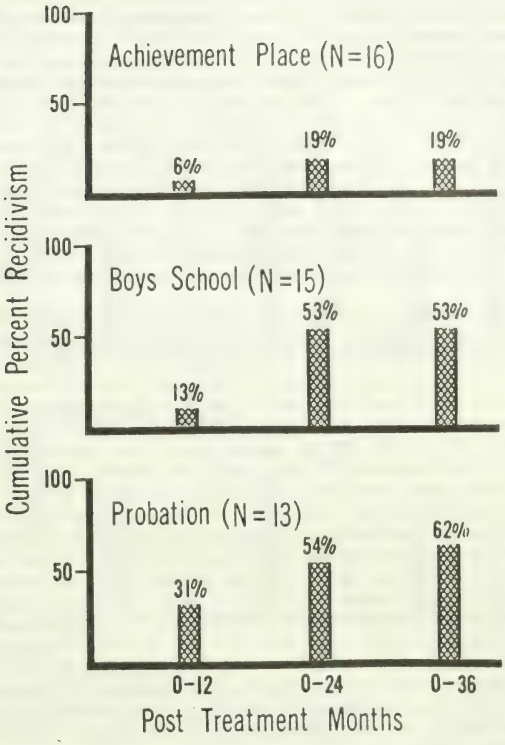
Cumulative Percent Recidivism
100
50
Achievement Place (N=16)
6%
19%
19%
100
50
Boys School (N=15)
13%
53%
53%
100
50
Probation (N=13)
31%
54%
62%
0-12
0-24
0-36
Post Treatment Months

FIGURE 2

ber of youths in each group that committed some delinquent act after their release that resulted in them being readjudicated by the court and placed in the boys school, in a State mental hospital, in jail, or sent to adult court for prosecution. As shown in this graph, 5 percent of the Achievement Place youths, 13 percent of the boys school youths. and 31 percent of the probation youths were readjudicated during the first 12 months after their release. By the end of 24 months after their release, a cumulative total of 19 percent of the Achievement Place youths, 53 percent of the boys school youths, and 54 percent of the probation youths had been readjudicated. Thus, it appears that the large number of police and court contacts experienced by the boys school and probation youths resulted in a larger recidivism percentage for these two groups. The Achievement Place youths had a smaller number of police and court contacts and a smaller recidivism percentage.

Although these police and court data reveal substantial differences among the groups they are measures of failure and are not measures of success. It is difficult to argue that lack of failure means success since there are many reasons unrelated to a youth's behavior that may influence whether he is readjudicated or not. For this reason we also took measures of school behavior. Figure 3 shows the percent of nonadjudicated youths in school before, during, and after treatment for each group. For two semesters before treatment about 75 percent of the youths in each group attended public school at least 45 days during each 90-day semester. During treatment 100 percent of the Achievement Place youths, 100 percent of the boys school youths, and 84 percent of the probation youths attended school each semester. During treatment the Achievement Place youths and the probation youths attended the public schools in Lawrence while the boys school youths attended the school provided in the institution. During the first semester after their release 84 percent of the Achievement Place youths, 58 percent of the boys school youths, and 69 percent of the probation youths attended public school. By the third semester after treatment 90 percent of the Achievement Place youths still attended public school while only 9 percent of the boys school youths and only 37 percent of the probation youths were still in school.

Another measure of school behavior was the percent of classes passed by the youths who attended school in each group. These data are shown in figure 4. For 1 year (two semesters) prior to treatment the Achievement Place youths passed (with a "D−" or better) 55 percent of their classes, the boys school youths passed 57 percent of their classes, and the probation youths passed 68 percent of their classes. In addition, about half of the classes passed by the Achievement Place and boys school youths were passed with a grade of "C" or better and the probation youths received a "C" in about two-thirds of the classes they passed. During treatment the Achievement Place youths passed 98 percent of their classes, the boys school youths passed 100 percent of their classes, and the probation youths again passed 68 percent of their

classes. About half of the classes passed by the Achievement Place and probation youths were passed with a "C" or better while almost all—92 percent—of the classes passed by the boys school youths were passed with a "C" or better. It should be noted again that the boys school youths attended school in the institution while the Achievement Place and probation youths continued to attend public school in their community.

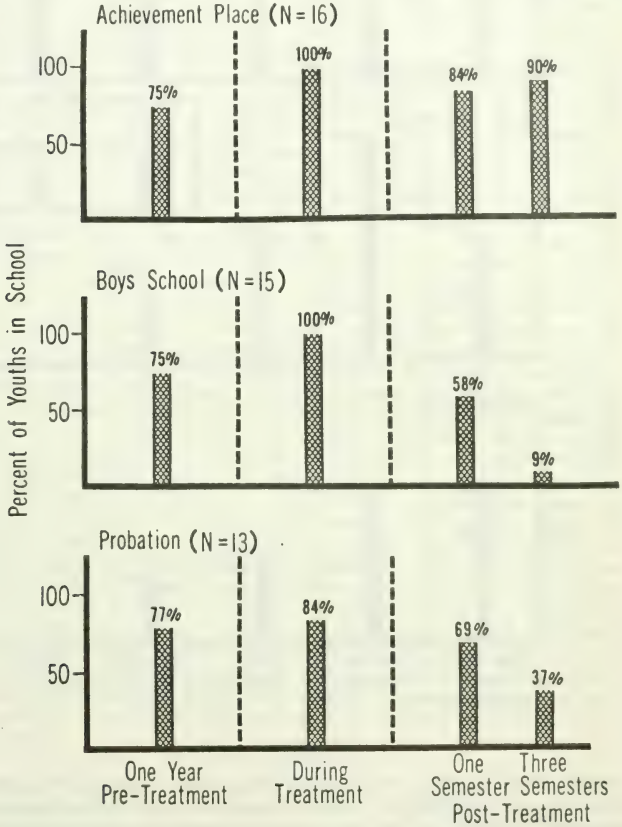

FIGURE 3

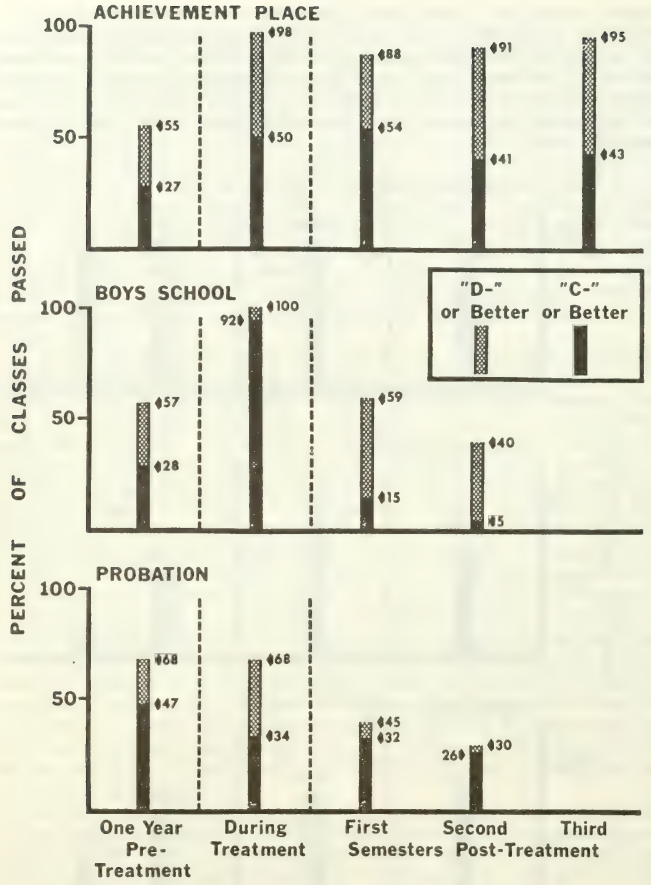

FIGURE 4

After treatment the Achievement Place youths passed 88 percent, 91 percent, and 95 percent of their classes over each of the respective semesters and about half of the classes that were passed each semester were passed with a "C" or better. The boys school youths passed 59 percent and 40 percent of their classes each semester after treatment and they passed only one-fouth or less of these classes with a "C" or better. The probation youths passed 45 percent and 30 percent of their classes each semester after treatment and they passed three-fourths or more of these classes with a "C" or better. Only two semes-

ters followup are shown for the boys school and probation youths in figure 4 because the number of youths still attending school during the third semester was very small—see fig. 3.

These school data indicate that the Achievement Place youths were similar to the youths in the other two groups prior to treatment but after treatment were more successful than the boys school youths or probation youths in terms of staying in school and passing classes. These data indicate that the Achievement Place youths are passing their classes and progressing toward the graduation requirements for junior high and high school.

The police, court, and school data indicate that the Achievement Place youths are progressing much better than their peers who were sent to the boys school or placed on probation. As indicated earlier, these data may reflect a "treatment effect" or a "population effect" attributable to the initial differences among the youths because the youths were not randomly assigned to the groups. However, we plan to collect similar data on a sample of randomly selected youths to provide an experimental evaluation of the long term effects of the Achievement Place treatment program.

However, even if the results of this random selection procedure shows that the Achievement Place youths do no better than youths who were sent to an institution, we would continue to advocate replacing most institutions with group home treatment programs. We would do this for two reasons. First, group home programs are more humane than institutional programs because the youths receive more individual care, they remain in close contact with their community and parents and friends, and programs can be provided to teach them important social, family, and community-living skills. Second, group homes are less expensive to operate. Figure 5 shows that the cost per bed of purchasing, renovating, and furnishing Achievement Place was about one-fourth the cost of building an institution. And, the operating costs per youth for Achievement Place are less than one-half the operating costs for the boys school in Kansas. Thus, to build a boys school for 250 youths and operate it for 1 year would cost about $8 million. To purchase, renovate, and furnish group homes for 250 youths and operate them for 1 year would cost about $2.5 million, a savings to the taxpayer of $5.5 million. If the followup data collected at Achievement Place and at other group homes eventually provide evidence that systematic group home treatment programs are also more effective than institutional programs we can expect a major shift away from institutions and toward community-based programs.

FIG. 5.—COMPARATIVE COSTS

	Achievement place	Institution
Capital investment per youth	$6,000	$20,000 to $30,000.
Yearly operating cost per youth	$4,100	$6,000 to $12,000.

Dr. Fixsen. In 1970 we began attempting to replicate the teaching-family model that had developed at Achievement Place. We were not sure how to go about training new teaching parents but we felt at

that time that the trainees should know about the treatment program and should use the teaching parents at Achievement Place as models of good teaching parent behavior. With these two rather vague training goals in mind we asked the trainees to enroll in a masters degree program at the University of Kansas where they took courses that emphasized the principles of behavior modification, courses in applied research measurement and design, and courses that related directly to the token economy procedures used at Achievement Place. The trainees also participated in a practicum where they visited Achievement Place several hours a day for 3 weeks then had complete responsibility for operating the treatment program for 3 or 4 days. During this practicum the trainees were told to "watch how the teaching parents run the program so you can do the same things in your own group home."

After these trainees completed their course work and practicum—which required 9–12 months—they were hired by group home boards of directors and they began to implement the treatment program in their own group homes. After a few weeks or months it became readily apparent that the training program had failed to produce completely successful teaching parents. After examining these unsuccessful programs for a few months—examining in the sense that we spent a great deal of time at each home trying to improve each program and trying to figure out why things were not working—it soon became apparent that the trainees had learned the principles of behavior modification and they could operate a point system just as we had taught them during the coursework. Our conclusion was that these things alone were not sufficient to produce a successful treatment program. These early failures to replicate the teaching family model forced us to look more carefully at the original, successful treatment program at Achievement Place to discover what important differences there were between the successful and unsuccessful teaching parents. We learned a great deal about the original program from these early failures.

The most important thing we learned was that the successful teaching parents were constantly teaching the youths new skills. The successful teaching parents quickly defined small problem behaviors, provided instructions to the youth on these problems, had the youth practice appropriate alternatives to the problem behavior, gave the youth feedback on his behavior in the practice session, gave the youth points for his cooperation and for learning a new skill, and the teaching parents did all of this in a very pleasant, nonconfronting manner. This was quite a contrast to the challenging, confronting interaction style or the "ignore it and it will go away" interaction style that we found among the unsuccessful teaching parents. Thus, teaching skills became a very important part of our revised training program and we are now convinced that the teaching instructions the trainees carry out with the youths in their program is one of the three most critical features of the treatment program. The other two aspects of the program that we feel are necessary for replication are the self-government system and the motivation system—point system or token economy.

Once we had an idea some of the important differences between the successful and unsuccessful teaching parents we began to look critically at our training program. For our first trainees we had taught psychological principles and concepts and we left it up to them to translate those abstract terms into procedures to follow to change the

behavior of delinquents. Since this was not sufficient we decided to teach the trainees the specific skills they would need and secondarily to provide them with a brief rationale for their use. We also decided to teach the trainees in the same way successful teaching parents teach the youths in their program. That is, we describe the appropriate behavior and give a rationale for it, we have the trainees view videotaped models of the appropriate and inappropriate teaching parent behaviors, we have the trainees practice the appropriate behaviors with each other during a role-playing session and practice with the youths in a teaching-family home during an inhome practice session, we provide specific feedback on their behavior during the practice sessions, and we provide positive social consequences to the trainees when they master the skill.

Thus, our informal analysis of our original failures to replicate the treatment program produced new conceptions of the original treatment program and provided us with a number of specific skills that we felt were required of successful teaching parents.

To achieve the goals of the training program we developed a training sequence that consists of five parts: (1) an initial 5-day workshop where the trainees learn and practice the basic teaching-parent skills and treatment procedures needed to begin a program; (2) a 3-month practicum period where the trainees implement the teaching-family program in a community-based group home and receive frequent consultation from the training staff; (3) an evaluation of the overall treatment program by the training staff by means of questionnaires given to local agencies that have contact with the program, to the youths in the program, and to the youths' parents, as well as an onsite evaluation by a member of the training staff; (4) a second 5-day workshop where the trainees receive feedback from their evaluation and additional training on several aspects of the treatment program; and (5) a followup evaluation period where the trainees' program is reevaluated after 6 months and 12 months and where continuing consultation is provided. Thus, the trainees are considered to be in the training program until after the 12-month evaluation is completed and passed.

The training program was designed in this way to facilitate the trainees learning how to carry out the treatment procedures. The first workshop provides an introduction to the teaching family model and practice on rudimentary teaching-parent skills. However, the most important time for learning is after the trainees begin implementing the program in their own group homes during the 3-month practicum. During this time they are faced with many problems each day that require immediate solutions. Thus, they are motivated to learn how to carry out many of the procedures they may not have seen as important during the first workshop and they learn many of the more subtle teaching techniques. During the practicum the trainees call the teaching-parent trainers several times a day at first to get advice on solving problems. In addition to the daily phone calls there is one weekly phone call of longer duration throughout the 3-month practicum where the progress and problems of the week are reviewed and a plan for the following week developed. Usually, toward the end of the 3-month practicum the number of daily phone calls decreases as fewer problems occur that require consultation. Thus, by the end of the 3-month

practicum the trainees have had a great deal of experience in using at least the basic components of the teaching family model. Because of this experience, during the second workshop they are better prepared to understand some of the more subtle uses of the program and are ready to learn some of the more sophisticated treatment techniques. Of course, after the second workshop the trainees continue to receive consultation from the training staff on specific problems as well as a phone call to review progress once every other week.

At each step in the training program the emphasis is on having the trainees actually carry out the treatment procedures rather than just having the trainees learn about them.

Mr. LYNCH. Dr. Fixsen, what kind of financial support would a community need to establish this kind of program?

Dr. FIXSEN. It takes about $50,000, at least in Kansas, to purchase and renovate a home and to get a home started. We find many communities often are able to come up with a portion of that money themselves through donations. But we find very often that smaller towns or neighborhoods in large cities that are probably most in need of group homes like this are unable to come up with sufficient funds to start programs. So even though the $50,000 per hope startup cost really isn't all that much, it is very difficult to come by presently because there are no alternative sources of funds.

Mr. LYNCH. Your program has been operating for approximately 6 years?

Dr. FIXSEN. That is right.

Mr. LYNCH. Is there additional research needed in your judgment, or could other communities undertake this kind of program at this time?

Dr. FIXSEN. Yes, I think it certainly is possible. The research that is needed right now is the research on training people how to become teaching parents, because it is a very complicated task and involves teaching the teaching parents to interact with a number of people outside of the home as well as the kids themselves. It is a very complex skill. We are not yet sure what all of those skills are, but we feel probably 60 or 70 percent of those skills are identified at this point.

Mr. LYNCH. Assuming other communities and other States wish to adopt the Achievement Place model, how should the programs be operated? Should they be run by the State, by municipalities, private groups? What should your recommendation be?

Dr. FIXSEN. I think any of those are possible. Our recommendation is to make the program as accountable to the community as possible. I think that would involve having the Achievement Place in the community be directed by the people who represent the community, so the group home can get feedback as to what the community people feel about the program. Having that kind of board of directors is very important.

Mr. LYNCH. Your response would be there would be a mix of responsibility as long as there was public community involvement?

Dr. FIXSEN. That is right. Community involvement at the level where the board of directors have to be concerned about the day-to-day policies that govern the home. Now, it may be, for example, that much of the money that supports the kids comes through the department of welfare. In the department of welfare, they have licensing require-

ments that must be met and they have a semiannual review of each licensed home.

That kind of State policy establishes the minimal requirements the program has to meet. But, as far as the State or any agency alone controlling a number of group homes, I think that would be a mistake. That task should be left up to community board of directors.

Dr. WOLF. I might add, there are many advantages to having community-controlled and directed group homes. In that way, you get community support. We have seen States go in to set up a home in the community and communities turn them down because they don't want any outside youths brought into their community. They feel they already have enough problems. But if it is the community's program and they know the people on the board, then it is their program for their problem youths. We haven't met any resistance in these cases.

Mr. LYNCH. Dr. Wolf, how about when the program began? What kind of community neighborhood response did you get?

Dr. WOLF. There was some initial resistance. There were questions. However, what saved the program was the Jaycees. It was their program and it was the judge's program. It wasn't the university's program or the State's program. We are still there at their invitation. We are essentially advisers and consultants, and the nonprofit corporation owns the home and sets the policy and continues to invite us to work with them. Because it was the Jaycees and because it was the judge, they were able to sell the program. If it had been the university or State, I am not sure it would have been possible.

Mr. LYNCH. How many youngsters can a program like this efficiently serve and to serve that number, how many staff are required?

Dr. WOLF. In order to keep the program a family-style program, we find six to eight youths to be an ideal number. If you go about eight youths, the teaching parents are not able to maintain the individual relationships that are necessary. These are six to eight very troubled and troubling youths. This is really a horrendous task for teaching parents, and they can do it because they work with the kids as they come in, one at a time. You have the youths already in the program learning and pretty well trained, and then a new youth comes in and he can be socialized by the group and the teaching parents. A couple of months later, the next youth comes in. If you have six or eight youths in the program, you have a group that functions very well. If you go above that, you start having higher turnover in your personnel and you start having more complaints.

Mr. LYNCH. You would definitely limit it to six or eight?

Dr. WOLF. I would definitely limit the family size. I think if you get much beyond that with these kids, you are not going to have an effective, family-style approach.

Mr. LYNCH. Doctor, if I may, speaking of families, while these youngsters are in Achievement Place or a situation like Achievement Place, what if anything is done for their parents? Are they receiving any kind of counseling, so when the kids return home they will have a different home situation, which may have been part of their problem to begin with?

Dr. WOLF. Yes; it is almost always part of the problem. The youths haven't learned the skills to make it in their families, their school, and community. Their parents have not been able to teach them these skills,

have not been able to guide them in the way in which they need to be guided, and have not been able to supervise them. Many of the families have severe personal problems, alcoholism, and so forth. But with help from a set of teaching parents, the family can make it often. They can learn how to negotiate and compromise with their youth and how to guide him. Even for parents who may have serious problems, the teaching parents can supplement them for several months or years.

Mr. LYNCH. Thank you very much. I have no further questions.

Chairman PEPPER. Mr. McDonald?

Mr. MCDONALD. Thank you Mr. Chairman. Dr. Fixsen, can you tell us basically what kind of offenses have the youths committed that are committed to Achievement Place? What is the spectrum of offenses committed?

Dr. FIXSEN. The only youths not considered for the program are those who have committed violent crime, murder, forcible rape, those kinds of things, where they would clearly be a danger to the other kids in the program, to the children of the teaching parents and to themselves. Those kids are eliminated. From there on down, you have kids who were adjudicated for breaking and entering, nonforcible rapes, extended histories of shoplifting, and so forth. At one time we tabulated the kinds of offenses, and about 70 to 80 percent of the offenses were felony-type offenses.

Mr. MCDONALD. In the past 6 years, have you had any occasions of fights between juveniles, destruction of property at the Achievement Place; and in that context, have you ever been forced to send a juvenile from Achievement Place to some other facility?

Dr. FIXSEN. We have never done that. As long as there is an opportunity to keep the youths in the community, and continue to work with them, that is what we do. We haven't had instances of fights within the home itself, although some of the kids, when they first come into the family, do continue to get into mild difficulty at home or school in the one instance, a boy was taken away from us by the court simply because he committed aggravated assault.

Mr. MCDONALD. He was taken away?

Dr. FIXSEN. He was taken away. But in that case, the teaching parents tried for a couple of weeks to keep the youth in the community and give him one more chance. They felt they could still help the youth if they had one more chance.

Mr. MCDONALD. You have an informal screening process whereby the juveniles that will be admitted to Achievement Place most likely will make it through without committing offenses while in Achievement Place?

Dr. FIXSEN. This is a screening process, but not on that basis. The screening process is carried out in an interagency meeting that consists of representatives from all of the child care agencies in town. When the teaching parents have a vacancy coming up they ask the screening committee who should be brought in next. They usually recommend youths who are having difficulty in school, in their families, and in the community. Usually the youth will be sent to an institution unless something is done like putting him in Achievement Place. That youth will be the number one candidate.

As you saw in the followup data, the kids who have gone to the boy's school look very comparable to the Achievement Place youths 1 year prior to coming in, in terms of offenses and school behaviors.

Mr. McDonald. That is what I was leading up to, whether in fact your statistics are impressive after they were out of Achievement Place. I was wondering whether they were impressive because the kids you take in Achievement Place are better quality overall than those who end up in the industrial school. Therefore, after they get out, chances are they are going to be better.

Dr. Fixsen. An excellent question. What we have been doing for the last 2 years is taking youths on a random basis. The interagency group recommends two or three youths that look to be the best candidates for Achievement Place because if they don't go to Achievement Place they are going to be sent away. Out of that subject pool we will randomly select one youth and follow up on the other youths. Unfortunately we don't have that followup data yet. However, it looks like 70 or 80 percent of the youths we can't take are institutionalized.

Mr. McDonald. One more question on the teaching parent concept. Do you know of any other States instituting this kind of program?

Dr. Wolf. We have been contacted by a number of States and a number of agencies. Right now one of the graduates of our program—an ex-teaching parent, and also a graduate of our graduate program—is setting up a program in North Carolina where he is going to set up a series of these homes. That is the most dramatic example.

Mr. McDonald. At the University of North Carolina?

Dr. Wolf. They are affiliated with Appalachian State University and Western Carolina Center.

Mr. McDonald. As it is now, it is Kansas and North Carolina?

Dr. Wolf. There are also other programs in other States. There is one home in Maryland. We also have other teaching parents in homes from Vermont to California. Now, there are about six teaching family group homes in Kansas and about eight homes outside of Kansas.

Mr. McDonald. Thank you very much. I have no further questions, Mr. Chairman.

Chairman Pepper. Mr. Winn.

Mr. Winn. Thank you, Mr. Chairman. I want to thank you, Dr. Wolf and Dr. Fixsen, for a very fine presentation. I think this is exactly the type of program that the committee has been looking for and I am very anxious to see your material and your graphs incorporated in the final report.

You referred to the point system, which I find sort of comparable to, on a different scale, the Boy Scouts, or Cub Scouting, which I think is very commendable and seems to work well in those two youth programs. How do they, or do they, differentiate the point system from grade cards at school? I imagine most of those young people are not bubbly about school or grade cards, or some are school dropouts, I suppose. I find it hard to visualize that they don't rebel against the point system, because young people like that have rebelled against grade cards.

Mr. Fixsen. The point system is designed in a way to make the points fit the situation. If there is a youth who is showing a small appropriate behavior, you can give him a small number of points. If it is a very important behavior, such as getting all C's on the 9-week report card, then there is a larger number of points. Plus, if the youths have a complaint against the point system, they can bring it up at the family conference and the youths and the teaching parents can discuss the complaint and arrive at a solution.

Mr. WINN. The incentives, too, that you offer are different because the incentives on the grade cards are nil.

Dr. FIXSEN. Unless the parents were telling them, "Gee, you have done a fine job" or "It looks like you are slipping in math, you have to watch out on that." There is always that kind of feedback plus the teaching parents can offer the youths points for doing well at school.

Mr. WINN. Doctor, have most of these kids been on drugs?

Dr. FIXSEN. Some of the kids have. In some of the programs, almost all of the kids have. In Achievement Place, maybe a third to a half have had drug-related types of offenses.

Mr. WINN. Out there mainly it's pot, isn't it?

Dr. FIXSEN. Yes. Mostly marihuana. Some of it is LSD, speed, those kinds of things. To my knowledge, no youths have ever experimented with heroin or other serious hard drugs.

Mr. WINN. I know both of you gentlemen are familiar with the Menninger Cottage concept.

Dr. WOLF. The Village.

Mr. WINN. Yes. The same basic idea, in some places called the "cottage concept." Have these cottages or villages been spread around? The only point, I think you made it very strong, when you get into that type operation, you get into a very expensive operation. But could your program work with home of six to eight people and still have several homes around a community campus type of thing?

Dr. FIXSEN. It probably could, provided each one was community based. A community-based program requires the possibility of frequent contacts with the parents and that the kids continue to go to the various schools when they return. Often the opposite occurs when you have the campus group home kind of concept. They may begin simply and grow to have perhaps 6 homes which each hold 8 kids, which means they have to have 48 kids. They may begin taking kids from outside of the community simply for economic reasons.

Mr. WINN. Then you get a bad situation.

Dr. FIXSEN. That is right especially when you lose contact with the teachers.

Mr. WINN. You get fierce competition, and I suppose even within Lawrence, Douglas County, because of the school situation, as you say, most of them probably know each other and know someone the other one knows. But you would still, if you had three or four houses around the campus concept, you would have maybe competition between those homes that might not be very conducive to the philosophy, which is trying to help the other guy, rather than beat his ears down next door.

Dr. FIXSEN. There is that possibility. For example, in the larger urban areas in Johnson County, the Optimists Club there had one home and now is setting up a second home.

Mr. WINN. What do you call it?

Dr. FIXSEN. Optimists' Home For Boys. The second home is being set up in another neighborhood. There are sufficient numbers of kids in trouble to support two group homes. I don't see any competition developing there.

Mr. WINN. But they are all next door to each other?

Dr. FIXSEN. That is right. Same county.

Mr. WINN. Are they taking their homes to the trouble spots?

Dr. FIXSEN. That is exactly right.

Mr. WINN. In a little different vein, either one of you might answer: I wonder why more universities haven't become involved—and you mentioned North Carolina—in projects like the University of Kansas has. Have you talked to any of the other educators along this line?

Dr. WOLF. There are a number of universities that would like to, but funding is a problem. As Dr. Fixsen pointed out, there is funding for basic research in the social sciences, basic research, laboratory research, survey research, theoretical research, and then there is funding from LEAA for implementation research, but implementation on a broad basis.

Mr. WINN. You don't get any LEAA?

Dr. WOLF. Some of our homes do. Our present program is ready for LEAA support for homes. But for social science generally there has been no support for the intermediate research and development. There has been little research funding between theory and implementation as occurs in engineering. For example, if an airplane manufacturing company is going to build an airplane, they don't go from the theory to widespread sales of airplanes. They build prototypes which crash and turn in the wrong direction on the runway, and have all kinds of problems. They keep doing research and development until they have a model that works. They copy that and that is what they produce.

In the social sciences, we try to go from textbook, generally, into the implementation without the development phase and frequently we fail. We have been very lucky in our Achievement Place program, in that NIMH center for studies of crime and delinquency has supported our program for several years and encouraged us to do the kind of research that brought us to where we are. We have been able to do the applied research necessary.

But for applied social science in general this funding is very limited and other universities are not obtaining funds from many sources for doing the same thing. Another place money needs to be made available is to the States for training and research and evaluation of innovative community-based programs. I think that if money were made available to State universities they would take an interest in applied research programs like Achievement Place.

Mr. WINN. I think you make a good point. Southern Illinois University has been a leader in correctional education. I am wondering along the same line of my original question, what the proper role of the university in juvenile corrections is and how can the Federal Government encourage universities to get involved, because universities get a pretty good chunk of Federal money.

Dr. WOLF. I think that Congress needs to reconsider the priorities. I think it means that rather than money for basic research, more money needs to be given for applied research. In the past, I think there has been an overemphasis in universities on basic research. We now have lots of theory but not much good applied social science research.

Mr. WINN. You started out with research?

Dr. Wolf. Yes; basic research.

Mr. Winn. So somebody had to do it to create your program?

Dr. Wolf. Absolutely; very important.

Mr. Winn. Then you put your research into a practical solution. It sounds very good. Now we are trying to find out how you get money, you and other similar programs around the country, to use what they found out in basic research all of these years. How you separate it financially from the university, would be the real tough one.

Dr. Fixsen. I am not sure how you would go about that, but to form the basic research and the development of principles, you still have to work out the method of application like in the airplane experiment Dr. Wolf was describing. When you try to implement it, you probably fail the first time or two. You need to be able to use that failure as feedback about the parts of the program that need to be changed. It is at this level of applied research that we need money for university research. It is going to cost money to convert the results of basic research into effective programs and no one seems to understand that.

Mr. Winn. I don't know how you do it either. I am familiar with KU's operation, I am familiar with a lot of funding they get. I didn't mean to separate the university from your program. I meant separate money you would get not just for research in the educational part, but from the practical operation of your program, and that might be kind of hard to sell back to the Federal Government by the university.

Dr. Wolf. That isn't so much a problem. The LEAA funding and the Department of Social Welfare, these are tied into our programs and we are connected with them. They are the ones who implement the programs. The Federal research money has allowed us to do basic and applied research.

Mr. Winn. LEAA is Federal money.

Dr. Wolf. That is right. It isn't university money. The communities in Kansas apply for those funds from the State. Then the communities come to us and say, "OK, would you help us set up a program and train teaching parents and help us evaluate them," and so forth.

Mr. Winn. I am sure the chairman has some questions.

Chairman Pepper. Go right ahead.

Mr. Winn. I have one more question.

How many teaching-parent teams have you trained, and how many are now in training?

Dr. Fixsen. There has been a total of 18 couples who have gone through the training program, and 15 of those couples are still teaching parents.

Chairman Pepper. How many are you educating now? It is ongoing, isn't it?

Dr. Fixsen. Yes; it is a small program at present. As Dr. Wolf suggested, we have asked for a training grant from NIMH and if the funds are forthcoming, we will be able to take 15 or 20 couples every year.

Mr. Winn. If you mentioned that, I missed it, and maybe we had better underline it when the final report comes out.

Dr. FIXSEN. That is right. Our application for a training program is now under review by NIMH.

Mr. WINN. I hope your program sounds as good to them and deserves the merit I think it does.

By the way, I have never been there, but I would like to come by.

Dr. WOLF. Please do; visit the boys' and girls' home and the Optimist Home, in Kansas City.

Mr. WINN. I have heard of it. I didn't know it was the same type of operation.

Thank you very much.

Chairman PEPPER. I was very much interested in what you said about the availability and nonavailability of Federal funds for these teaching programs, which you call "teacher parent." The teacher parent is primarily the person who runs the home?

Dr. FIXSEN. Exactly.

Chairman PEPPER. There are no Federal funds generally available for that type thing available through LEAA?

Mr. WOLF. It is a new concept.

Chairman PEPPER. LEAA has been helping?

Mr. WOLF. Yes.

Chairman PEPPER. Largely through capital for building?

Mr. WOLF. Right.

Dr. FIXSEN. The money that is missing from LEAA is money for research and evaluation of those programs, especially now while it is still in the experimental stage, to see if other communities can set up similar programs and if they can be as successful as achievement place. What is missing at this point is the money to followup on the kids who leave these new programs.

Chairman PEPPER. What was the LEAA money used for with respect to Achievement Place?

Dr. FIXSEN. With respect to Achievement Place, we have none immediately involved. Other programs in Kansas and other States have used the LEAA money partially for the startup costs and for some of the salaries for the teaching parents for the first year.

Chairman PEPPER. This would be a good time to aks the question we are very much interested in. What Federal financial assistance have you asked for any aspect of the program dealing with the treatment and attempted rehabilitation of delinquent youth, youth who commit crimes and who are brought in to some sort of restraint and custody? What do you suggest this committee recommend to the Congress as something that we should do from the Federal level in respect to this problem of juvenile crime and delinquency?

Dr. FIXSEN. I can start answering that. I would think one thing that is needed is the money for startup costs. Some of this is available through LEAA. Some communities, particularly poor inner-city communities, have no real means of getting the money other than from outside sources. No foundations or benefactors in their community. I think in urban communities particularly, you are going to need some full funding of the startup cost programs.

Another thing needed along with that legislation is the requirement those programs be evaluated.

Chairman PEPPER. You think that would be a proper Federal function, sort of in the nature of guidelines?

Dr. FIXSEN. Exactly. Kind of like licensing requirements of group homes. In terms of the Federal money, I think they require some kind of accountability, some kind of evaluation of the consumers' satisfaction with the program.

Chairman PEPPER. Teacher training program would be another?

Dr. FIXSEN. Yes. If we get our NIMH grant, we will have a training program in Kansas. But in other States interested in having a training program like ours, they will want to send people to be trained by us initially and then to go out and set up similar training programs. They will need funds to do that.

Chairman PEPPER. Do you think Federal funds will be needed for the operation of these innovative programs for the treatment and rehabilitation of delinquent youth?

Dr. FIXSEN. Yes, I think particularly in terms of the startup costs, evaluation costs, and training costs.

Chairman PEPPER. But do you think that will be necessary as continuing in effect?

Dr. FIXSEN. It looks to me right now that it will be.

Chairman PEPPER. What about the cost of keeping the young people in the home in the teacher facility? As Dr. Harder mentioned this morning, right now a considerable amount of money is being used through the aid to dependent children foster care—money which comes through the State, partially Federal, partially State.

What would be the most likely approach Congress would adopt, if they adopt one at all; would it be to advise that funds be available for nearly all of the different categories of aid in the innovation, and frequently with the basic programs for deliquent youth, but probably conditioned upon the States and/or local communities giving satisfactory assurance they can operate a much safer setup. Wouldn't you think that would be most likely the Federal approach?

Dr. FIXSEN. I think that will be a good approach for initial legislation, but that for those innovative programs already in existence, then there needs to be additional money available to try that program out in other communities in urban areas, in rural areas, with other kinds of kids, to make sure this is really something that would be applicable on a national scale. It is again the intermediate step we referred to.

Chairman PEPPER. How do you evaluate the need for effective programs in dealing with delinquents or criminal justice, or youths that commit crimes in respect to the overall crime problem? How important is this area?

Dr. FIXSEN. I think it is probably critical. I think from successful programs we will learn how to develop prevention programs. For ex-

ample, as you identify ways of working with the parents of the kids in a treatment program, you may work out ways of working with other parents and other siblings in the home.

Chairman PEPPER. I like all aspects, but I was particularly attracted by one provision of your State social welfare program, that before you do anything, even take the boy or girl out of the home, you see if you can't save the home.

Dr. WOLF. That is right.

Chairman PEPPER. Save the family. Help that family a little bit. It may be if wise social counseling went into that home they might be able to identify the estrangement of the parents, help one or the other or both of the parents get a job, they might be able to do enough to save the child; then if that child is falling behind in school and is likely to become a dropout they might arrange for some extra tutoring, extra assistance for that boy or girl. That is the kind of need. There are so many families that don't have our good fortune of being able to meet the needs in general of our environment, and they are struggling to try to survive. It is a very different environmental problem, the situation that they have. If a little help, and particularly a little care, a little concern, is exhibited by somebody it may save not only a family but a child in the family.

Dr. FIXSEN. Exactly right. Very important.

Chairman PEPPER. So the conclusion you reach is the money we wisely spend in this area is likely to be money saved from people that will be spared from becoming victims of crime.

Dr. FIXSEN. Plus the initial savings.

Chairman PEPPER. In addition to that, maintaining them in some sort of correctional institution after they committed more serious and objectional crime.

Dr. FIXSEN. Plus the benefits we are now having.

Chairman PEPPER. Plus saving boys and girls for constructive lives, rather than destructive lives.

Dr. FIXSEN. Exactly.

Chairman PEPPER. Gentlemen, I want to commend my colleagues here and all of you for the very forward look, the imaginative and innovative concepts that you are entertaining in Kansas and the very fine work you are doing in this area. When we had our hearings in Kansas City, Kans., I was very much impressed there by many things I observed. You have a very fine program underway. We want to commend the university for what it has done.

Thank you very much.

Dr. FIXSEN. We really appreciate the invitation to be here.

[The following material was received from Dr. Fixsen:]

THE ACHIEVEMENT PLACE MODEL

Background

Juvenile delinquency is a serious problem in Lawrence, Kansas and nationally. Many attempts have been made to find a solution to the problem. Some show promise. The Achievement Place model is proving to be an example for other programs intended to re-educate delinquent youths. Numerous psychologists, psychiatrists, social workers, teachers and citizens have written for information about Achievement Place. This publication is designed to provide general information about the program. In addition, a film, **Achievement Place**, has been produced to show a day in the lives of the boys in the program. The film is available on loan for a nominal handling and mailing fee from the University of Kansas Audio-Visual Center, 5 Bailey Hall, University of Kansas, Lawrence, Kansas 66044. Other homes, one for girls, have been established in Kansas. Other communities across the nation are also establishing homes based on the Achievement Place model.

Introduction

Achievement Place is a residential treatment facility for delinquent or dependent-neglected boys in Lawrence, Kansas. After more than three years of research and planning, the teaching-parents and staff at Achievement Place have developed a model treatment program to improve the academic, social and self-care behaviors of youths who are (or are about to be) suspended from school, who are in trouble in the community, and who are thought by their parents to be "uncontrollable." In a cooperative effort involving the Juvenile Court, the County Department of Social Welfare, school officials, and teaching-parents, boys who have been adjudicated by the Juvenile Court are sent to Achievement Place for an indefinite period of time.

Community Responsibility

The treatment program is community-controlled and is thus responsive to the unique characteristics of the community or neighborhood it serves. This responsiveness is ensured by placing the responsibility for the physical facility and its financial matters in the hands of a local Board of Directors. The Board of Directors, in cooperation with the teaching-parents, local school officials, Juvenile Court officials, representatives of local church groups, and other interested citizens, select the specific goals of the treatment program. The Board of Directors is represented on the Candidate Selection Committee. The committee also includes a school official, a Juvenile Court official, a social worker from the welfare department, and the teaching-parents. This committee selects candidates who are most in need of treatment, boys who are the greatest threat to the community, the schools, and the homes. The Board of Directors is also responsible for periodically evaluating the treatment program and recommending changes. Thus, through the Board of Directors, the community has control of (and responsibility for) the entire program.

Community-Based Program

The treatment program is community-based. Each boy's problems are dealt with in his community, in his school, in his home, and in his peer group. When a boy enters the program he continues to attend his own school. Thus the teaching-parents, in cooperation with the boy's teachers, can help solve his problems in that setting. Weekend home visits are encouraged and teaching-parents have frequent discussions with the boy's parents concerning problems and improvements. Furthermore, Achievement Place provides a new peer group. Each boy who enters the program comes under the influence of a peer group already working toward the goals of the program. Thus, both the peers and the teaching-parents serve as examples of appropriate behavior. Even after a boy leaves the program he can remain a member of the Achievement Place peer group and continue to visit the home, eat an occasional meal there, or spend the night. The continuing support the youth receives from his peers is an important aspect of the treatment program at Achievement Place. Another advantage of having a community-based program is that persons in the community can see the changes in behavior. This often leads to further improvements in behavior because persons who were once critical begin to treat the boys more warmly.

Family-Style Living

The program offers family-style but professional treatment. In the original Achievement Place, and in other programs based on this model, professional teaching-parents live in the facility 24-hours a day with a "family" of six to eight boys or girls between 11 and 16 years of age. Having a small group allows the teaching parents to interact extensively with each youth and thus produce the greatest amount of change in the shortest period of time. The teaching-parents and the youths come to know each other quite well and there is ample opportunity for social behaviors which occur only in small family groups. One further advantage of a family-style treatment program is that it can be used by communities of any size. Small rural communities may require only one treatment facility. Urban settings may require facilities scattered throughout the community. In larger communities, some treatment facilities may "specialize" and take boys (or girls) who are having a specific type of difficulty in school or in the community. Even in larger communities, however, each family-style, community-based facility should be controlled by the citizens of the immediate area. This ensures community cooperation and accountability.

Professional Teaching-Parents

The treatment program is directed by a pair of professionally trained teaching-parents. Their explicit duty is to educate the youths in academic, social, and self-help skills. Academic training (an M.A. program in human development with a specialization for teaching-parents) aids the teaching-parents in their educational duties. Their college training includes behavior modification procedures, remedial education techniques, juvenile law, and community relations.

Systematic Treatment Program

The Achievement Place Model also emphasizes individual behavioral treatment in a group setting. Since no two youths have identical backgrounds or identical problems, the treatment is individualized. The treatment program and specific behavioral goals for each youth are based on behaviors that members of his family, his school, his community, and the teaching-parents believe should be changed. The motivation system is uniquely suited to changing the individual behaviors of the delinquent or dependent-neglected boy or girl.

Program Evaluation

The treatment program is based on a motivational system which provides constant feedback to the teaching-parents concerning the daily progress of each youth. The overall treatment is also evaluated by routinely following the progress of each youth after he leaves the program. Modifications in the program are made on the basis of what particular difficulties the youth encounters after he leaves the program. In addition, specific procedures for changing behaviors are evaluated by the teaching-parents who observe and record the effects of various procedures under controlled conditions. Evaluation at all three levels (individual progress, overall program, and specific procedure) is necessary in order to refine the treatment program and improve its efficiency.

Application of Treatment

The overall treatment program and the specific procedures contained within it are designed to produce desired changes in the goal behaviors and yet to be sufficiently practical to allow application by teaching-parents. Researchers have too often developed programs which can be used only by other similarly trained researchers. To guard against that, the Achievement Place research staff has concentrated on developing procedures which can be effectively used by the professional teaching-parents. For example, the teaching-parents learn to use the youths themselves as "peer-trainers." They also seek help from untrained volunteers in the community to help carry out the treatment program.

The Achievement Place model is sufficiently developed to allow general application by other communities. There are still a number of needed refinements, goal behaviors which need to be better defined, and treatment procedures which need evaluation. Nevertheless, the program is ready for replication. Thus, the staff, in cooperation with the University of Kansas, conducts an experimental training program for professional teaching-parents. The training program takes about a year. It involves course work and extensive supervised practical experience in an Achievement Place style setting. Successful completion of the training program results in a certificate (for persons without college degrees) or an M.A. degree in Human Development.

Cost Compared to Traditional Treatment

The cost of an Achievement Place style program is substantial. However, it is much less expensive than traditional programs in large state institutions. In 1971, the operating costs were approximately $3,600 per year for each youth in an Achievement Place style setting with six youths. This compares with operating costs of between $8,500 and $9,000 per boy per year at the Kansas Boys Industrial School.

Initial costs are also much greater for institutional programs. It costs between $20,000 and $30,000 per bed to construct a state institution. It costs between $6,000 and $8,000 per bed to purchase and renovate an existing older home in a community.

THE ACHIEVEMENT PLACE TREATMENT PROGRAM

Purpose

The primary goal of the Achievement Place program is to help youths who are having difficulty with their environment. The first preference is to keep the youths with their original family if possible. Community agency personnel such as social workers, probation officers and school counselors, aid parents in correcting home conditions prior to the youth's referral to Achievement Place. Achievement Place gains custody of the child only after community service workers have done all they can and have suggested that the Juvenile Court remove the child from his home.

When the child is removed from his original home he is placed in the custody of the teaching parents at Achievement Place. The goal of Achievement Place is to help the youths become secure, well-adjusted, and useful citizens by providing a home-style, family environment in which sincere affection and understanding are combined with fair and consistent discipline, instruction, and feedback.

Affection and understanding, as important as they are, do not by themselves guarantee that a child will stop coming to the attention of the Juvenile Court. Nor can affection and understanding by themselves be expected to always lead to the development of acceptable behaviors in troubled youths. Normal youths learn appropriate behavior through many years of close and pleasant association combined with instruction and discipline from a father and mother. Most troubled youths have not had that experience.

At Achievement Place, teaching-parents modify undesirable and anti-social behavior whi' developing new and appropriate behavior patterns. At the same time they build a strong psychological foundation with which the child can face the difficulties he will encounter during and following adolescence. This difficult task requires a special type of care, instruction and discipline.

Why Spare the Rod?

It is not unusual for parents to discipline children using methods detrimental to the behavior change desired. For example, if a youngster is to be home from school by 4:00, but does not make it home until 7:00, a highly probable consequence would be a spanking, a reduction in privileges, a severe bawling out, and a cold shoulder for a short but unpleasant period of time.

This type of interaction usually gets the job done (has the youth home on time) but it has many drawbacks.

1. If the punishment is upheld it leaves no room for reconciliation. That is, if the punishment is final, what the child does between the onset of the punishment and its completion may obscure the reason for the punishment and result in misbehaviors. Thus, the child may make no attempt to get along but may rather torment his parents with additional but minor infractions of rules. On the other hand, the parent may spoil the discipline by permitting the youth to have a "restricted" privilege, rationalizing that "it won't hurt this time."

2. It withdraws adult attention when it may be most needed. The adult's reasons for administering the punishment and the youth's questions and reactions to the punishment may never be discussed because the parent feels it is necessary to be angry and unfriendly to make the punishment effective.

3. The level of punishment can seldom be matched to the magnitude of the misbehavior. There is a limited number of events and privileges parents may manipulate for disciplinary purposes. Thus, a small rule infraction may receive the same punishment as a larger infraction because no alternatives are available.

4. There is little opportunity to give rewards, other than praise, because other events which are rewarding to the child are not always available. If the system permits more powerful types of rewards to be employed, the desired behavior will occur more often.

5. If the punitive action is too severe, there is no way to take the punishment back. There may still be rare occasions when physical restraint is needed in order to protect persons or property; however, punishment is not the answer to most behavior problems.

The Token Reinforcement System

It is best if discipline can be maintained without reducing the quality of social interaction and instruction which is required if the child is to achieve stable and normal behavioral adjustment. He must be able to describe and discuss his own reactions and to understand the reasoning of others regarding rules and discipline. In order to accomplish this task, a token economy is used in Achievement Place to aid and speed up the job of re-socialization. The token economy (or the point system as the boys call it) may be used for discipline while the social relationship between the parent and child goes undamaged. The point system is also used to strengthen appropriate behavior to insure that it will occur more often.

If a youth on the point system returns late he knows the penalty before walking in the door. Almost all behaviors which earn or lose points are formalized and advertised on a bulletin board. Thus, there is no argument over the youth's behavior. The fine is delivered but it is not necessary for anger to be expressed. Normal relationships never need to be interrupted. The teaching-parent may have his arm around the boy's shoulder and be discussing how the boy can earn back the lost points at the same time discipline is being delivered. If a specific fine is too large, it can simply be reduced. It is difficult to do that if harsh words or spankings enter into the discipline.

How the System Works

The point system allows the boys at Achievement Place to earn points for appropriate behavior and to lose points for inappropriate behavior.

Points earned can be exchanged for items and events available in the home. Access to these privileges is obtained on a weekly (or daily) basis. At the end of each week (day) the boys trade the points for privileges during the next week (day).

The point system is designed to provide immediate feedback to a boy immediately upon entering the program. Then, as his skills and self-control develop, the highly structured point system is gradually withdrawn and replaced by a more natural set of feedback conditions. The training is designed to teach the boys to be productive and responsible under the natural feedback conditions of most homes, schools and jobs. When a boy earns his way out of the point system and into an honor system he must be ready to accept a great deal of freedom along with many

Some Behaviors Which Earn Points

- Watching TV news or reading the newspaper
- Cleaning and maintaining a neat room
- Keeping personally neat and clean
- Reading appropriate books
- Aiding teaching-parents in household tasks
- Doing dishes
- Being well-dressed for the evening meal or special occasion
- Performing homework
- Obtaining desirable grades on school report cards
- Turning lights out when not in use

Some Behaviors Which Lose Points

- Failing grades on report cards
- Speaking aggressively
- Forgetting to wash hands before meals
- Arguing
- Disobeying
- Being late
- Displaying poor manners
- Engaging in poor posture
- Using poor grammar
- Stealing, lying, or cheating

Privileges Which May Be Earned Each Week With Points

- Allowance
- Bicycle
- Television
- Games
- Snacks
- Permission to go downtown or visit natural home
- Permission to stay up past bedtime
- Permission to come home late after school

responsibilities. If his behavior indicates that he needs more experience with the support of the point system he loses his new status and returns to the point system. He can then again earn his way off of the point system. Once a boy demonstrates his ability to exercise self-control, to take responsibility for his own behavior, and to work productively in the home and in the school, he is ready to be returned to his own home or to a permanent foster family.

The family receives counseling in behavioral management practices. The boy's progress with his family and in school is followed closely for several months. During this follow-up period the boy can be returned to Achievement Place if the family and teaching-parents decide that is desirable.

How Do the Boys View the System?

The boys, in most cases, seem to enjoy the opportunity to earn their own way. It appears to make every day a challenge. It seems to make them realize that freedom and the other privileges we often take for granted are not "free" but must be earned.

The point system shapes the teaching-parents as well as the youths. When a boy does something right, the point system requires that he be rewarded. Thus, the system ensures that both the teaching-parent and the youth perform their roles appropriately.

Who Makes the Rules?

After a few weeks of training in self-government, the boys (in most cases) decide if a certain behavior should be changed. They also set the cost for violating rules. The boys conduct a court in which they sit in judgment of rule violations.

However, there are some rules over which they have no control. These rules (in many cases municipal, county, state or federal laws) must be upheld. For example, many boys have long histories of truancy and failure in school. If given a choice they would probably choose not to go to school. The task of the program is to make success in school rewarding to them.

What Research Goes on at Achievement Place?

The research at Achievement Place is an attempt to design an educational environment and to describe the environment and the progress of the boys as objectively as possible. Careful records of behavior are kept to allow continuous evaluation of progress in the home and at school.

Part of the training program includes the use of closed circuit television. The educational television is used to train the boys in social behavior. The boys run the television themselves. They make video-tapes of interactions such as solving an argument, the proper way to greet adults, and the basic skills of leadership. The boys play these tapes back and discuss the good and bad points. They observe how they improve over time. Also, the tapes can be replayed to objectively evaluate the effectiveness of television in training social skills. Thus, it is sometimes difficult to separate the research from the training.

How Successful is the Program?

The first and most important measure of success will be the long-term behavior of the boys who have lived in Achievement Place. If in later years these boys live productive and law-abiding lives the program will clearly have been a success. But we cannot wait 10 or 20 years to evaluate and make adjustments. There must be more timely measures of how the boys are performing. If the boys can cope in a miniature model of the "grown up" world they will make it on their own. Thus, we attempt to use their behavior in the home and school and in the community as a measure of the effects of the program. The immediate success of the program is impressive. Once the boys enter the home there are almost **no** unpleasant contacts with the law because they are no longer law violators. The schools report that they "are new boys." One boy has advanced two grades in one normal year. But the biggest change can be seen in the boys themselves. They take pride in their achievements and enjoy their new-found responsibilities.

THE ACHIEVEMENT PLACE EDUCATION PROGRAM

Most boys who come to Achievement Place are in academic trouble. They frequently have long histories of truancy, tardiness and disruptive classroom behavior. In addition, they may be one or more grade levels behind or on the borderline of failure. Unless remedial steps are taken, they will more than likely become school "drop-outs." The Achievement Place education program seeks to correct academic deficiencies to prevent drop-outs. This program is integrated with the overall treatment system currently employed by the teaching-parents at Achievement Place.

The academic failure of these boys is probably the result of a great many factors operating simultaneously, but the key to the problem appears to be motivation. It appears that the boys just "don't care" about school or getting an education. They see no connection between doing well in school and success in later life. One possible way to overcome this difficulty is to bring the consequences of a good education closer to the actual learning.

To do this each boy begins by taking a "daily report card" to school each day for each class (see example).

Teachers are asked to check "yes" or "no" to certain behaviors observed during the class period. The grade in the second two categories is initially set on the level the student is currently performing. The teaching-parents do not ask too much of him at first. The level required is gradually raised over a period of months until it is acceptable.

Teachers have given this system their approval and support. It causes them very little inconvenience but it is very effective. Several teachers have permitted Achievement Place staff members to observe their classes in order to objectively evaluate the results of the system. Before taking the daily report card, the boys

Daily Report Card

Name: .....

Class: .....

Yes	No	
☐	☐	Studied and obeyed the rules for the whole period.
☐	☐	Completed homework assignment on time and got at least a .....
☐	☐	Earned at least ..... on quiz or exam.

Date: ..... Teachers signature: .....

spent about 25 percent of their time in appropriate study behavior. While taking the card; however, their study behavior usually increased to almost 90 percent. In addition, an average of one letter grade increase for the 9-weeks report cards was common for most boys using the daily report card. We are working out a way to slowly remove this supportive system so the boys may be returned to the normal feedback system of 9-weeks report cards while still retaining their good study behavior.

THE ACHIEVEMENT PLACE HOMEWARD BOUND PROGRAM

As the boys at Achievement Place move through the rehabilitation program they gain more and more freedom by accepting more responsibility. At Achievement Place the boys learn new social skills needed to maintain good relations with their peers, teachers, parents, and other adults. Their academic skills are improved by study habits taught at Achievement Place and by daily "report cards" which provide immediate feedback to each boy for his academic and social behavior in each class he attends. The boys also learn how to maintain a clean and orderly house; they are taught how to make beds, clean bathrooms, dust, sweep floors and wash dishes. When the boys "graduate" from the Achievement Place program, they are capable of contributing to their natural home and to the community.

The Homeward Bound program is designed to maintain the social, academic, and self-help skills by providing for a two- to six-month (or longer if necessary) transition period during which personnel from Achievement Place maintain close contact with the parents of each homeward bound boy. Initially the boy goes home for weekends and continues to live at Achievement Place during the week. Each boy learns how to plan his weekend time so he will avoid the problems which originally caused him to be placed in Achievement Place. His parents learn to use the techniques successfully employed at Achievement Place so that they can maintain their son's newly learned skills.

During the next phase of the Homeward Bound program the boy lives at home full-time while Achievement Place personnel maintain close contact with the boy and his parents. As the parents become more proficient in guiding their son's behavior, the Achievement Place personnel assume a more indirect role and turn more of the responsibilities over to the parents. The parents eventually assume full responsibility for their son's behavior.

In the event of a reoccurrence of delinquent behavior, or if some previously unknown problem arises, the boy may be returned to Achievement Place for further training. This is a necessary aspect of the Homeward Bound program since there is no guarantee that the boy has learned the quantity or quality of social and academic skills necessary to get along without the support of the rehabilitation program at Achievement Place.

The Homeward Bound program is designed to maintain the skills acquired at Achievement Place by providing a gradual transition into the home, by educating the parents in the techniques used at Achievement Place, and by providing continued support to the boy after he has returned home.

What Keeps Them on the Right Track?

The boy's parents are trained to apply behavioral management techniques used at Achievement Place. Close contact between the boy's parents and Achievement Place personnel is maintained for several months. This ensures that the home environment is changed to prevent future misbehaviors.

Each boy changes considerably at Achievement Place. He learns to take pride in helping others, he learns how to handle responsibility, and he acquires a new pattern of behavior which shows self-confidence. For these reasons, the parents do not have much difficulty with the boy. Discipline is no longer the major parent-child contact.

Finally, there are usually younger children at home. By learning how to control the behavior of their son returning from Achievement Place, parents become better prepared to cope with the problems of their younger children. Many pre-delinquent behaviors in younger children can thus be changed before they come to the attention of the juvenile authorities.

What if the Parents Refuse to Cooperate?

Although it is most desirable to return the boy to his natural home, there are at least two possible alternatives if the parents are uncooperative or incapable of fulfilling their parental obligations. One is to let the boy remain at Achievement Place until he is 18 years old. This is not particularly desirable since other boys more in need of the rehabilitation program at Achievement Place will not be able to participate until room is made for them.

The other alternative is to arrange for a foster home through the local welfare agency. Foster parents can be trained in much the same way as the natural parents. The boy then goes through a transition period from Achievement Place to his new foster home.

HOW TO START AN ACHIEVEMENT PLACE STYLE PROGRAM

The necessary resources are available in most communities to begin an Achievement Place style program. However, much effort is required to organize these resources into a program.

Board of Directors

Begin by contacting citizens and public and private agencies such as the juvenile court, the county department of welfare, public schools, the model cities department, and the mental health clinic. Meet with representatives from these agencies and determine if there really is a need for a home-style treatment program. If a need exists, begin a loosely knit association of representatives and other interested citizens who are willing to work toward the development of the program. Eventually this informal association will evolve into a Board of Directors with formal responsibility for the program.

State Health Department

In most states, group homes are licensed according to guidelines describing the requirements for the physical facilities, the administration of the program, and the duties of the personnel. Write or phone your state Health Department and ask for a copy of these guidelines and licensing requirements. Also ask for someone to consult with you about developing a group home in your community.

The House

You will want a large home to renovate. Some planners have suggested new construction for group homes, but this has many disadvantages. New construction costs more, it is less like a "real home," and it is more likely to be viewed as an "institution" by the community. In most communities there are several large older homes which can be purchased at a reasonable figure Such homes need a great deal of renovation, but they can be made extremely home-like and comfortable at moderate cost. Also, each one is unique, providing individual character.

There are several things to consider in the renovation. Renovation should be carried out in consultation with the local fire marshal and health department, both of whom will likely be involved in licensing the house. The renovation should also meet the physical requirements of the professional teaching-parents. Remember that the teaching-parents need privacy and space to make them comfortable. They will also need a nursery or second bedroom if they have children of their own.

An additional problem in choosing a home is meeting the local zoning requirements. It has been our experience that when the first home is introduced into a community the neighbors are not terribly happy with the idea. This is understandable. They have legitimate fears of strangers coming into their neighborhood with a program for "delinquents" which in some manner might, for all

they know, endanger their children, the value of their homes, and perhaps their very lives. The neighbors all need to be contacted and reassured. They need to understand that the teaching-parents are professionals and have been trained to handle youths with behavior problems. They need to be reassured that the "family" will not really be much larger than a typical large family. The neighbors need to be encouraged to contact the teaching-parents any time even a small problem involving one of the youths occurs. This is exactly what the teaching-parents want. The teaching-parents need to know each time a youth walks over a yard without permission, throws a rock at a cat, or says an unkind word to a child. These behaviors can then be dealt with and corrected by the teaching-parents. Thus, while occasional inappropriate behaviors may occur in the neighborhood, the teaching-parent family will probably, in most respects, be more responsible and more effective in controlling their youths than many of the "normal" families in the neighborhood. In any event, establishing the first home may cause some problems with the neighbors. Thus, an education program for the neighbors is needed.

Financing the Program

There are many sources of funds for establishing and operating Achievement Place style homes. Contacts with several agencies should be established. Begin by approaching the county department of welfare and the state department of welfare. A new agency in every state now concerned with establishing community-based correctional programs is the Law Enforcement Assistance Administration (LEAA) which is funded by the federal government. Each state has it's own agency which receives block grant funds from the federal LEAA. Contact the governor's office in your state for the name of the LEAA agnecy.

Private groups may dedicate effort and money toward establishing a home. Be sure to contact the local chapter of the JayCees, the Junior League, the Optimists, as well as the churches and individuals who are known to make contributions to worthy causes.

Financial needs can be broken into two classes; **start-up costs** and **operating costs**. Included in start-up costs will be the funds for purchasing or making a down payment on the home, renovation of the home, as well as the first few months of operating costs. The operating costs will include the salaries of the professional teaching-parents, food, clothing, utilities, transportation costs, etc. Operating costs may be obtained from such agencies as the juvenile court or the county and state welfare agencies. In Kansas, welfare will pay between $250 and $300 per month per youth for Achievement Place style programs. This is almost enough to cover operating expenses. Start-up costs will probably be about $50,000 per home. While this is a great deal of money, this sum can often be obtained from a combination of agencies including the state LEAA and private organizations such as the JayCees, Junior League and church groups. There is a real need for federal legislation to help communities by providing these start-up costs. At the present time there is no federal agency with the responsibility for helping communities establish these programs. Nevertheless, funds are currently available to be used to develop Achievement Place style programs. It merely takes time and a determined effort to coordinate these resources and secure the funding necessary to support an Achievement Place style home designed to make a realistic contribution to the rehabilitation of disadvantaged youths.

Achievement Place was established and continues to be supported and directed by the citizens of Lawrence, Kansas. The research program has been supported by a grant from the National Institute of Mental Health (Center for Studies of Crime and Delinquency) to the Bureau of Child Research and the Department of Human Development, University of Kansas.

For further information write to:

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COMMUNITY-BASED, FAMILY-STYLE GROUP HOMES

Group homes provide treatment services for court adjudicated delinquent, pre-delinquent, emotionally disturbed, mildly retarded, and dependent-neglected youths and their families.

Group homes provide services for youths 10 to 18 years old with six to eight youths in each home.

Group homes primarily provide services to youths from the county, city, or neighborhood where the group home is located but can accept older out-of-county youths if this is needed.

Group homes are community-based in that each youth continues to attend the same school, maintains frequent contact with his parents, and remains in his own community.

Group homes provide services to local youths, which greatly facilitates treatment and makes possible extensive aftercare services to each youth and his family that helps to ensure each youth's success and may serve to prevent further delinquency among his siblings.

Group homes are operated by local Boards of Directors made up of responsible community members who hire the staff, have responsibility for financing and for the physical facility, and supervise the operation of the house; this community control helps to ensure community cooperation and accountability.

Group homes are operated by house-parents or professional teaching-parents who live in the facility and provide a pleasant, family-style treatment program and teach the youths critical social, academic, self-care, and community-living skills.

Group homes cost less than institutionalization with a cost of about $350 per youth per month for operating expenses (compared to about $800 per youth per month for institutions) and an original cost of about $6,000 per bed to purchase, renovate and furnish a large, older home (compared to about $25,000 per bed to construct an institution).

Group homes often are 80% to 90% successful while other treatment programs often have only 40% to 60% success.

Group homes can be readily evaluated by the Juvenile Court, Department of Welfare, school officials and teachers, members of the Board of Directors, the youths' parents, and the youths themselves to determine whether the program is meeting the goals established for the home.

Chairman PEPPER. We will adjourn until 10 a.m. tomorrow in this room.

(Whereupon at 4:30 p.m., the hearing was adjourned until 10 a.m. on April 19, 1973.)

STREET CRIME IN AMERICA

(Corrections Approaches)

THURSDAY, APRIL 19, 1973

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON CRIME,
Washington, D.C.

The committee met, pursuant to notice, at 10:15 a.m., in room 311, Cannon House Office Building, Hon. Claude Pepper (chairman) presiding.

Present: Representatives Pepper, Mann, Wiggins, and Winn.

Also present: Chris Nolde, chief counsel; Richard Lynch, deputy chief counsel; James McDonald, assistant counsel; and Leroy Bedell, hearings officer.

Chairman PEPPER. The committee will come to order, please.

Mr. Lynch will you proceed with the first witness.

Mr. LYNCH. Yes. Thank you, Mr. Chairman.

Mr. Chairman, the first witness today will be Judge Keith Leenhouts. I am pleased to present him to you and to the committee.

Judge Leenhouts is executive director of Volunteers in Probation, a division of the National Council on Crime and Delinquency. He holds a law degree from Wayne State University, and served as a judge with the municipal court in Royal Oak, Mich., from 1959 to 1969. It was under Judge Leenhout's leadership that the remarkable volunteer program began within the State of Michigan. It has served as a national model. At one time Judge Leenhouts employed over 500 volunteers within his court system.

His organization, Volunteers for Probation, operates now on a budget of approximately $80,000, and Judge Leenhouts spends most of his time going from city to city within the country assisting other courts and citizens groups in establishing probation volunteer programs.

Judge Leenhouts, will you please take a seat at the witness table?

Chairman PEPPER. Judge Leenhouts, we are very pleased to have you here this morning. We know we will profit very greatly by your advice and counsel.

STATEMENT OF KEITH J. LEENHOUTS, DIRECTOR, VOLUNTEERS IN PROBATION, ROYAL OAK, MICH.

Mr. LEENHOUTS. You might like to know a little bit about the volunteer court movement. It was virtually nonexistent 8 years ago, virtually zero volunteers were involved in the criminal justice system.

Today there are one-third of a million volunteers involved in some 2,000 courts, jails, prisons, and juvenile institutions.

Mr. Chairman, you will be proud to know Florida was one of the first States to go into this in a meaningful way on a statewide basis.

Chairman PEPPER. I have met many of the ladies who are sort of monitoring our courts down there. Is that the same program?

Mr. LEENHOUTS. No; that is a little bit different. We are more in the 1-to-1 involvement with the offender and with professionals like psychiatrists and psychologists as volunteers; also, giving services directly to the offender.

Chairman PEPPER. I am pleased to know that Florida is taking a credible part in this program.

Mr. LEENHOUTS. Yes. That was 1967 or 1968, I spent quite a bit of time in your State, helping them begin the first statewide movement in that area.

The use of volunteers is very, very effective. We have research which we can leave with your committee, which pretty well proves that the volunteer and the professional, working side by side, are about three or four times more effective than the professional alone. So I think that, first of all, the volunteer represents a tremendous source of savings as far as the repeat crime is concerned.

The volunteer court movement we fully anticipate will involve 1 million volunteers within the next 3 or 4 years. So now we would think that one of the things we should be thinking more about is how these 1-to-1 volunteers, who now are involved and informed, can become agents for a change as well in other areas within the criminal justice system. This is one of the things to which I think we should address ourselves more and more.

There are two programs that I think I would like to mention to you very briefly, if I may. One is a canoe trip which is going on right now, which involves four kids that have been taken out of juvenile institutions. They are kids that we have given up on, said they were beyond us, we had to put them away. So four of them, a positive youngster, a delinquent-prone youngster, a photographer, and man by the name of Fred Ress, a young 25-year-old, is taking these six people on a canoe trip from the Pacific Ocean to the Atlantic Ocean over a 6-month period. If they can prove the effectiveness of this—and we have every reason to believe they can—then maybe what we can do is send kids who have been in trouble on adventures like this, so they will come back proud of what they have accomplished, rather than ashamed of where they have been.

Chairman PEPPER. Who is acompanying those youngsters?

Mr. LEENHOUTS. The man's name is Fred Ress. This is the Plymouth Youth Center of Minneapolis. The idea is to demonstrate that it is far more effective than putting kids in juvenile institutions.

A prior trip taken 2 years ago from Lake Superior to Hudson Bay over 73 days with a similar group of youngsters from juvenile institutions, and one or two positive youngsters who had never been in trouble, has brought about tremendous results and has brought about this 6-month trip. This is the kind of thing I think this committee might be very interested in. I think it is one of the most exciting juvenile court programs I know of.

Fred Ress is totally a volunteer. Not only has he volunteered his time, but it is costing $4,000 just to take supplies for this trip. He is a very talented young man. He could possibly be singing for thousands of dollars a year. He was a winner of a New York Metropolitan Opera Company nationwide contest. Not only has he given up his singing career, at least temporarily, but has also put his own money into this. It seems to me this is the kind of person we should identify and help.

Chairman PEPPER. Just he and the boys?

Mr. LEENHOUTS. He and one photographer and the six kids, four who have been in juvenile institutions, one who will probably go there because of a very poor background, and one positive youngster, so they can have this effect back and forth.

I think, basically, this is the type of thing Volunteers for Probation have been doing. I really think if we are going to try to summarize in just a few seconds what we have done over the last years it is that what we have really done is identify really the heroes in our society and to give them the support and help and guidance and consultation that they need to get the program started.

Sometimes these are judges; no money, began a volunteer program out of a complete vacuum like we had in Royal Oak. Sometimes they are probation officers that are just overwhelmed at the situation, and know they need help, and we go in, and help them know how to screen, and sustain, and supervise the volunteer. Sometimes they are ordinary citizens, like a man in Bethlehem, Pa., an engineer in Bethlehem Steel, who began a program which developed beautifully, well administered, became a model program for Pennsylvania. Now there are 50 or 60 programs in Pennsylvania using this basic model of Bethlehem, Pa.

These programs, of course, are not saving thousands; they are saving millions of dollars throughout the United States because they have reduced recidivism by about a 4-to-1 ratio. They also give the courts tremendous resources so that the lower courts, adult misdemeanor courts and juvenile courts, become very effective and prevent all kinds of felonies.

I can give you statistics on this. In our courts in Royal Oak, actually the parole office handling felons out of Royal Oak was actually closed years after we began using volunteers in the misdemeanor court. That is how effective the volunteer is. He represents just a tremendous savings in money and, in addition to that, of course, just a tremendous savings in human life.

The other juvenile program I might mention very briefly to you is a program called Partners in Denver. It begins something like this. When a young juvenile goes on probation the probation officer says, "How would you like to join a club called Partners?" And the response, of course, is totally negative from this young 14-, 15-, 16-year-old. He says, "I don't want to join any club you are part of." The probation officer says, "Then that's too bad, I will cancel out the airplane trip." The kid says, "What about the airplane trip?" And he says, "As a matter of fact, not only do you get to fly in the plane, you get to fly the plane if you join 'Partners'." He says, "Where do I sign?" The probation officer says, Not so quick. If you join this club, you will have to meet with the citizens for 3 hours a week and

commit no more crimes." He figures he can con his way out of that later, so he joins the club and a few days later has gone for an airplane ride with volunteer pilots who volunteer their time and gas, and they go up in the airplane ride with the volunteer and staff man from "Partners." They come back to earth, at least geographically; I am not sure they ever come down mentally, emotionally. Then they go on a fishing trip to a trout hatchery, a guaranteed success experience. Then they spend a year with a 1-to-1 volunteer; they are together with them 3 hours every week and once every 3 or 4 months a third of them take a rapping trip or camping trip, hundreds at a time, because there are now about 450 volunteers active in this program.

This is the kind of program, under the direction of a remarkable young man by the name of Bob Moffat, that should be all over the United States. The recidivism rate is virtually zero. How could it be anything else? It is amazingly effective.

Chairman PEPPER. I can't refrain from saying that this week we have had programs unfolding which would not only reduce crime, but save a lot of money for the taxpayers of this country. Yet, all these people that are bleeding hearts over crime, most of them are not doing anything about this kind of a program. They want to talk about something else.

We are very grateful this morning to have as many of the members of the press as we have here, but this is all dull, you see, it is not spectacular, it is not anything sensational. It ought to be sensational.

You are telling about how the application of what, in a general sense, might be called love, the exhibition of care and concern for these boys that have committed serious crimes, is saving these boys from future crime and saving the taxpayer a lot of money. But here the Washington Post will run big articles nearly every day telling about crime in the District and the like. If they would be telling people here in the District what you are telling us now and calling for volunteers to do the kind of work these volunteers do to save these boys, we would be saving the taxpayers money and we would be reducing crime here in the District. But I don't know how—it is just going to take a person-to-person kind of a program, such as you have described, in order to get this idea spread over the United States.

But you are talking of the finest kind of crime curbing and I just hope we can bring to the Congress and the public's attention this program and encourage its adoption by others.

Go ahead.

Mr. LEENHOUTS. Thank you very much, sir. I might say that just last night, sitting up on an airplane all night long to get here from San Francisco, I read, it must have been 50 articles, photostatic copies of articles from newspapers in Florida which have talked about the Florida program under O. J. Keller and Len Flynn and others that you probably know, and these articles show to me that the press is really starting to think this does make news.

Chairman PEPPER. Mr. Keller was here this week. We are very proud of him in Florida. The legislature is, in general, giving him support. So we are, by way of improving our system, very much under his guidance and leadership in Florida. I hope public opinion more and more is supporting that approach. Yet we just barely scratch the

surface in what we can do if we will follow the best thoughts there are prevalent in this country today in this area.

Mr. LEENHOUTS. The simple truth of the matter is, up to this point what has developed, the one-third of a million volunteers that have prevented thousands and thousands of crimes, has been in spite of and not because of the government.

That is 90 percent true. And what has developed has been people that have just said it has got to be and they have done it. And people like Guy Main, Fred Ress, $4,000 of his own money, 25-year-old man, said it's just got to be. He is taking a canoe trip which is in one way a trip in the past, the old fur traders, but in another way it is a trip in the next century, a way to deal effectively with juvenile offenders.

Chairman PEPPER. All over this country there are businessmen who are still relatively young, who have been very successful in business, and a great many of them are looking for something satisfying to do. I know one day I was riding along in the golf cart with one of my good friends in Miami, who had made a lot of money, and at that time he was not in business at all, had sold his business.

Addressing me, he said:

> You know, I wish there was something I could find to do. I don't need any more money, I don't want to be on any more boards and the like, but I just don't feel like I am doing anything, only playing golf three times a week and just taking it easy.

And this was a fellow, a very big, fine, strong, wonderful man. There are a lot of men like that all over the country. He finally went back into business to a limited degree, primarily to occupy himself. There are lots of men like that all over this country that are good sportsmen, like to go out in the woods and fish and the like, who would be wonderful men to work with boys. They would respect these men. And the men would get a satisfaction out of life that they are not now getting.

So I don't know how you spread this philosophy among the men who would like to do this kind of thing, but I think there are a lot of potential members of this great fraternity that you are talking about in the country.

Mr. LEENHOUTS. You are so right. On our staff today, in our office right today, in Royal Oak, Mich., we have six full-time people working for us. Three are retirees who get what they can of their social security. Our program in Royal Oak, in order to have 50,000 hours a year of rehabilitative service to kids, had to have 14,000 hours of administrative nitty-gritties; 14,000 hours of really fine administrative work was given to us by seven full-time retirees who worked for what they could receive under social security, half of them; the others have received nothing at all.

This is a tremendous untapped resource. One of the things we have said around the country is we ought to use one-to-one volunteers. There is a third of a million now, so that has been pretty successful. But the second thing we tried to say so much around the country is the use of the retirees you are talking about now, and I would like to see, if possible, some funds somehow to go about with this message of the involvement of the retiree.

As we approach judges throughout the United States, I would say as we approach 100 judges, and we talk about the voluteers, 15 percent

of them say, "It has got to be; it is right; I will do it myself if I have to crawl on my hands and knees. It has got to be and I will do it." And 15 percent will say, "No way, it is no good; I won't have anything to do with it." And 70 percent, in the middle, will say, "I would like to do it, but I can't do it administratively."

We can train retirees all over the United States to go to their judges with the basic concept and say, "Let's try it, and I will administer this for a year and at the end of the year we review it and see where we go." That is one of the things we would like to do.

Chairman PEPPER. You know, Judge, what you are saying reminds me, in a way, of the Peace Corps. Here we are approving conscientious and meaningful people to go into other countries and try to help those people. The age of the members of the Peace Corps, I understand, has increased in later years. So it shows that older people as well as younger people are idealistic and are interested in being helpful to their fellow man. But suppose we could organize a Peace Corps equivalent in the United States to work among the juvenile delinquents of this country? Look at what an enormous program that could be. How could we do something like that?

Mr. LEENHOUTS. This is another thought we had in mind. I know you have given a lot of thought to this because these things just don't come off the top of your head. We are right on the same wavelength. It is amazing.

One of the things we are now trying to bring about is a national college for the court corrections volunteer movement. This national college would, among other things, train graduate high school students and college students for credit, give them an idea of how they can become more effective as professionals in this field, or as volunteers later in life. This is something that is now on the drawing board and we are working at and, of course, like everything else we have ever done it has to be done totally without money, apparently. So we are going to have to put it together. This is something I think there is a tremendous potential for.

Chairman PEPPER. I don't know whether it should be done under the aegis of the Government or whether it should be done by a private organization. Have you any suggestions? How could we stimulate a larger participation, and should the Government have any part in it?

Mr. LEENHOUTS. I am really not sure, except to know that our office solely intends to it. And if we can do it with some funds we will do it quicker; and if we don't have funds we will do it the way we have done everything else, we will demonstrate its value and pick up support from here and there. It is just a degree of how it is going to come about.

Mr. LYNCH. Have you applied to any Federal agency for the developmental funding for that national college for training volunteers?

Mr. LEENHOUTS. No, Mr. Lynch, we have not. Certainly we would be amenable to the thought if there appeared to be any interest.

Mr. LYNCH. Judge, as I recall, several years ago you did apply to a Federal agency for a grant to enable you to take a year's leave of absence from your duties as a judge in Royal Oak to travel around

the country to assist other courts and citizen groups in establishing volunteer programs. Is that the case?

Mr. LEENHOUTS. No; that is not correct, Mr. Lynch. We did get a Federal grant to study the effectiveness of the Royal Oak program in 1965. That did not go to the operational program but to study the effectiveness of the same period, that research is in the packet which we are giving to the committee, and really proved the effectiveness of the volunteer to a tremendous degree.

The LEAA has contributed money for our national conferences. We have an annual national conference, the first one with 500 people, the second one with a thousand, and we expect around 1,500 to 2,000 in Denver next October. This is where we will get the Bob Moffats and Fred Resses all together so they know each other. This is the way we open communication with people of similar circumstance and interests.

Chairman PEPPER. This is the volunteer organization, all over the country?

Mr. LEENHOUTS. Yes.

Chairman PEPPER. Are you the head of it?

Mr. LEENHOUTS. Yes, sir. In 1959 we began to use volunteers. By 1965 we had 500 volunteers. In 1965 a Reader's Digest article came out about us. In 1965 the Methodist Church gave us $24,000, no money for salary, no staff, but to pay for travel and literature to go around the United States. In 1969 a very wealthy man, who wishes to remain anonymous, gave us sufficient funds so that we were able to operate for 5 years. And so for the last 5 years, on the money that he has furnished, this industrialist, we have gone around the country spreading this idea.

During this period of time, the volunteer court movement has grown from zero to about a third of a million in 2,000 courts.

Chairman PEPPER. Have you applied to any foundation for funds?

Mr. LEENHOUTS. We have not, sir. We probably should. We are now with the National Council on Crime and Delinquency and have merged with them.

Chairman PEPPER. You are working with them?

Mr. LEENHOUTS. Yes, sir.

Mr. LYNCH. You are, in fact, a division of the National Council on Crime and Delinquency; is that correct?

Mr. LEENHOUTS. That is correct.

Mr. LYNCH. I wonder if you could tell us what is the cost of training volunteers? What kind of training does a volunteer in probation need, and how much does that cost?

Mr. LEENHOUTS. This varies from court to court. Some courts will have a longer training program than others; some courts will have a shorter orientation period and then concentrate more intensely on continuing supervision of the volunteer. Generally speaking, I would say most volunteers are trained somewhere between 6 and 8 hours, but the continuing supervision and guidance of the volunteer and support of the volunteer to the future is very important.

What the volunteer seems to crave is to have somebody he can say to, "My kid said this, my kid said that, what in the heck do I do now?" This is what a good volunteer program will administratively provide, somebody that has expertise that can be with the volunteer and can

say, "Well, your kid said that, I think you ought to try this, and you will come back and we will share some more." This is the role we use with our 35 volunteer psychiatrist in Royal Oak. Many of them would spend time consulting with those doing the consulting, so to speak, working with the volunteer and supporting him.

So it does vary quite a bit from city to city. But most of the volunteer court programs I have observed are being done very well. They are working very hard. For example, the city of Royal Oak, in 1959 one person, the judge, spent one-fourth of his time, 500 hours a year, on the whole criminal court process. Five years later, 500 citizens, most of them volunteers, were spending 50,000 hours on the same process. So we are thinking very, very hard, and the results are very, very good.

But we try to express that this isn't love in the sky; this isn't just sort of a hope that love somehow or other will descend and work miracles. This is a very hard-working process in which we work at screening, we work hard at training, we work hard at orientation and supervision, and so on.

We also bring supportive services. For example, in our court every young person that appeared before our court, where there was a difference between IQ and achievement, we had a group of volunteer optometrists that would test their eyes and in many cases they found out they needed glasses, and we would get the Lion's Club to get them glasses. We had psychiatrists handle group psychotherapy as volunteers, marriage counselors acting as volunteers. The whole gamut, bringing it all together is what we have to do, and this is what we can do when the volunteer starts inspiring the community.

Mr. LYNCH. The costs, then, in this kind of a program are minimal; but if moneys were available, they could be used to obtain technical assistance, evaluation, training, and things of that sort. Is that correct?

Mr. LEENHOUTS. Yes. I think that the real role of the Federal Government would be to spread the concept, to train people to give them the feeling that this can be done, and I think in every community there is a tremendous need, but also in every community there is a tremendous resource. We have examples of people who have taken this need and the resource and put it together and come out with the solution. This, I think, is what we should be about, going around telling people that this is what can be done in their community, that they have the answer in their community. I think this should be our role.

Mr. LYNCH. Has the Royal Oak program been evaluated?

Mr. LEENHOUTS. Yes, sir.

Mr. LYNCH. What did that evaluation show?

Mr. LEENHOUTS. Well, it showed that the recidivism was greatly reduced and it also showed in an attitude test that the attitudes in a similar court that had minimal probation actually got worse in about 50 percent of the cases. It would have been better if they had never been put on probation. And our court, with the volunteer and professional working together, the attitudes were greatly improved.

I have a one-sheet document here on it. We can send you a 40-page study, if you would like.

Other research, such as Denver and Boulder, has also pretty well shown, and I think conclusively shown, that when you have intensive probation, which is possible only when the volunteer and the professional work side by side, that intensive probation is very, very effective.

[The study referred to was retained in the committee files.]

Mr. LYNCH. Would you explain what you mean by "intensive probation," please?

Mr. LEENHOUTS. Sometimes I think, Mr. Lynch, there really ought to be two different words for "probation." One type of probation is where a probation officer has maybe 200, 300, 100, some big number, of probationers and they report once every 3 or 4 months in writing or by telephone, and that is it. We call that probation.

Now, we also call probation the kind of thing we did in Royal Oak, where every offender had an intensive presentence study by retirees and volunteer psychiatrists and psychologists, so at the end of 5 or 20 hours, we knew what he needed and then we supplied that need, either the 1-to-1 volunteer or volunteer psychiatrists individually, or group psychotherapy, or marriage counseling, or Alcoholics Anonymous; 18 different things. That is called probation.

It seems to me this would be something like somebody that comes over, say, from India, and you take him and watch a sandlot baseball game with some kids, 6 and 7 years of age, and say, "That's baseball." The next day you take him to Yankee Stadium to see a professional game, and you say, "That's baseball." He is likely to say, "Which is baseball?"

In a sense, they both are, and, in a sense, professional probation, where people report once every 6 months, if at all, in a sense that is probation. But what I am talking about is this intensive probation where people really care. Our volunteers, for example, used to come in at 10 o'clock every Wednesday night, those who were having problems, and we would be up there until 12 o'clock, 2 o'clock in the morning sometimes, talking about kids and their problems.

This is probation. This other stuff we call probation, it is too bad we don't have another name for it.

Mr. LYNCH. Do volunteer programs work best when they work with the formalized probation department?

Mr. LEENHOUTS. We are seeing them develop in different ways. I think a lot depends upon who begins them. The program in Denver, the "partners" program, is a separate program. Our program in Royal Oak was always part of the probation department and part of the court. I think both systems are effective if they are done right. The key here is putting your heart in the right place and then just putting a heck of a lot of sweat where your heart is. When you do those two things, you have a combination.

Mr. LYNCH. Judge, you indicated you have in some stage of development an idea or a proposal for a national college for probation volunteers. What would that college teach? What would the curriculum be?

Mr. LEENHOUTS. I think there would be two types of people, primarily, that we would be aiming for. One would be the graduate high school student and the other the college student, giving them a course for college credit in which they would have 3 or 4 weeks in the summer so they would be trained to be effective as professionals when they get into the criminal justice system as probation officers or in other capacities; and second, we would deal with people like engineering students so that in their free time and in their spare time they could be very effective as volunteers and really feel good about themselves

and what they are doing, not only for the probationer but for themselves.

The other thing that I would see would be 1-week courses which would be pretty intensive for judges, probation officers, JAYCEES, Junior Leaguers, et cetera, to show them how they could be involved in this movement in their area. I would think that perhaps 10 or 11 1-week seminars, and maybe 3 or 4 months of 3-week courses for the college student, and I think that in a few years we could make a tremendous difference.

Mr. LYNCH. So you would be giving formalized training, if you will, to people who were signing up to be volunteers; is that correct?

Mr. LEENHOUTS. This would be very intensive training for people who would be volunteers in the future, or who seek to be volunteers now; for those who would be professionals in the future in this area, and for those who are professionals now. These are the four types I would think we would be aiming at.

Mr. LYNCH. Wouldn't that be an appropriate area for Federal or State financial assistance. It is one thing to ask a person to devote time, it seems to me, and to ask them to undergo out-of-pocket expenses for losing a week's employment or whatever to attend a college. Would that be an appropriate area for subsidy for this kind of program to pay for that kind of training?

Mr. LEENHOUTS. I think it would, and I think this kind of thing is what the Federal Government should be about. The training and encouragement or motivation and information of people who can really make a tremendous difference.

Mr. LYNCH. Judge, you have seen the volunteer programs, I know, certainly since 1969, and maybe before that, all across the country. Is there any question in your judgment that by and large those programs are as effective, if not more effective, than the traditional kinds of probation programs?

Mr. LEENHOUTS. There is no doubt they are more effective when they are done right, and our big job now is to see it is done right. The problem no longer is to sell the concept. In 1965, when we first began to spread the idea, we had to convince people it would work and it was right. I no longer do that. I spend most of my time now trying to see it is done right. As a matter of fact, I go to some communities where I don't think that they really have got the motivation and I tell them I hope you don't start because you have to really have motivation, drive, intelligence, and ability. You have to put the heart and the head together. You have to put together the inspiration, the information, the science, and the spirit. These things have to come together. And when they come together you are really effective.

Mr. LYNCH. I understand your motive. I would like to know how effective you think you can be; how large is your operation; and how many professionals do you have working with you?

Mr. LEENHOUTS. In Royal Oak, in our office?

Mr. LYNCH. Yes.

Mr. LEENHOUTS. We have six employees. We have three in the traditional sense, and three retirees that work for us.

Mr. LYNCH. Are you the principal emissary, however? Do you personally review programs across the country?

Mr. LEENHOUTS. I am the one who is on the road.

Mr. LYNCH. And your total budget is $80,000; is that correct?

Mr. LEENHOUTS. That is about right.

Mr. LYNCH. If you had additional funding, would there be a role to find people—that would be hard to do, I think—like you to review programs and to give technical assistance, as it were, to other judges, court systems, what have you; could you employ such people?

Mr. LEENHOUTS. People from around the United States that I know right now? I could put my hands on 15 of them today. That would be a great job.

Mr. LYNCH. I have no further questions, Mr. Chairman.

Chairman PEPPER. Judge, have you made any application to, or have you had any contact with, the Development and Delinquency Prevention Administration, which I believe is in HEW?

Mr. LEENHOUTS. No, sir.

Chairman PEPPER. They are supposed to be working in the field you are working in. I don't think they have very much money, so I don't know just how much they are able to do. But I was wondering if it might be desirable for you to contact them to see whether or not they are in a position to give you any help?

Mr. LEENHOUTS. I think this is one of the things we should do. I think one of the big problems is I will have whole months where I am only in the office for 2 or 3 days, because I am traveling so much to help courts get started and help cities get started with these programs, and putting on a huge national conference once a year which involves 2,000 people or more. That is pretty much a full-time job for somebody, too. I think we have just reached the point we have to have more staff so we can begin to do more things.

Chairman PEPPER. I wish you would give some thought to what kind of legislation Congress might entertain which would, in effect, support your program. I would like to relate that to the Peace Corps. I think of it as comparable to the Peace Corps but on a domestic level, and aimed primarily at delinquent youth or troubled youth. I wish you would give some consideration to the kind of legislation that might be introduced in the Congress, or might be recommended by this committee, that would enable you to do a better and bigger job than you are doing even now.

Mr. LEENHOUTS. Thank you. I will be glad to.

[The memorandum referred to was not received in time for printing.]

Mr. LEENHOUTS. Let me say that one of the persons I haven't mentioned this morning is a man by the name of Richard Simmons, in Seattle, Wash., who has—hold on to your hat, you won't be able to comprehend this, nobody can when they first hear it—matched 4,500 volunteers with prisoners, the most hopeless cases. They always look for the ones who have been there the longest with no communication from the outside. The volunteers work with them on a 1-to-1 basis, as prisoners, as parolees, and ex-offenders, as lifelong friends.

I wish I could have the time to tell you story after story of the marvelous things they have done. Dick Simmons' concept is for a national college to train young college students to commit themselves for 2 years. Peace Corps style, and this is the kind of thing Dick Simmons and Bob Moffat of Denver's "partners" program, the airplanes, and myself, the three of us are trying to work and bring about.

Chairman PEPPER. Would you work that up in a memorandum and send it to me?

Mr. LEENHOUTS. I would be delighted, sir.

Chairman PEPPER. I ran into a program comparable to the one you are describing down in Memphis, Tenn. Out from Memphis is an institution where they incarcerate people. There is a company which is interested in improving people and improving the conduct of people and the like, motivating people, that was in charge of this program they developed there.

I went down there and spoke at one of their graduating exercises. They graduate prisoners who come through these courses. I learned the business and professional men in Memphis worked with one of the inmates out at the institution and talked over things with him and counseled with him and encouraged him and helped him. Then when he gets out, if he lives in that area, they also work with him, try to help him after he has been out.

I remember one of the graduates of this school whose class was publishing the local paper at the institution. He had been a man who from the time he was a young man had been in prison. I think he was in his forties, but somehow he had finally gotten the light and taken on a new point of view, new attitude, and it now looks like that fellow is going to go out and become a useful person in society.

Mr. LEENHOUTS. We are not only pleased with that program at the Shelby County Penal Farm started by Commissioner Mark Luxwell, but we are also proud because I believe that program began when Mark Luxwell heard one of our presentations in 1964 or 1965. He came to Royal Oak twice; we talked about it and that was the program which evolved out of it. We are not only pleased with it, but we are proud of it.

Chairman PEPPER. Very good.

Mr. Winn?

Mr. WINN. Thank you very much, Mr. Chairman.

I just want to congratulate you on the work that you are doing. I am sorry I missed the first part of your testimony. I will pick it up out of the record.

I, too, long felt that most of our so-called probation systems are really a farce. Many of the young people that we have had before this committee in the last 2 or 3 years talked about being on probation, but I got the idea that they thought it was a joke. Some of them said so. Some of them said they never did see their probation officer, they would check in once in awhile when they felt like it; and it didn't seem to me like most of it was working in the sense that you say your program is.

I find your program very intriguing and I wish you all of the luck in the world.

Mr. LEENHOUTS. Thank you, sir. I would invite you, and anybody that could, to come to our next national conference or send some of your staff, because this is where you will see about 2,000 people that are really involved in this all over the country. As Milton Rector, the director of the National Council of Crime and Delinquency, said one time: "I used to think I knew something about conferences, but I never dreamed you could have the spirit you have here at our conferences."

I hope maybe you could have some of your representatives come out. I think you would meet some fabulous people doing some great things.

Mr. LYNCH. Judge Leenhouts has left a rather extensive folder for the committee. I haven't had a chance to look at it, but I would like to reserve the right to incorporate appropriate parts of that folder into the record at a later time.

Chairman PEPPER. Without objection, it will be incorporated.

[The material referred to will be found at the end of Mr. Leenhouts' testimony.]

Chairman PEPPER. Judge Leenhouts, who is the head of your program in Florida, and particularly in the Miami area?

Mr. LEENHOUTS. The statewide director of the program is Mr. Keller in the juvenile field; a man by the name of Leonard Flynn in the adult field. There are many programs, and in the Miami area they began a program about a year ago, and they have a marvelous person named Ruth Wedding, who was one of the great leaders in the whole country. This program in Miami was begun by the Junior League out of a complete vacuum. The court had no services at all in the misdemeanor field, and the Junior League gave the money, volunteered, and it is a marvelous example right there in Miami on how a private organization, the Junior League, and the courts have worked together to bring about probation services.

Chairman PEPPER. I thank you for those names. Of course, we had Mr. Keller here this week. We are very proud of his eminent work in Florida. I am going to look up those people and try to get more help down in Florida.

Mr. LEENHOUTS. I might add this: We do have in our files in our office a list of about a thousand of my personal friends around the country. They are all doing a fine job and I would be glad to share this with the committee if that would be helpful.

Chairman PEPPER. We wish you would.

Thank you very much. We appreciate your coming, Judge.

[The following material, previously mentioned, was submitted for the record by Mr. Leenhouts:]

[Excerpts from "Concerned Citizens and a City Criminal Court," June 1969, by Project Misdemeanant Foundation, Inc., Royal Oak, Mich.]

HISTORICAL DEVELOPMENT

In August of 1959, a 17-year-old boy stood before the judge of the Municipal Court of the City of Royal Oak, Michigan (Population 90,000). He was charged with a felony, robbery armed. The preliminary examination had just been concluded. The boy was all alone, without attorney, parents or friends. The Judge asked him, "Where is your mother?" "She died when I was nine," was the reply. "Where is your father?" The boy said "He left before her funeral was over. I haven't seen him since." "Where have you been living?" The heartbreaking reply was, "I lived with my grandmother for a while but she died. I then lived with an aunt and uncle, but they were divorced and neither wanted me. I have just lived here and there since."

A month or two later nine men sat around a table discussing his case. We could do nothing for him. He was now before the higher courts awaiting trial and probable sentencing. But how about the others who would follow. Were we equally helpless?

The nine men were two Protestant ministers, a Catholic priest, a psychiatrist, a psychologist, a former professional youth worker, two junior high school assist-

ant principals and the judge. All were close personal friends of the judge except one. We decided to do something about the youthful offender if we could.

On April 15, 1960, we received the sanction of the Michigan Corrections Commission to institute a new type of probation program. Our plan was simply this: Each of the eight "Counselors" would give a maximum of five hours a month to a maximum of five probationers each. They would meet with them voluntarily, without financial remuneration. An assistant junior high school principal was appointed the Chief Probation Officer. He agreed to work additional hours to coordinate the program also without pay. We hoped to establish an inspirational relationship of trust, confidence and admiration between the probationer and an adult in the community who had both the zeal of the volunteer and the training, education, and experience of the expert in a phase of counseling. Whatever else might be said, at least we were not lacking in dedication, enthusiasm, and counseling experience. Incidentally, this is perhaps one of our unique features. The volunteer usually is an expert. We anticipated that the program would continue as originally started, supplemented only by the addition of more counselors. How wrong we were.

In June of 1960, about two months after our program got started, it became apparent that the Chief Probation Officer was working many more hours than a volunteer should. We have always felt that no volunteer should work more than five hours a month. As the Chief Probation Officer, he saw each of the probationers once a month. Thus, each probationer had a minimum of two meetings a month, one with his volunteer counselor and one with the Chief Probation Officer.

We talked to a businessman who agreed to make a $50,000 donation to our Probation Department. He was our first financial contributor. Toward the end of June we contacted two other businessmen who agreed to pay $25.00 a month each until the end of the year. These were our first permanent contributors. The program was now on a solid financial foundation, at least for six months. Thus, the program that started out with no financial backing whatever now had its first paid professional. The Chief Probation Officer was our first paid employee.

Toward the end of 1961, several more volunteer counselors were added and the Chief Probation Officer's case load was getting extremely heavy. It was getting to the point where he was becoming an administrator only. This we wished to avoid. We decided that we must secure the services of a "staff assistant" who would work about 25 hours a month also. Luckily, we were able to employ an assistant principal at a junior high school who was one of the original eight. His title was "Chief Counselor."

To effectuate this it was necessary to raise more money. Four of our biggest businesses contributed $25.00 per month each. Thus we started the year 1961 with two part-time employees (25 hours a month each), approximately 35 volunteer counselors and $100.00 a month. We were sure that we had reached our peak and that the challenge would be met. Again we were badly mistaken.

In the final months of our first year (January to April, 1961) we began to learn from experience that the experts were right. A probation department must be well administered.

Very happily, in May of 1961, the City of Royal Oak gave us $2,200. This was an unsolicited gift. No request had been made by us. How many times has the legislative branch of the government given an unrequested gift to the judicial branch? It was in this manner that the city started to partially finance the probation department. It now furnishes some 75% of our financial needs.

As we continued to grow in case load, the problems of administration became more and more time-consuming. For example, notices of monthly meetings formerly were a matter of simply letting a few friends know that we were having a get-together. Suddenly, it involved the mailing of 35 notices. Up to this point most of the administration had been done by the judge, who, in early 1961, found himself involved in some 15 to 20 hours per week administering a probation department in addition to the 40 hours or so required by the regular court activities. We seriously considered the possibility of being more selective and taking only the violators who presented the gravest need. While this sounds good on paper, it doesn't work that way. We concluded that we could not turn our backs on any one in real need of help.

As it often does, a perfect solution presented itself. A retired friend of the judge volunteered his services. Formerly a business executive, he has fine sensitivity to the needs of others and particularly to the needs of young probationers. When first contacted he offered to give 15 hours a week to the program without any monetary compensation. A few months later additional contributors were

found and this retired senior citizen started to work full time for us. Due to the limitations of Social Security, he received only $100.00 per month or some 60¢ an hour. He spent nearly all of his time in the administration of the program. In addition to his other duties, he contacted each volunteer counselor once a month for their progress reports. He met at least once a week with the staff counselors. He also sent out notices of the monthly meetings, wrote letters for the Chief Probation Officer and the Chief Counselors, prepared the probation orders, typed bench warrants, contacted the psychiatrists and countless other tasks. He freed the counselors from administrative details and duties. Without him, we would not have continued long after the first year. An assistant was later added to help the over-worked administrator. Now several citizens assist in the administration of the program, giving us an administrator and five assistants at the present time. All are retired senior citizens.

For the last four years several women in the community have been donating secretarial and clerical services. Much of the letter writing and other miscellaneous typing is done by them.

We have also been assisted by several retired, senior citizens who perform "doormen" duties for us.

As has been suggested by the foregoing, our program grew and expanded as dictated by the needs of the court and the needs of the probationer.

We noted, for example, that we badly needed a presentence investigation department to gather factual background information coupled with psychological testings and psychiatric evaluations. This development followed our usual pattern. We secured the service of one dedicated individual, a minister, with training in criminology, and (eventually) some 25 volunteer psychiatrists, 10 volunteer psychologists, two staff psychiatrists and five psychological and psychiatric clinics to assist us. All but the staff psychiatrists, who, like the pre-sentence investigator are vastly underpaid and are, therefore, quasi-volunteers, receive no monetary remuneration whatever.

We heard about group psychotherapy and like the idea. We approached some businessmen who donated sufficient funds so we could hire a psychiatrist who agreed to work at far less than the going rate. Both the contributors and the psychiatrist were motivated by a desire to assist the court in the rehabilitation of those probationers who could be assisted by group psychotherapy conducted by a psychiatrist.

We knew that some defendants could be assisted by individual psychiatric treatment. Gradually we secured the services of some 30 psychiatrists who voluntarily treat the defendant who cannot pay for the service but who has the need and the desire to be so helped. Again a professional was needed to coordinate this, so two associate staff psychiatrists were added to so do.

As noted elsewhere, additional professional counseling was needed both directly with the probationer and to better supervise the volunteer. We now have eleven such professional staff counselors who perform both functions. Thus, these four aspects of the program followed the same pattern of development. In each case (pre-sentence, administration, professional counseling and psychiatric counseling) a dedicated professional who was willing to work for less than the going rate became a quasi-volunteer. We then secured the services of many volunteers to assist him. The under-paid, dedicated, warm, sincere professional and the volunteer working side by side got the job done.

Other aspects of the program followed a different pattern. In the development of the Alcoholic Anonymous, volunteer sponsors, employment counseling, non-support enforcement, church-referral, optometrists, lawyers and doctor referral programs, a volunteer or group of volunteers initiated and maintained the program assisted by the administrator and his associates.

Thus the history can be summed up rather accurately in this manner. A need would manifest itself. The court had no ability to supply that need. The court would then ask the community to voluntarily supply sufficient money to hire an extremely competent but underpaid, dedicated professional and many volunteers to work with him to solve the problem presented by the probationer, or the court asked for volunteers alone to supply the needed service.

The community and its citizens have been magnificent. They have truly fulfilled this Biblical quotation, "Ask, and it shall be given you; seek and ye shall find; knock, and it shall be opened unto you". (Matthew 7:7)

The historical development of this program has been thrilling and gratifying. It is something akin to the experience of the death of a loved one. For every task

to be performed prior to and at the time of the funeral, ten hands stretch forth to do that task. It is similar here. We are rarely disappointed.

It has been said that all that is necessary for evil to triumph is for men of good will to do nothing. We are satisfied that the opposite is also true. All that is necessary for good to prevail is for men and women of good will to do everything. For the past six years we have seen them so do. The experience has been exciting and memorable.

It would seem to us that for every need there is a person who can and will supply that need on a voluntary or quasi-voluntary basis. There seems to be no limit to what people of Judeo-Christian concern will do as volunteers, quasi-volunteers or voluntary financial contributors.

The various aspects of the probation department are described in more detail hereinafter. The foregoing is merely our attempt to give the reader the historical development.

The Volunteer Sponsors

Our list of volunteer sponsors (we changed the name from volunteer counselors) continues to grow. We now have well over 100 volunteer sponsors. Although we fundamentally rely on the staff counselors for the counseling, we have continued to select the volunteer sponsors with great care. They fall into one or both of these categories: (1) Experts in a phase of counseling or (2) Well known by the judge or other personnel of the probation department to have natural talent, sincerity, and warmth of personality—inherently good counselors and friends. Over 90% fall into both categories. They are attorneys, psychologists, psychiatrists, ministers, priests, educators, and the like. In many cases there has been a utilization of an existing employer-employee relationship or the creating of a new employer-volunteer sponsor relationship. This has been very effective. These men and women are selected with great care. They also receive orientation before they are assigned a probationer.

Their case load has been reduced. Originally they met with a maximum of five probationers. Now their case load is one probationer each.

The successful operation of this phase of the program is entirely dependent upon one factor; namely, the establishment of an inspirational relationship of trust and confidence between the probationer and an outstanding member of the community who by education, training, experience, and background has the ability to help the probationer change his inward attitude and moral concepts. The fact that the volunteer sponsor is not paid at all for his time and is motivated solely out of a warm sincere desire to assist the probationer is most important. The probationer in many cases realizes that, "this guy really is interested in me and he really wants to help me".

Initially the meetings with the volunteer sponsors are predicated upon obedience out of mere duty. They must either report or go to jail. However, in most cases this obedience based upon force is supplemented, and often totally substituted, by a feeling of respect based on admiration, gratitude and esteem. Thus, the program works something like a good parent. After the punishment is over, the volunteer sponsors seek to understand love, correct, rehabilitate, re-educate and inspire. It is in this process that the deeper and sounder relationship is substituted for obedience based upon power and authority alone. This is one of the most important phases of our program.

Originally, all our volunteers were experts in some phase of counseling. Because of the lack of professional supervision we could not, initially, use the untrained volunteer. Now, however, we use the untrained volunteer because we can give him adequate supervision. However, many of our volunteers continue to be experts in some phase of counseling.

This aspect of the program no longer constitutes the whole probation department as it did originally, but it remains a most important part of the program. Additional information on this most vital and important aspect of the program is given in Exhibit E. "The Role of the Volunteer." The list of volunteers is set forth in Exhibit 11 and gives an idea of the type of volunteers who are active in this program. Case histories are found in Exhibit D.

Screening of the Volunteer Sponsors

For the most part, the volunteers have been screened by a long friendship with the judge, a staff counselor or other personnel of the probation department. This also includes employment screening such as the standards set by the Bar Association which must be satisfied before one can become a lawyer. Those not in this

category who want to serve are requested to cooperate in a psychiatric-psychological screening process before they are accepted.

A chief counselor also conducts orientation courses for new volunteer sponsors who wish to attend the same before assignment.

The Staff Counselors

The mainstream of our program flows through our professional counselors, called staff counselors. They are the chief probation officer and the chief counselors.

At least in the opinion of the writer, a most important development was the successful consummation of our attempts to reduce the case-load of the staff counselors. We did this by adding more chief counselors. We now have high school counselors, psychologists, social workers, and a minister with special training in marriage and family counseling. Their names appear later in this report.

Their case-load has now been reduced to about 18 each. We have an average active case-load of about 550. Of this number, a few are on probation merely for restitution, non-support, or for supervision in the negative sense only. Those subject to the weekly meetings of the AA program generally meet additionally with the administrator only, and do not meet with the staff counselors. Others attend group meetings.

Women probationers meet with the administrator and volunteers of the women's division only. A few probationers work in the evenings and meet with a volunteer sponsor and the administrator only. This leaves about 200 who meet with the staff counselors, or about 18 each. This has greatly increased the effectiveness of the staff counselors, who do virtually no administrative work and devote all their time to counseling.

The greatest benefit from this change has been a closer liaison between the volunteer sponsor and the staff counselor. This process is supplemented and assisted through the efforts of an associate administrator by and through monthly written reports to the department by the volunteers. Also, the chief counselors now have more time per probationer for counseling.

The volunteer sponsor and the staff counselor often meet on a regular basis to discuss their mutual interests. Our volunteer and staff psychologists and psychiatrists attend these meetings as well.

The staff counselors work about 15 to 20 hours a month for us. They are paid $900.00 a year.

Associate Staff Counselors

Another development was the creation of the position of associate staff counselor. When the chief counselors have a probationer who needs additional counseling rather than a volunteer to act as a friend, they can turn to their associate staff counselor. These men are trained in counseling and give additional time to the probationer whose needs for professional counseling go beyond the time that the chief counselor can devote to him.

These men work about 5 to 7 hours a month. They work closely with their chief counselor. They are completely unpaid.

Here the enthusiasm, dedication and warmth of the volunteer is blended with the training, experience and talent of the expert in counseling in one inspirational personality. It has been most effective.

The Professional and the Volunteer

Although this program started out simply as a volunteer program, we are convinced that a program that combines the efforts of the volunteer and the professional is most effective. Based on our experience, we would be very reluctant to have a probation department staffed only by volunteers. However, working together the professional and the volunteer supplement each other very well and are most effective.

The Psychiatrists and Psychologists

Not unlike the rest of our program, the psychiatric and psychological services, like Topsy, "just growed". We have always been most fortunate to be associated from the beginning with men who are not only excellent practitioners but also who are warm, sensitive, and dedicated individuals. There is no group to whom we are more indebted. Of the original eight who instituted the program, one was a psychologist and another a psychiatrist.

Initially, we used their talents to do follow-up therapy with individual probationers. After a period of time, we became convinced that their time could better be utilized in the difficult area of pre-sentence investigations. By so doing, their insights were available not only to the judge in sentencing but also to the entire staff as we engaged in follow-up counseling. They also gave us a better method of selecting specific services for probationers such as group psychotherapy.

For nearly three years we were able to give free psychiatric evaluations and psychological testings in our more severe cases as part of the pre-sentence investigations only through the dedication and generosity of eight psychiatrists and seven psychologists. All practice privately and gave of their time without monetary gain.

Now, and for the past two years, we have an arrangement with three state-supported psychiatric out-patient clinics. They will give us a maximum of 13 free evaluations each month. This is most ample for our needs. Their cooperation has been most gratifying. Thus, we are now able to furnish all the evaluations that we need through their efforts alone.

A later development has been most helpful. One or two psychiatrists in residence training and their supervisor donate five to nine hours a week to the program to do evaluations. They routinely do the first evaluation. If more is needed, the volunteer psychiatrists and psychologists in private practice give us additional information. If a further evaluation is necessary, referral to the state supported clinics mentioned above is made. Thus, we can receive extremely thorough evaluations when necessary and shorter evaluations where such will suffice. These evaluations range from one hour to ten hours in length depending upon the need.

The psychological testings continue to be handled by private practicing psychologists. However, we are most pleased that a nearby educational institution has agreed to do some psychological testing for us. This, along with the private psychologists, is ample for our needs.

We also have a staff psychiatrist who works about fifty hours a month for us. He engages in a group psychotherapy and individual psychiatric follow-up therapy. The group program is described in more detail elsewhere. We have had hundreds of probationers who have attended these sessions since its inception in the fall of 1961. These groups meet weekly from September to June each year for about 1½ hours each week.

He also supervises the staff counselors and is the "star performer" at the monthly staff meetings. He meets with the judge and the staff members several times each month on an informal basis as well. This dedicated man typifies the spirit of our paid staff. He is paid about $10.00 per hour. He is an excellent practitioner who could make many times that amount by using his time in private practices. He is a dedicated individual who fits well into the pattern of our program of quasi-volunteers by reason of being grossly underpaid.

The reader will note that most of the above deals only with pre-sentence evaluations. How about the probationer who needs treatment?

Until October of 1964, we could hope that such a probationer could retain his own psychiatrist or that he would fit into the group psychotherapy program. Only in a minority of cases could the staff psychiatrist work them into his schedule for individual psychiatric treatment.

Then a gratifying thing happened. Thirty psychiatrists in private practice answered our call for help. Also, four clinical psychologists volunteered to assist us. They each agreed to accept one probationer in continuing therapy. Each agreed to give between two and four hours a month to our program.

The psychiatrist, with the assistance of the probation department, establishes the fee depending upon the financial status of the defendant. It might be as high as the usual rate or as low as no charge whatsoever.

Now we can say that any probationer who has need of such assistance and the desire to receive the same can get individual psychiatric counseling, therapy and treatment on a long-term basis regardless of his ability or inability to pay for the same. This aspect of the program is supervised by the staff psychiatrist with administrative assistance.

We are not lacking for psychiatric services either in evaluations or in follow-up therapy thanks to the generosity, warmth, and dedication of the psychiatrists and psychologists. We can meet the need for group or individual psychiatric treatment and counseling. Those who do not fit into the group and who are not sufficiently motivated will receive counseling from the staff psychiatrists.

No group has given more. No profession has demonstrated more sincere concern for our "prodigal sons". We are deeply indebted to them.

Further information on this part of the program is set forth in our letter of October 17, 1964 which appears near the end of this report. (See Exhibit G)

Group Psychotherapy

One of the most interesting experiments thus far has been the group psychotherapy program headed by our staff psychiatrist. There are many probationers who are now active in this program. The psychiatrists report that they are pleased with the operation of the groups.

The idea behind this program is to allow complete freedom of expression to a small group of (eight) probationers. Here they have an opportunity to give full expression to their hostility, rejection, anger, frustration and other emotions.

The psychiatrist, who was trained in group techniques and who supervised our first group in 1961, predicted that the groups would first spend virtually all their time cursing and condemning the world in general and the court, probation officers, and persons in authority in particular. He was absolutely correct and the first three or four weeks were used for that purpose. This has been our general group experience.

The groups then progress beyond the condemning and cursing stage. They settle down to a serious discussion of the personal problems of each member of the group. They have also shown ability to take in new members. Several members of these groups have expressed gratitude to the psychiatrist for being allowed to bring up problems which were causing considerable anxiety. Others have thanked the judge for being sent to group psychotherapy. Many have commented most favorably on the program to other members of the staff. Several of those, who have so expressed themselves, are probationers for whom we had scant hope that they would be so effected.

The group program is not a necessity forced upon us due to lack of individual counselors. Rather, group psychotherapy is a technique which, in many instances, has been more successful than individual counseling. A form of group counseling and an example of group dynamics is the highly successful Alcoholics Anonymous program. It plays an important role in our program.

Another development was the organization of a husband-wife group which was in operation in 1964 with good results.

In several years the hundreds of probationers subjected to the group program have committed very few violations of probation. In view of the fact that many of the most serious and potentially dangerous probationers have been subjected to this program, we are gratified with the results.

Due to the institution of the program of individual psychiatric follow-up by the 30 volunteers described elsewhere and the time expended thereon, no group program was carried on in late 1964 and early 1965.

However, at the present time many groups are in operation directed by the staff psychiatrists, volunteer psychiatrists and a volunteer psychologist. All are progressing well. Other groups conducted by chief counselors are also doing well.

PRE-SENTENCE INVESTIGATIONS

When we were 19 months old, we were able to initiate a pre-sentence investigation department for the more serious cases. Thus, since January 1, 1962, we have enjoyed the advantages of these investigations. As has often been said, the pre-sentence reports are to the judge what an X-ray is to the surgeon. It is indispensable. It also has other advantages. Now the staff counselors and volunteer sponsors have a considerable amount of immediate information available to them prior to their first meeting with the probationer. Our pre-sentence investigator was a minister with experience in the field of criminology. He worked about 20 hours a week. Now this position is held by a retired and well-qualified man who works full time.

In addition to pre-sentence evaluations, he will do some counseling. He also assists the administrator on administrative details from time to time. As mentioned above, he relies heavily on the psychiatrists and psychologists with whom he works very closely.

A pre-sentence report might be as short as an hour interview with our pre-sentence investigator plus about a half hour of verification of the facts and the completion of the report. It might be as long as twenty hours and involve the pre-sentence investigator, our psychiatrist in residency training, his supervisor,

a psychiatric evaluation and psychological testing by an individual volunteer or a clinic, or possibly both, and a report from our staff psychiatrists.

Thus, with the factual background on each defendant supplied by the investigator and the psychiatric and psychological evaluations incorporated into his report, we sentence with a degree of confidence that we have at least some concept of the physical, mental and emotional maladjustment which manifested itself in the commission of the crime before the court. Without the recommendations and evaluations of the investigator, the psychiatrists, and psychologists, the judge would, at least in his own opinion, be totally unqualified to sit in judgment.

We try to heed the advice of Kipling, "Be slow to judge, for we know little of what has been done and nothing of what has been resisted".

Pre-sentence investigations are so vital that we now feel any court starting a probation department out of a complete vacuum absolutely without finances or paid personnel as we did should first initiate a pre-sentence department. The fact that we did not do this first is now our greatest criticism of our own historical development.

A "reformed" alcoholic works as a volunteer with cases involving drinking.

The Work Detail

In February of 1965 a new program was instituted within the framework of the probation department. It is called the "Work Detail" program. The basic idea is to punish the wrong-doer in such a way that he does not have a criminal record when the court experience is over. Traditionally courts can punish in just two ways, by use of a fine or jail term. Each punishment, when utilized, immediately gives the defendant a criminal record that can do him much harm in future life. We have had defendants contact us 15 years later about a conviction they committed as a teenager. Years of good living did not erase the blemish on the record. They often cannot obtain jobs or promotions, advancement in the armed forces or are fearful of the effect of the conviction when discovered by their children.

We feel that punishment is important but the never-ending effect of punishment can do more harm than the good it was intended to accomplish.

Thus, we instituted a program wherein worthy defendants without a criminal record could petition the court for assignment to the work detail. To make the program financially self-supporting, they pay $48.00 a month for the privilege of working for the city 4 Saturdays a month. Thus, it costs the city nothing. The sentencing is then adjourned for as long as two years. They report to the personnel of the probation department during this entire time period, although the number of months on the work crew generally is three months or less. If the defendant has performed his work on the work crew satisfactorily, has abided by the regulations of the probation department, avoided any further criminal convictions, and fulfilled the spirit as well as the letter of the probation program then upon recommendation of the probation department the case will eventually be dismissed and the defendant will have no criminal record.

At the end of one year, these offenders paid over $10,000.00 into the city and worked about 2,500 hours performing work that otherwise would not have been done. They have cleaned parks, helped remove diseased trees, picked up litter, repaired park tables, etc. Of the 163 so assigned, only one has committed a second violation while under this program, although it has been necessary to sentence two others who did not fully cooperate with the program. Two others received additional work assignments for failure to work with due diligence. Additional information is available in Exhibit F of this report.

Employment Counseling

At first a retired citizen, formerly with the Michigan Employment Securities Commission, directed our own employment counseling service. He met with probationers whenever requested. He assisted in helping probationers discover their talents by arranging for aptitude tests. He also gave them general advice about how to get a job. In some cases he knew an employer who had a definite need which a probationer could fill. In these cases he often arranged an actual employment situation. He was one of many retired citizens who are active in our program. He worked closely with the Michigan Employment Securities Commission.

Now the administrator assists probationers who need jobs. He is assisted by all of the other staff members and the Division of Vocational Rehabilitation.

Restitution and Non-Support Cases

Another retired senior citizen gives us about two days a week. Some of his time is dedicated to the enforcement of non-support orders, where men refuse and neglect to support their wives and children. They are required to pay a certain sum each week. Non-payment of the order will result in punishment for violation of probation. In many cases, wives and children are being supported for the first time in several years by their husbands and fathers.

He also administers the payment of restitution in cases where the complaining party has suffered financial loss because of the conduct of the probationer. Again, nonpayment of the restitution order will result in punishment for violation of probation. The administrator also assists in this phase of the program.

WOMEN'S DIVISION

In the fall of 1963, it seemed advantageous to add a women's division. A retired school teacher and counselor volunteered her services. She administered this division. Assisting her were some ten women in the community. Like the other volunteer sponsors, they are school teachers, housewives with social work or psychological training and experience, YWCA personnel and the like.

In 1964, two housewives with special training in psychology and sociology replaced the school teacher upon her retirement from the program. They now administer the program and act as volunteer counselors as well.

These dedicated women have done an excellent job for us. They also make referrals to and use the facilities of the Probation Department.

ALCOHOLICS ANONYMOUS

Our court operates its own chapter of AA. It is supervised by several successful members of A.A. Some of the sponsors were originally referred to the program by the court. The success ratio is roughly equivalent to the general success ratio of A.A. Those who have completed about fifteen months of sobriety are given their probation discharge or certificate of appreciation. We are tremendously indebted to A.A. They owe us nothing. We owe them much. It meets weekly for 1½ hours. We feel that it is totally unrealistic for any lower court to operate without the services of an A.A. Chapter. For further information, see Exhibit H.

The Role of the Prosecutor and Police

We are deeply indebted to the excellent law enforcement officials of our city and county, the Royal Oak Police Department, the City Attorney and the Office of the Prosecuting Attorney. They have a sincere interest in rehabilitation. Without their assistance and cooperation this program could not have developed as it has.

CHART OF SERVICES AND GENERAL INFORMATION

An operational chart of services is in the index of this report. (Exhibit C). In addition to these services, we arrange apprentice training, employment opportunities, re-enrollment in high school, and enrollment in adult education whenever possible. There is also some additional information on specific subjects in the Exhibits.

FINANCING

Although it is impossible to ascertain the total number of hours dedicated to our program each month, a reasonably accurate estimate would be about 1000 hours a month, or some 12,000 hours a year. The total cost of the program for 1968 was about $23,000. Of this total, approximately $6,000 was donated by businesses and businessmen in the community. The rest was provided out of city funds. We conservatively estimate that the total services furnished by the probation department, if purchased at the going rate, would cost at least $300,000.

SPIRITUAL REHABILITATION PROGRAM

We also have a spiritual rehabilitation program which was initiated when we were 15 months old. About 90 churches in our immediate area responded to our

invitation to discuss the utilization of the power of the church in the field of probation. The program works something like this. If and when a probationer indicates a desire to have a church home, and we attempt to stimulate such a desire whenever possible, we then ascertain his natural church home, consult our list for the name of the clergy or layman who represents that particular church and contact him. After a home visit, the clergy or layman will take the probationer to church, thus insuring a warm welcome. It is our thought that many probationers have a subconscious and sadistic desire to be rejected by the church. If they go to a church and get less than a warm and enthusiastic welcome, this subconscious desire will be fulfilled. For this type of probationer we hope to have a real surprise in the form of a warm welcome. Although we do not have a lot of referrals, those which are made have been effective. At this date, approximately 25 probationers are attending church with a degree of regularity for the first time. Some of these, at the suggestion of our personnel, got married in a church. In some of these cases a church home was established.

ANNUAL SOCIAL AFFAIR

We have one social affair each year for the wives and husbands of the contributors, the paid staff members, those assisting on special aspects of the program and the volunteer sponsors. Altogether some 500 citizens are involved.

National Institute of Mental Health Grant

In April, 1965, we received a four-year grant from the National Institute of Mental Health in the amount of $120,000. The reader's attention is referred to Exhibit J in the Index.

Statistics

See statistics in the supplement on page 51 of this report.

Importance of Probation

The importance of probation in municipal courts and other lower courts is indeed staggering. Professional probation officers estimate that some 75% to 95% of those persons eventually committing the most serious crimes called felonies have first committed a misdemeanor (less serious crime) and have appeared before a municipal or other lower court judge at least once prior to committing the felony. A great majority of these felons have appeared several times before a municipal court or other lower courts before committing that serious crime. Thus, the vast majority of these persons have, prior to the commission of a felony, come into contact with a municipal court or other lower court. If the lower court has not at least attempted to embark upon an inspirational probation program, when the felony is eventually committed there have been two failures and not merely one. One is the failure of the defendant himself. The other is the failure of the court to do all it can to inspire, re-educate and rehabilitate the defendant. If one is to apply the principle of the Parable of the Talents, there is no doubt that the court's failure is the least excusable. Certainly the court has the superior educational, academic and cultural background to meet the challenge with which it is faced— infinitely superior to the resources of the youngster who is described at the beginning of this report and who typifies so many of our offenders.

Unfortunately, in spite of this challenge, less than 5% of the lower courts in the nation have any probation program whatever. Because many of the probation programs at this level are overcrowded and understaffed, perhaps only a fraction of the 5% engage in any type of inspirational process. For example, one probation department at a lower court level, with which we are familiar, has over 600 probationers for each probation officer. For the most part the probationers merely report in writing and scarcely know their probation officers. In addition many are forced to pay a monthly fee for probation. This program attempts to correct this situation. (See Exhibit K, "The Methodist Project.")

How Effective Are We?

How effective is the program of probation? The answer to this question must be divided into two parts. From a technical or legal point of view, we are about 94% effective in Royal Oak. This means that about 6% of the probationers have been guilty of a crime in Royal Oak or have left the state without permission

while under supervision. It is interesting to note that the great majority of these violations of probation have occurred within 45 days after the probationary term has begun. This would indicate that most violations occur before the probation program has been given a true chance to operate.

However, as noted above, this program is an attempt to truly change the inward attitude of the probationer. How effective are we in this area? This is the second part of the question. The answer to this question is most difficult. In fact, the full and final answer can never be given. Our thought is that if we can truly affect the attitudes and behavior patterns of 20%, we will be highly successful. We will be completely satisfied if we can so affect 10% of those under supervision. If we can assist just one person a year in this regard, we will feel the program is worth the effort. It is our thought that some 10% to 15% of the probationers are so deeply affected by the program that their inward attitudes and moral concepts are changed. In view of the fact that these attitudes have been created over a period of 17 years or more and we have but two years to attempt to change them, we are reasonably gratified by the results thus far. Thus, we feel we have truly changed hundreds of probationers to date.

We should add that in some cases probation is utilized simply to supervise the probationer. These are the probationers for whom we have little hope of changing their attitudes. Most of these probationers are older men or women who are on probation simply as a deterrent to further crime. However, our main effort is directed at those whose attitudes we feel can be changed (see page 45 for a far better evaluation of effectiveness).

A PHILOSOPHICAL CONCEPT

It is our feeling that the criminal presents a problem that cannot be solved simply by the tax dollar. In this age of materialism, we all rely too much on the wallet to solve our problems. This is true of us individually, and collectively. Collectively we scream for more tax dollars as a solution to all problems. However, it is apparent that many of our problems cannot be solved by money. A terminal case of leukemia in a little child, and the problems it creates, cannot be solved by a fat wallet. Those faced with such a problem must reach into their spiritual resources for the answer. We feel that the same is true with the problem of the criminal in our society. We cannot merely spend more money in taxes on him. We must, instead, reach into our spiritual resources and give of ourselves freely, warmly, and without thought of monetary gain. This the city of Royal Oak is doing. We humbly submit that the city so doing has the best chance of succeeding in the often difficult, often painful, yet infinitely rewarding task of the inspiration, rehabilitation, and re-education of the criminal.

A SPIRITUAL PROCESS

In conclusion, we feel that probation is a spiritual process. We believe that the volunteer sponsors are examples of the Judeo-Christian concept of going the second mile. They are fulfilling the principles of the Parable of the Last Judgment in that they are visiting him that is in prison, taking in him that is a stranger and ministering unto those that have need. They are also fulfilling the Commandment that he who would receive shall give and that he that would be great among you shall be the servant. They are fulfilling the obligations of the Great Commandment in a loving concern for their fellow-man.

This is essentially a process of redemption within the concept of the great Judeo-Christian tradition. Even as this tradition is primarily concerned with the redemption of mankind, so probation is concerned with the redemption of that segment of mankind which has engaged in criminal conduct. Even the method is similar. The City of Royal Oak is wrapping up its message of concern and love for its "prodigal sons" in the inspirational personalities of its volunteer sponsors, chief counselors, Chief Probation Officer and other members of the staff. Does not the use of an inspirational personality follow our religious and spiritual tradition?

We feel that, inasmuch as this is essentially a spiritual program, our success is dependent upon the ability of our personnel to comprehend and fulfill the spirit of the Judeo-Chrisitian ideas and traditions.

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Exhibit D

ILLUSTRATIVE CASE SUMMARIES

CASE SUMMARY—1

As we began to prepare this report, we requested case histories from some of our volunteer sponsors. One request was sent to a volunteer who was assigned a youngster who was the most potentially dangerous boy we have worked with in five years. Small of stature, he was most aggressive and belligerent. He was first arrested carrying a knife.

We have often heard the expression, "An accident looking for a place to happen." This is a good description of a careless person. This young man was a malicious and dangerous person. He was, "a felon looking for a place to happen."

What the letter does not state is that before he was assigned to a volunteer we tried everything. Professional counseling, psychiatric counseling, employment counseling and jail all failed. (You will note that the defendant himself attributes his rehabilitation in part to the lessons imparted to him as a result of the jail term. This may be so but he gave no indication of this result when he was first released from jail. We think this benefit did not occur until the influence of the volunteer gave him the eyes to see with and the heart to comprehend.)

Everything else having failed we decided to assign this youngster to a volunteer. The volunteer was carefully selected. He is a person who can talk the language of the probationer. His morality is of the two-fisted variety. In spite of this, the assignment to the volunteer was made without much expectation but as a desperation measure. All else had failed so we decided to try it. The volunteer was warned that he would probably fail. It was the best thing we ever did.

Although the volunteer tends to underestimate his contribution to the rehabilitation of the probationer, we believe that it should be printed exactly as it was received. Only the names have been changed and the words in parentheses added. (See page 30)

Although this youngster is not perfect and still has his problems, we are satisfied that he is no longer "a felony looking for a place to happen." There is no story that we are prouder of than this one. (Story on page 30)

CASE SUMMARY—2

The defendant in this case was arrested for reckless driving. The pre-sentence investigation revealed that he had had a fight with his girl friend and, in a fit of anger, drove at a fast rate of speed down a residential street. Among other things, the sentence included a two year probationary term.

The defendant and his girl friend were married shortly thereafter. Within the first year a baby was born. The defendant was a rather inadequate person who had not even graduated from high school. In addition to his other problems, neither parent approved of the marriage.

The chief probation officer referred him to a volunteer psychiatrist for an evaluation. He reported that the boy was a character disorder. Although he was not emotionally disturbed, he was lacking in impulse control. The psychiatrist explained that the most effective form of treatment would be to insert into his life an inspirational personality who would show him that there was a better way to live. He further explained to us that such an individual could, by example, so impress the defendant with his concern and affection that the defendant eventually would not want to "let him down." "After a while," the psychiatrist said, "we hope that this desire not to let down his friend will be transferred to a desire not to let himself down." Thus, if we succeeded, rather than an impulse giving rise to an instantaneous reaction regardless of consequences, it would be tempered by a desire not to let his friend down and eventually by the thought that he would not want to go contrary to his own standards. It is by this method that we often seek to go from lack of impulse control to impulse control.

It is a big step to go from lack of impulse control to a point where one thinks before he acts but it can sometimes be done.

In this case the defendant was assigned to a volunteer sponsor who is a minister and an expert in marriage counseling. He spent many hours with this boy and his new wife. They both remarked later that without this concerned counseling the marriage never would have lasted.

We helped the defendant to secure a job. The chief probation officer talked with both parents and good relations were re-established at least with the parents of the wife.

After two years of rather intensive probation, the youngster was discharged from probation.

Shortly thereafter the defendant came in to see us. He reported that a terrible thing had happened. "My father has just made improper sexual advances toward my wife," he said. He asked for our help in handling this problem.

Through the city attorney, the father was contacted and sternly advised that any repetition of this conduct would result in a complaint and warrant being issued for his arrest. There has been no trouble since.

We think that this is probation at its best. A youngster who was so lacking in impulse control that, as a result of a minor fight with a girl friend, he drove at a high rate of speed down a residential street, two years later matured into a youngster that in a situation of great stress and strain had sufficient impulse control to seek out the authorities and ask them to handle the situation legally and properly.

It, of course, can never be proven one way or the other. However, we feel reasonably satisfied that the youngster might well have committed a most serious act of violence had it not been for the hours that the probation department and particularly the volunteer sponsor spent with him.

This young man continues to see us now and then although his probation has long since expired. He has a fine job, home, wife, and three children. He is a real credit to the community. The substitution of mature judgment for lack of impulse control is reflected in everything he does as a father, husband, employee, and citizen. He gives all of the credit to his volunteer sponsor and the probation department.

CASE SUMMARY—3

This young man, age 22 years, started on the probation program one year ago with a long history of traffic violations, including two revocations. Parents were sincerely concerned about him but were completely unable to control or guide this, their only son. His charge was DUIL and resisting arrest. This was followed by an attempt to run out of the station and a battle with the arresting officers.

Drinking and running around with the "wrong crowd" had been his down-fall for several years. Cars and racing on public highways and "living it up" with the "boys" was his idea of getting on in this world.

Not having finished high school (10th grade only), jobs were a problem and he had real difficulty holding them mainly due to his "I don't give a damn" attitude. If ever a young man seemed bent upon squandering his life and his talent, Edward (fictitious), was just such a man.

At his chief counselor's request, Edward brought in a large sample of his art work for discussion at our second meeting. Of this work he was extremely proud and the counselor, being very much impressed, phoned one of our volunteers, a Commercial Artist, who dropped everything and immediately came over to the Probation Office to see the boy and evaluate his work (car design). He was so impressed that arrangements were made then and there for Edward to start on an apprenticeship with one of the largest commercial art studios in the country. It is the same company the volunteer works for. Edward and the volunteer often work together. Edward seeks and follows his volunteer's advice professionally and also socially.

The boy has been moving through his apprenticeship for ten months now. His work and his mental attitude are vastly improved. He works 12 to 14 hours daily and six days each week "to learn the business" and "make something of myself." "My parents are proud of me now and our whole relationship is much better." "I have no time for bumming around with the fellas." Of late, these are typical remarks from the probationer to both the counselor and the sponsor. He aptly expresses gratitude for the help he has received from his volunteer and the studio. His willingness to work hard and long hours concretely supports such expressions. Parental gratitude is exceeded only by the frequency of expression.

He was completely changed. We are very proud of him.

CASE SUMMARY—4

Another letter from a volunteer sponsor reported this case.

John Smith (fictitious) was assigned to our attention approximately June, 1961. He had been found guilty of malicious injury to personal property and

served several days in jail and was placed on two years probation. His record indicated other minor police problems. John lived with his mother and younger sister in an upper apartment in another city. His father had divorced his mother approximately 11 years before, and he was quite confused and wandered as he saw fit.

This boy had graduated from high school and was working at a grocery store as a stock boy and keeping company with an ex-prisoner of one of our state institutions. Our first contact with this boy invited him to our Central Office Building for a luncheon appointment. At first he offered excuses to avoid our meeting saying his driver's license had been taken away and he had no way of getting there, but we arranged transportation. We took him to the Executive Dining Room. He had real long hair and was kind of "hoody" appearing, and made several remarks during lunch about the "rah rah" boys in the dining room. We tried to keep him interested in what we might be able to accomplish if we worked together.

For the first several months, we had lunch on various occasions and he visited our home. After the first month and a half, we noticed a definite change in the boy's conversation, and what he used to think of as sissyish, he now thought good manners. He got a brush haircut similar to the writer, and we started to notice many of his mannerisms imitating mine.

About this time, we arranged to have him go to the Social Security Department and take an IQ test which indicated mechanical aptitude. Our next step was to get a hold of the Tool Association of Metropolitan Detroit, and working with them we were able to obtain apprenticeship for his undertaking. The problem was then how he could get to and from the job and school. We arranged to meet with the Detroit Traffic Bureau, and were successful in obtaining a renewal of his driver's license to permit him limited driving to and from work and school. About six months later his license was renewed.

Approximately one and a half years after starting the apprentice course, I received a phone call from John, and he said he had something important to discuss with me, and he hoped I would not laugh. He indicated that he had an inferiority feeling around girls because of his big nose. We had previously noted that he did not mix too well around girls, but had never noticed that his nose was out of proportion. He seemed quite concerned about this as we made arrangements with the head plastic surgeon at the Ford Hospital for him to come in for an appointment. After discussing this with the doctor, John said he wished to go through with having his nose changed. An operation was performed changing the appearance of the nose. After recuperating, it was noticed that he had a girl friend, and the boy began to blossom into a fine citizen.

This August John Smith graduates from a 4 year apprenticeship program as a Journeyman Diemaker, and is earning approximately $4.00 an hour, has a fine car, and inspires his mother and younger sister. He plans to enroll in Henry Ford Community College in September, unless the draft changes these plans. He confides in us in most major decisions, including counseling him on the possibility of getting married to a nice girl he is presently courting. This boy is certainly a reflection of what has been accomplished by the Probation Department of Royal Oak.

Yours very truly,

CASE SUMMARY—5

Mr. F. is a 35-year-old father of several children. He was put on two years' probation in 1962 for "driving under the influence of liquor". At the time of probation he seemed very honest and realistic about his faults. He seemed to have a sincere desire to find a solution to his problems and pledged full cooperation. He admitted being an alcoholic. He had no steady work, having moved from one job to another, probably because of his drinking and job dissatisfaction. He had accumulated many debts and had lost his driver's license because of previous drinking and driving violations. His oldest son (9 years) was starting to have serious behavior problems in school and in the neighborhood.

During the term of his probation Mr. F. was very cooperative. He had gone to A.A. sporadically in the past. He now became regular in attendance. He was prompt in attendance for his probation appointments. The probation department arranged for a consultation between Mr. F. and an attorney in hopes that this might help his financial involvements. The probation department urged Mr. F. to cooperate with the schools in regard to referring his son for psychological or psychiatric help. As a result the youngster is being seen by the Child Guidance

Clinic. Mr. F. was referred to two or three jobs by the probation department. These, however, did not prove to be permanent.

During this time (period of probation) Mr. F. did have relapses and towards the end of his probation period he was seen by our psychiatrist for an evaluation and recommendation. As a result he was recommended for individual psychotherapy with one of our volunteer psychiatrists.

It has been a year since Mr. F. has been discharged from probation, but he is still receiving the benefits of the program in that he is still seeing the volunteer psychiatrist on a regular basis. The most recent report from the psychiatrist was quite optimistic,—in part as follows: "His drinking is less frequent and destructive and his self-esteem is beginning to rise. I expect him to start paying for his own treatments soon so that I can take another probationer candidate without fee".

I do not feel that the problems of this young man have been completely solved. In fact I doubt that his problem will ever be completely resolved. I am convinced, however, that because of the probation program he has discovered that there are people who are definitely interested in helping him rather than in punishing him; he has been introduced to procedures which he can follow to help himself; and most important, I think his relationship with his family has been improved and strengthened and as a result his youngsters perhaps will be less scarred emotionally by the behavior of the father.

CASE SUMMARY—6

The next story is one of a failure. Anyone who commits a crime while on probation will always be listed as a technical failure in any statistical study. When he was first put on probation we tried jail, a volunteer sponsor, and the professional counseling of a staff counselor. We did not get anywhere. We then referred him to a psychiatrist. Because of his financial status, we insisted he pay for his treatments. (This is quite rare but we thought it was justified in this case). He saw the psychiatrist irregularly and without any improvement. We could not of course force these meetings. He then committed a second crime while on probation. He pleaded not guilty and while awaiting trial on this felony charge he suddenly appeared to "see the light", through the now-regularly-attended meetings with the psychiatrist. Such a change was evident that he was allowed by the higher court to plead guilty to a lesser (misdemeanor) charge and received a short jail term.

When he got out he started seeing the psychiatrist eagerly. Now several months later his psychiatrist says this:

"Joe is an 18-year-old, white male, first seen on July 28, 1964. At that time, he was on probation for reckless driving at a local drive-in. He had become involved in an altercation with the manager, and Joe had threatened him. In addition, there were many other instances of Joe's losing his temper with members of his family and, in general, of showing immaturity and poor impulse control. A previous psychiatric evaluation had diagnosed Joe as a passive-aggressive character disorder with poor impulse control and many features of an early socio-pathic personality. This usually would suggest a relatively poor prognosis. In December of 1964, he was arrested because he was in company with another young man who was passing bad checks. While Joe was not directly involved in the writing of the checks, he did go along in the spending, knowing that the checks had been forged. Since that time, to the best of my knowledge, there have been no other difficulties with the law."

"Joe has been seen on the average of once a month because of his erratic attendance. This has tended to improve as time has gone on. At first, he found it extremely difficult to verbalize but gradually became more comfortable and was able to talk more easily. Generally, he has worked as a laborer, and he most recently has been employed in construction work doing masonry work. He does appear to have settled down a good deal and has hopes of getting a job at Chrysler. He is recognizing his problem of impulse control in terms of his temper and has related recent incidents where he said he previously would have "blown up" but now did not. He was proud that this was so. He is a drop-out from school, having gone only to the 9th grade. He seemingly lost interest in school and then just refused to work at it. While he has toyed with the idea of going back to school at night, he has not done anything about this. One aggravating circumstance was a girl friend. She was very possessive and very demanding and, as a result, kept Joe upset a good deal of the time. He was unable to recognize what

was going on until very recently. Now he has a new girl friend with whom he is getting along much better."

"Assessing Joe's progress, at this point, one can be cautiously optimistic. Considering the relatively poor prognosis it would appear that, thus far, the total program has asserted a positive influence upon Joe and that, hopefully, he will learn to control his impulses to the point where he can be a law-abiding, useful citizen."

Sincerely yours,"

As suggested above, it is too early to say that "Joe" will succeed in life. This story is not a complete one. But one thing is evident to the psychiatrist and to the staff counselor—he appears to be completely changed. Formerly aggressive and hostile, he now is relaxed, friendly, grateful. The staff counselor says, "A great change in attitude". The probationer says, "I went to the psychiatrist before because I felt I had to. Now I need it and it's helping. I am getting better control of myself and have more feeling for others".

The counselor concludes our story, "Although he is not out of the woods yet and still could get in more trouble he has come a long way. If this program helps keep him out of prison and if he does, as it now appears, become a contributing citizen, the program has paid for itself for years to come".

This case illustrates how a psychiatrist can work with a rather unwilling probationer and gradually give him the desire to want to help himself through psychiatric counseling.

It is very encouraging. It reminds us of another probationer who was absolutely the most belligerent, hostile and aggressive probationer we ever had. He was forced to attend group psychotherapy as part of probation that also included punishment. He was discharged "without improvement". We did not think we had accomplished a thing although he was a technical success inasmuch as he committed no second crime while on probation. A few months later he came in to see us on a minor charge. We could not believe our ears when he said, "There is something wrong with me. I need help. Could you send me to a psychiatrist?" He is now with one of our volunteer psychiatrists and appears to be progressing very well. His attitude has changed a lot and we think he will be a useful citizen.

CASE SUMMARY—7

The offender in this case pleaded guilty to indecent conduct in a public place. The facts of the trial indicated that he was in need of psychiatric appraisal and service. Previous records, in other communities, supported this decision. He agreed that this type of help was needed and was willing to pursue it during the course of his probation.

During the first few visits with the Chief Probation Officer he was most suspicious and guarded toward any attempt to help him begin to evaluate the attitudes and actions that led to his conviction. He was in deep financial debt at the time, unable to find consistent work and most fearful that his parents and immediate relatives would learn of his present difficulty. Because of his financial inabilities he found it difficult to begin to consistently meet with his psychiatrist. A letter from his psychiatrist supported this fact and further stated that his present attitude and inconsistent pattern of meeting appointments was producing little or no satisfactory results.

It became evident to the Chief Probation Officer that one of the major "road blocks" to this young man's relationship with his psychiatrist was his unwillingness to place complete faith in his appraisals and suggestions. With this belief in mind, the Chief Probation Officer began to encourage him, with firmness and understanding, to try to stop second-guessing his psychiatrist and to give him a chance to help. Fortunately, this appeal worked and it was not long before it began to show tangible results in his psychiatric relationship.

During the months that followed he was presented an opportunity to relate to the probation department's group therapy relationship. His conduct in this situation developed into a very positive outlook. At this time he also began to express to the Chief Probation Officer a sincere concern about the conduct that produced his conviction. Shortly thereafter he stated that he planned to continue his relationship with his psychiatrist after the term of his probation was concluded. He stated that he was now looking forward to his weekly appointment of group therapy with "eagerness". He explained that he has told his "complete story" in this group. He further stated that he was "no longer ashamed, in this group, of past problems, particularly the one that led to his probation". He began to recognize that a problem existed and that there are ways to conquer it.

It is believed that this young man has benefited a great deal from the influence and encouragement of this program of probation. He has expressed his faith in the friendship of his psychiatrist and the Chief Probation Officer. This apparently has given him renewed strength. He further stated that the repetition and consistent reminding of his probationary and group therapy meetings have proven most beneficial to his change of attitude and conduct. This observation is supported by a statement from his psychiatrist who reported "He is seriously motivated to work out some of his problems". Another tangible result of this reorientation has been his ability to secure and keep a job. He has also enrolled in a number of night school courses, at college level, to complement his new employment. It is felt that he is much improved as a result of this program.

CASE SUMMARY—8

In this case, a respondent was about to be charged with a felony which did not involve violence, Unlawfully Driving Away an Automobile. The law enforcement agencies suggested, after a record check revealed that the respondent had no prior record, that the charge be reduced to a misdemeanor and that he be put on probation. They also advised that the defendant was sexually perverted. He was put on probation. When the Chief Probation Officer first talked to the respondent, a male of about 19 years of age, the respondent said, "I am just bad. I have always been bad. I would like to get better, but there is no hope for me". The Chief Probation Officer referred him to one of our psychiatrists. After about 6 weeks of hospitalization, the boy was released. He came directly to us and said, "I owe you everything. Now I can have a wife, family, friends. Now I can be somebody in the community". After his release from the hospital he returned to high school and successfully completed the necessary work to graduate. As a followup to his hospitalization, he also continued to see, on a monthly basis, his psychiatrist, a volunteer sponsor and the Chief Probation Officer. Later he was released from these monthly meetings with the appraisal that the patterns of his previous deviant behavior were no longer evident. There is no doubt that the guidance of this probation program, with the professional assistance of one of our program's psychiatrists, changed this young man's pattern and outlook on life. When this offender was discharged from probation he said, "This is the final chapter in my readjustment to society". Now five years later, he continues to lead a normal, useful life.

CASE SUMMARY—9

The next example of how the program operates can be set forth as follows: A youthful offender pleaded guilty to using a motor vehicle without authority. It was quite evident during the initial interview between the Chief Probation Officer, the offender, and his attorney, that one of the basic patterns that contributed to his conviction was his poor choice of companions. As a result, the specific obligations of his probationary term was to avoid persons and places of questionable and harmful character.

This young man was soon assigned to a volunteer sponsor. An early outcome of their relationship was the discovery, by the sponsor, of the offender's interest in the pursuing of a career in commercial art. He was lost as to how he could pursue this interest and apparent talent. His confusion was compounded by a lack of the necessary finances. The sponsor, through a series of contacts, was able to inspire this young man to enroll in a commercial art course at a very nominal expense. With this renewed positive interest and consistent guidance from the counselor, this young man soon developed a very fine attitude toward a course of life quite the opposite from his previous attitude.

CASE SUMMARY—10

The following case epitomizes the relationship we hope to establish between the offender and his volunteer sponsor. Added to this is the potential influence of the church. The influence of the church is mentioned because this offender's renewed interest in his faith was established through this program of probation.

The young adult in this case represented, at the time of his placement on probation, a home broken by separation and impending divorce. When questioned about his interpretation of the relationship between his mother and father he replied, "They are both stubborn, they will probably go back together; I don't pay much attention". He further related that this had been the marital relationship of his parents as long as he could remember. The probationer had quit school

at the 10th grade level and had been engaged in heavy manual labor for the past 3 years. He had a steady record of employment in this job. An earlier contact with the court had come as a juvenile when he was placed on one year's probation due to a breaking and entry conviction.

His present probation resulted from his pleading guilty to the charge of "driving without due care". It soon became evident to the Chief Probation Officer that the probationer's greatest area of potential weakness was in the area of driving a motor vehicle. At the time of his placement on probation he owned two cars. The early meetings were devoted primarily to a discussion of his responsibility as a motor vehicle operator. He also attended the Court's Driver Safety School which is sponsored by the Royal Oak Association of Independent Insurance Agents. The school charges no tuition fee and gives 8 hours of instruction to the violator.

Midway through his term of probation the probationer entered into a business deal that ended in failure. As a result, the small amount of savings he had accumulated was gone and, even more tragic, so was his steady job. It was at this point that the probationer's volunteer sponsor "jumped" to his aid. The volunteer sponsor owned a small business and he found it possible to give the probationer a steady job with liveable wages. This not only enabled him to maintain himself but it also gave him the necessary financial backing to follow through on the marriage he was planning.

Recently the Chief Probation Officer has met with both the probationer and his wife and they report being comfortably settled in their own apartment with plans to soon rent a house. The probationer continues to work for his volunteer sponsor and he has proven himself a dependable and capable employee.

Another outcome of the Probation Officer's conferences with the probationer and his wife was the discovery that they both were seeking a new church affiliation. With their choice of churches established a referral was made to the pastor of the church and to date the pastor has made several home visits to help them reestablish this interest.

We believe this case summarizes our philosophy of probation. The securing of employment, through the volunteer sponsor, had a profound effect on this offender. He continues on probation with improved attitudes toward himself, his community, and his new marriage.

CASE SUMMARY—11

The offender in the next case pleaded guilty of committing an illegal and improper act with sexual implications. During the course of the trial he stated that he had been drinking heavily and denied any memory of what he did from the time he left the bar until he returned home. A psychiatric evaluation was required and willingly subscribed to by the offender. He continued monthly psychiatric treatments for about 7 months.

During the first few probation visits he was quite ill at ease during the interview period. He resented the visits to the psychiatrists, stating that it did him no good. The psychiatrist's report indicated that drinking and poor marital sexual adjustment were basic factors in the man's problem.

This gentleman became active in A.A. and after several visits assumed some responsibility in the organization. He recently stated, during an interview with the probation officer, that his negative feelings toward the psychiatrist were largely financial. We feel good rapport with the probation officer was achieved when he was able to openly discuss his feelings about the psychiatrist, his drinking and consequent involvement with women, the effect that his drinking had on both his marital and family relationships.

The psychiatric report indicated emotional immaturity, recommending regular supervision and encouragement. At this time we feel the probation program is affording this support.

CASE SUMMARY—12

Another case will illustrate the role of the volunteer psychiatrist. A defendant pleaded guilty to drunk and disorderly conduct. There was some indication of an intended pervert act toward a young child. However, the evidence was insufficient to justify a charge, let alone give rise to a conviction. The defendant had twice before in that year been convicted of drunkenness in other courts. Short jail terms were prescribed in both cases. They treated him as just another unfortunate alcoholic.

The psychiatrist in residency training interviewed the defendant prior to sentencing. He soon discovered that the defendant was in an advanced state of alcoholic deterioration. The supervising psychiatrist and two volunteer psychiatrists confirmed the diagnosis. All agreed that the defendant was highly dangerous.

We learned that the defendant had a service-connected disability. The VA was contacted and the defendant, based upon the psychiatric reports, was confined to a VA hospital for an indefinite period of time and until cured. Only in this manner could the public be properly protected.

Thus, due to the efforts of the psychiatrists, a desperate and dangerous case of mental illness was detected in spite of the relatively minor manifestation of that serious illness. Through the psychiatrists' efforts, society did not this time have to wait for a serious crime to happen before providing for the treatment of the defendant and the protection of society.

CASE SUMMARY—13

Yet another example concerns the role of an employer-volunteer sponsor. The owner of a tool company offered to employ a youngster who was on probation. This young man was not doing well on probation and was, in our opinion, a "felony looking for a place to happen". The employer spent many hours after the day's work was over talking to the young probationer.

After some months, the probationer's change of attitude was evident. He got a more responsible job with the company. He enrolled in night school. He began to have faith in the fact that he was "somebody". This young man is simply not the same person.

CASE SUMMARY—14

A woman probationer was assigned to a housewife with training in psychology. She was very distrustful at first of her new volunteer sponsor. The first few months on probation were not successful. Then one night her baby took suddenly ill. She remembered the volunteer's suggestion to "call me anytime". She called the volunteer at 2:00 A.M. Within a half hour the volunteer's own doctor was at her residence and the baby was in the hospital shortly thereafter. The volunteer even paid the doctor and hospital bill. The defendant paid her back promptly.

The probationer never gave us or any other criminal court any more cause for concern. She said, "You really do want to help me. I will not let you down".

CASE SUMMARY—15

Another youngster was sincerely dedicated to the economic and philosophical theory that, "only squares work". He was assigned to a volunteer who suggested that they have lunch at the executive dining room of the automotive company where the volunteer was employed in an executive capacity. The first few times the probationer showed up without a suit or tie and unshaven. The volunteer did not comment thereon. After a few meetings, he suddenly showed up well-dressed and clean-shaven. He said, "How do you get a job?" When the volunteer reminded him that only squares work, he said, "Yeah, that's what I thought, but looking around this room each week has given me a new idea about what this is all about".

The volunteer helped him get a job with a steel company. A few more months and several more meetings went by when the probationer asked about the apprentice program. With the volunteer's help, he applied and was accepted. He did well in the apprentice program and now has a responsible position. The volunteer said, when the defendant was discharged from probation, "This man is simply not the same person."

CASE SUMMARY—16

In yet another case, a chief counselor noted that a young probationer had a terrific problem with his teeth. It badly marred his appearance. The chief counselor was sure that this was part of his problem.

He contacted a local university and arranged with the dental school to have the probationer receive extensive treatment from a student dentist acting under the supervision of his professor. The teeth problem was solved in a few months. There has been no further difficulty with the probationer.

CASE SUMMARY—17

Another volunteer dropped everything to assist a probationer with a legal problem. The landlord had evicted the probationer and was wrongfully holding his stove. The probationer and his wife had no way to warm their baby's bottle. The volunteer dropped everything he was doing that day and went to his home to pick up and to lend to the probationer a baby bottle warmer for his temporary use.

Then they went to a nearby court and got out a writ of replevin to recover possession of the stove. The volunteer, who was not a lawyer, assisted the defendant in preparing the court papers. For the first time in his life, the probationer was appearing in civil court as a plaintiff rather than in criminal court as a defendant. They got the stove back, but they also accomplished a lot more than that. The probationer has not been back in any criminal court again.

CASE SUMMARY—18

L. Came to the court's attention for being intoxicated. When he was first seen by the counselor he was unshaven and quite disheveled. His eyes were watery and had a rather strange, faraway look in them. His thinking seemed rather odd and a referral to the psychiatrist brought the information that the boy was a schizophrenic whose thinking was quite disturbed. During the first year of his two year probation there was much difficulty in getting him to come to appointments and many threats were made by the probation department. The boy was not able to hold a job and would drift from one job to another. He was obviously very sick emotionally, but refused any kind of help that was offered. Counseling with this boy consisted of pointing out reality to him continuously. About one year into the probationary period, he met a girl whom he wanted to marry. A relationship seemed to have been established between the probationer and the counselor by this point in that he brought the girl to meet the counselor. They planned marriage and were married shortly thereafter. From the time of meeting the girl, the probationer's behavior changed drastically from being a very nonconforming individual who violated probation by such things as throwing a beer bottle out of his car onto a parked police car, and he maintained that his change in behavior was due to the fact that he got married. Throughout the second year of his probation he has kept out of trouble and has worked consistently at the same job. He, in fact, maintains that he wants to learn all aspects of his job so he can move on. It seems that the stability of a wife and the long term stability of a probation counselor may have been of great aid to this very disturbed individual. Perhaps the probation counselor provided the initial stability which he had never found and the initial relationship which he had never been engaged in and his wife continues to provide this relationship.

CASE SUMMARY—19

T. came to the court's attention for window peeping while under the influence of alcohol. It was felt, in the pre-sentence investigation, that he was a rather dull individual intellectually and there was much evidence to support this in that he had dropped out of school, had done poorly in school, and on an intelligence test had performed rather low. There was evidence to contraindicate his dull level of performance, however, in that he had been able to hold a skilled trade job for some period of time. When the probation counselor met the probationer for the first time the probationer did not have time to clean up from his work and was quite dirty. He was apologetic about this, but the probation counselor did not reprimand him nor make any negative comments, feeling that this man's work was a very strong basis for helping him. At the same time, the man's own feeling of self-respect was quite lowered in that his wife was threatening to divorce him because of the act that got him into trouble. The probation counselor's tact was to try and build this man's own self-confidence. The probation counselor felt that using the man's good work record was the best basis to work on. In 18 months of probation, this man never acted out again and never again drank. He did not go to Alcoholics Anonymous. The probation counselor would spend their sessions in asking this man a great deal about his trade and getting to know the trade himself. The probationer openly admitted that he enjoyed coming for our visits and it was quite apparent that the man was not dull and could function very adequately. In a very short time after they met, the probationer would appear for his visits in a very clean and groomed state. It is

felt that the probation counselor's technique of trying to build self-respect in this man through the man's work habits was highly successful.

Chairman PEPPER. Will Governor Hughes please come forward.

Governor Hughes, we are honored and most grateful to you for being here with us. We know of your spendid record, not only as a Governor and leader of an American city in political life, but a man who has made an enormous contribution to the problem of better administration of justice in the curbing of crime, working with and for the American Bar Association.

So, we are particularly grateful to have you here this morning.

Mr. Lynch, is there anything you would like to add before we call the Governor?

Mr. LYNCH. Yes, Mr. Chairman.

I would like to point out for purposes of the record that Governor Hughes brings to this hearing a special expertise in this field. He served, beginning in 1939, as an assistant U.S. attorney in New Jersey. He served many years as a judge of Mercer County Court in New Jersey. Subsequently he was Governor for 8 years, and he now serves as the chairman of the American Bar Association Commission on Correctional Facilities and Services.

Governor, would you please give your statement?

Chairman PEPPER. Excuse me, just a minute.

As you no doubt know already, these hearing, which will last at least 3 weeks—this is the second week—are dealing with street crime, and we are trying to find out the best thinking in the country that suggests what more may be done than we are now doing to curb crime of a violent or serious character in this country.

The first week we had 12 police departments of the country represented here, each of which had an innovative and imaginative program, which is achieving success in curbing crimes in those respective areas. This week is devoted primarily to correctional institutions for youth and for adults. We have had, as you heard here, outstanding thinkers in the country, outstanding administrators in dealing with the problem of youth, delinquency, and crime.

Governor, you are especially knowledgeable in the subject, and we are most grateful to have you.

STATEMENT OF RICHARD J. HUGHES, CHAIRMAN, AMERICAN BAR ASSOCIATION COMMISSION ON CORRECTIONAL FACILITIES AND SERVICES, WASHINGTON, D.C.; ACCOMPANIED BY DANIEL L. SKOLER, STAFF DIRECTOR; AND ROBERT C. FORD, DIRECTOR, ACTIVATION PROGRAM FOR CORRECTIONAL REFORM

Mr. HUGHES. Thank you, Mr. Chairman, Congressman Winn, Mr. Lynch, Mr. McDonald.

I would like to have the committee's permission, if I could, to go aside from my prepared testimony and complement the statement of Judge Leenhouts. I fully support it. He is indeed a great American, and this volunteer effort he mentions has been an inspiration to people all over the country.

As a matter of fact, I feel humble to follow him, because my expertise, although you refer to it very kindly, is nothing at all to match his.

In any case, it is an honor to be here and to share with the committee engaged in this important hearing, some thoughts on just what the plight of our correctional system is and what relationship it has to the sickness in the country, the street crime and violence. Also, I would like to talk about some promising directions for improvement.

I am accompanied by an expert witness, our staff director, Dan Skoler, who will be available to answer any question I can't from the committee and there may be many. He is the chief architect of the success of our corrections commission, whose programs I would like to describe very briefly.

Chairman PEPPER. Mr. Skoler, we know about your expertise and the valuable contribution you have made. We are very grateful to you for accompanying the Governor today.

Mr. SKOLER. We also have at the table with us Robert C. Ford, who is director of our commission's bar activation program for correctional reform, the thrust of which is to work full time with State and local bar associations in the same work the American Bar Association is engaged in concerning correctional reform.

Chairman PEPPER. Mr. Ford, we extend a particular welcome to you.

Governor, we want to advise you, Mr. Skoler, and Mr. Ford that we are going to call upon you for help and counsel if we may when we prepare our final report in respect to these hearings and in respect to these subjects.

Mr. HUGHES. We will look forward to that partnership and appreciate it.

As any good American, especially since we are citizens and human-beings, we like to look at our country and think about it as "America the Beautiful." We think about its historic birth and pioneer spirit, its longing for right, for justice, its generosity and courage and the strength of this country; but if we look again at our country, we see another side, a much more dismal picture. We see pollution and poverty and the terrible, frightening drug culture, the discrimination and hatred that still exists, and the growing disregard for law, with all of its frightening crime and violence.

This is a very different picture and it is a sickness that is so mysterious many people are confused when they try to explain it. It might have been the tragedy of Vietnam, it might have something to do with the decay of our cities, or the drugs, or the permissive society, so-called, or the comparative prosperity in which our children have grown up.

Chairman PEPPER. Excuse me, Governor. The light has gone on. They are now having a vote. If you will indulge us, we will run over, vote, and come right back.

[A brief recess was taken.]

Chairman PEPPER. The committee will come to order, please.

Governor, we are sorry we had to interrupt. You may proceed.

Mr. HUGHES. Thank you, Mr. Chairman.

As the committee knows, the leading spokesman for correctional reform in this country today is Chief Justice Warren Burger, who reminded us recently of ". . . the melancholy truth that it has taken the tragic prison outbreaks of the past 3 years to focus widespread public attention on this problem."

That there is a problem—that there is a critical and dangerous breakdown in our correctional systems is beyond dispute. Even the age-old apathy of the public is beginning to be pierced by the repetitive horrors of which it reads and learns—the institutional suicides, the violent sexual abuse and even murder of younger prisoners, the frustrating level of recidivism, the riots at the Tombs and Holmesburg and San Quentin, and finally the shocking American tragedy of Attica. Dean Robert McKay describes Attica in his commission's report as displaying only "the tip of the fiery hell which lies below."

I might say that the film of that commission's report is in our possession and we have told Mr. Lynch it will be made available to the committee. It is a very interesting film of the actual Attica riot, its setting and aftermath.

Chairman PEPPER. We would like very much to have that, Governor. Thank you.

Mr. HUGHES. I know that, among other aspects of this problem, the committee and its staff have been studying the emerging law on legal rights of those incarcerated in our jails and prisons. I suspect that the chairman and the members may share with me some feeling of restlessness at the ambivalent slowness with which courts are turning away from the callous "hands-off" doctrine which has persisted for many years. It has been described by one court as "a questionable absolutism." One extreme of its application was by a Virginia court which once said, years ago:

[the convicted felon]

has, as a consequence of his crime, not only forfeited his liberty, but all his personal rights except those which the law in its humanity accords to him. He is for the time being the slave of the State.

If you will excuse a lawyer and former judge for being cynical, I would regard a dependence upon "the humanity of the law" whatever that is, as a slender reed indeed. I would much rather look to the Constitution, the writ of habeas corpus and the Federal Civil Rights Act. And, as you will hear, the courts are coming to believe this too, as held by the Federal Court of Appeals for the Fourth Circuit in 1966, which said:

The hands-off doctrine operates reasonably to the extent that it prevents judicial review of deprivations which are necessary or reasonable concomitants of imprisonment. Deprivations of reasonable medical care . . . are not among such concomitants, however. Prisoners are entitled to medical care. . . . Where there is no administrative provision for an impartial resolution of factual issues underlying such claims, there is no alternative to judicial inquiry, even though many, or even most of such claims may be asserted irresponsibly.

Even in the days of Blackstone, it was written that:

. . . to confine a prisoner in a low, damp, unwholesome room, not allowing him the common conveniences which the decencies of nature require, by which the habits of his constitution are so affected as to produce a distemper of which he dies: this also is felonious homicide. . . . For though the law invests gaolers with all necessary powers for the interest of the commonwealth, they are not to behave with the least degree of wanton cruelty to their prisoners.

On the subject of medical conditions, legal protections—or the lack of them—my references only scratch the surface of the inadequacies and substandard conditions of much of our correctional apparatus. How shocking it also is to realize that aside from Federal and some State prisons, almost half of our Nation's jails and prisons have no

medical facilities of any kind, and many have no access whatever to a physician. The prisoner in a diabetic coma, or suffering an epileptic seizure, or acutely deranged and suicidal, may languish and die, one might believe, for all America cares. But you and I know that this is not true and that this evil condition results from our indifference and not our intent, although the result might be the same.

This is why our ABA Commission is honored to be associated with the American Medical Association in developing a program "to institute and improve medical and health services in the Nation's jails and prisons." It is to upset this indifference, to change this dismal and dangerous course, that the legal and medical professions have come together with respect to solving this problem of our times.

It was with the same burden on our collective professional conscience that the American Bar Association Commission on Correctional Facilities and Services is now striking out on many other fronts to overcome the indifference and neglect of the past.

Remembering what Judge Leenhouts said about expanded probation and parole, the breakdown in corrections is so pervasive that we can put aside at once the thought that any jurisdiction can rest easily on an illusion of perfection. If New York has an Attica, other States have reformatories to which any judge would hesitate to commit a juvenile.

If one State has a splendid State prison system, its county jails are a mess and many of its judges go without probation services. It seems intolerable to me that probation services are nonexistent or a mere shell in many jurisdictions. To be without adequate probation is to be only half a judge. And the damage done by useless incarceration where probation facilities are unavailable is a most serious problem.

Sloppy parole practices often contribute in a substantial way to institutional unrest, not to speak of the resulting wreckage of human lives. I am sorry that Congressman Sandman is not here because I would remind him that in my own State of New Jersey, a progressive Governor is seeking parole reform, but is frustrated by a backlash of fear and suspicion. In the area of inmate health, Governor Cahill has sent the medical battalion of our National Guard into every institution to inventory the health condition of every inmate. He has proposed in his current budget an increase in medical facilities which would provide a more favorable ratio of doctors, dentists, nurses, and psychologists to inmates than the ratio available for care of the general population. This, on the rationale in the words of Governor Cahill's budget message that: "Attention has focused across the country on the physical conditions of imprisonment, the need for upgrading basic correctional programs and the civil rights of the convicted * * *."

So it is that executive initiative can advance correctional reform even without judicial prodding, but on the simple basis of common justice to the offender who, in the main, has been treated over the years with a reckless cruelty by a society not inherently cruel, but only negligent and indifferent. But we are also talking of justice to that society, now fully exposed, as the committee knows, not only in its city streets but in its comfortable suburbs, to the violence and crime to be expected from the released prisoner who emerges brutalized, corrupted and embittered by his "correctional" experience. It seems a paradox that in our State of New Jersey the Governor has

had to abandon, because of public objection, his hope to replace our ancient, long-since condemned State prison, with institutions of smaller population and more effective potential.

Yet we may be encouraged by the cycle of public apathy and public attention. Twenty years ago people cared nothing about air and water pollution—because they did not understand the immediacy of the danger to themselves, to every one of us. Now, protection of the environment is a primary national goal, to save ourselves from being poisoned by the end of this century.

Another example is the phenomenon of juvenile drug addiction. When it was confined to the city ghettos, many of us did not care; but now that it has reached into every suburban high school, everybody cares. And so it is, I think, that people are now coming to understand the need for correctional reform, and how it touches them and their families personally.

It is thus with a real hope that we are about to turn this corner of neglect, that I have been so encouraged in my work as chairman of the ABA Corrections Commission. Penal system improvement represents a priority concern of our association. When we organized, we discarded the idea of studying again the problems of corrections, and inclined our energies toward action programs.

We have in process our first practical undertakings, including a national volunteer program in which young lawyers work as aides providing intensive one-to-one assistance to offenders on parole, a program already showing evident success in 12 States.

We are associated with the American Correctional Association, the U.S. Chamber of Commerce, the AFL–CIO and others on another project, a clearinghouse program focusing on unreasonable employment restrictions which impair the ability of a rehabilitated offender to find suitable job opportunities. If we expect to bring the ex-offender into the mainstream of useful work, we must not forbid his opportunity at the very outset.

We are developing with the American Association of Community and Junior Colleges a national effort to stimulate college level education of custodial and other line correctional personnel. The goal is to further professionalize these correctional people who come in such close daily contact with prisoners and have so much to do with their eventual destiny—for good or bad.

We have established a Resource Center for correctional law and legal services to provide direct litigational support of test cases and to publish manuals concerning specific areas such as harsh and irrational sentences, mail censorship, jail conditions, parole problems, civil disabilities and other similar topics.

We have energized a statewide jail standards and inspection systems project. This seeks to stimulate State legislation to require minimum standards of decency and good practice in jail and juvenile detention facilities.

We also have a program to activate State and local bar associations to concern themselves with penal system improvement. That is the project that our good Mr. Ford directs. To our delight, more than 20 States and 10 major local bars have established special committees on correctional improvement. In addition, a dozen more such committees

exist within junior bar, young lawyers, or other sections of State and local bar associations.

One project most exciting to our commission, which I imagine would be most exciting to this committee, in which we are working with the National District Attorneys Association, involves the pretrial diversion of early offenders. This program would identify young offenders at the outset of a criminal career and temporarily suspend prosecution while the offender receives counseling, education or manpower services.

Should the offenders respond favorably, and already the prospects are encouraging, prosecution will be dropped and we will have saved one more American from entering the corrupting and destructive cycle of criminal imprisonment. We hope this idea will spread throughout the country for we have much to gain in this preventive effort.

We think our commission's work has been effective in emphasizing two reasons for the growing public concern with correctional reform, neither of them, please note, associated primarily with a feeling of humanity or charity or softness toward the offender. The benefit-cost ratio is extremely important at a time when public expenditures are severely afflicting every taxpayer. The per capita cost of unnecessary and prolonged imprisonment has been estimated by some authoritative groups to exceed $10,000 a year. Let us then consider another factor, namely that excellent probation or parole supervision with constant attention to the offender to keep him on the straight path, could be had for a per capita cost of less than $1,000 a year. We ask ourselves which system makes better sense, assuming that the security of society is not endangered? And what monumental stupidity it seems to be to select imprisonment where that it is not necessary to the security of society.

Even more importantly, the second point of our case involves the final product of our correctional system. A man who comes out of prison or a reformatory much more corrupted and criminal than he was when he went in, is a dangerous man. We have built a monster who is a threat to the whole fabric of our society and every family in it. This factor, too, while certainly not altruistic, is a very important one if we are talking about crime in America. From my experience as a judge, a prosecutor, a lawyer and finally as governor, I express the opinion that if by some miracle our correctional system were to be reformed overnight, crime in America, including street crime, would be reduced by one half at least.

Our ABA Commission has an interdisciplinary membership including the redoubtable Dr. Karl Menninger, and we work with a staff of excellent professionals from our offices in Washington. We have a grant from the Ford Foundation and various Federal grants, and we have constantly been encouraged by Chief Justice Burger in our work for reform. I believe our efforts are beginning to bear fruit in creating a sense of identity between the public and the problem which is necessary, of course, to the accomplishment of any reform.

And so while the problems we face are monumental, I am beginning to feel a sense of optimism that the public will support a reversal of the trend which has brought us to our present sorry condition. I have always been inspired by a remark that I think was attributed to John Kennedy. It was the effect that the tide of history need not run against

the United States, but can go in the direction in which strong and determined men compel it to go.

If professional people, governmental officials, and citizens from all walks of life can be inspired to join this effort, think what a power for good, for affirmative reform, would be generated. What a shining challenge we would be meeting. What important goals we could accomplish. If we can but elevate the status of corrections in this country, we will surely cut down the incidence of crime, which police power with all its force has been unable to do; and if we can once again become a law-abiding and peaceful society, you can see how much we will be contributing to the interest of our country and perhaps have something to do with saving it from the unhappy problems which afflict us on every hand today.

Our commission is well aware of the Select Committee's interest and the chairman's personal concern with this phase of the criminal justice process. We know of its close scrutiny of the Attica and Raiford prison disorders and look forward to the committee's forthcoming special report entitled "Prisons in Turmoil." It is gratifying to see that the Select Committee has looked beyond the simple and obvious questions of physical security and custodial force to emphasize the treatment and rehabilitation approaches that must be fostered and modernized if our correctional system is to achieve what it so desperately needs—a better success rate. Because of their inherent merit and because so many of them march in step with our own programs and priorities, we wish your work well and hope that its public and governmental impact will be strong and immediate.

Our President, I think, has summed up the case well. And—I should parenthesize here—he has supported the work of our commission very strongly from the outset. He said:

> At long last, this Nation is coming to realize that the process of justice cannot end with the slamming shut of prison gates. Ninety-eight out of every hundred criminals who are sent to prison come back into society. . . .
>
> Locking up a convict is not enough. We must also offer him the keys of education, of rehabilitation, of useful training, of hope—the keys he must have to open the gates to a life of freedom and dignity.

And our Chief Justice has isolated the "critical variables," as he calls them:

> It is not the rhetoric of prison reform, but the moral and political commitment expressed in concrete ways that move and change a modern democratic society. High in this scale is the commitment of the public purse; citizen support for enlightened professional doctrine and practice; new mechanisms, such as training academies and information clearinghouses; and translation of sound standards into statutory and administrative reality.

It remains for the Congress to make the unique contribution that only it can bring to national problems and values of this depth. It is good to see the Select Committee on Crime devoting its remaining energy and resources to this important work.

I know I speak for all of the members of our commission and the bar association when I wish your committee well in its legislation.

Chairman Pepper. Governor, you made a magnificent statement and we are most grateful to you for it, and for the contribution you are making to fight this problem.

The members might have to leave, so I would like to give the members of the committee first opportunity to question.

Mr. Mann?

Mr. Mann. Governor, I am somewhat enlightened by a statement here that probation facilities are unavailable in some jurisdictions. What type of jurisdictions in general do you find lack those facilities?

Mr. Hughes. I would say probation services are insufficient, although not absent, in my own State of New Jersey. When I was an assignment judge responsible for this I quarreled bitterly with the county purseholders, the freeholder board, as we call them, and managed by public and press attention to get them to double the amount of probation services.

You see, if a probation officer, no matter how good he is, has 200 juvenile offenders or adult offenders on his list, he is not going to be able to do much more than have them come in once a month to the courthouse and say, "Yes, I am doing pretty well." No home visits, no supervision of any kind. His caseload ought to be about 30 or 35. There are estimates floating around that the cost of having that kind of probation, good tight probation or parole, is at $500–$800 a year.

Some States have no probation. As a matter of fact, I think in Nebraska, there are many parts without probation. In some places in Texas, the judges have no probation officer at all.

Mr. Mann. I imagine it is somewhat the rule that courts such as magistrate's courts and police courts don't have any facilities.

There seems to be a rising unrest in the prisons about some of our methods of parole. I find in my prison mail that they are demanding some type of objective criteria by which they can earn parole, rather than being at the mercy of the board. Who was working on that problem? Is anyone doing any constructive work?

Mr. Hughes. Our commission is urging many of the States in this direction. I accompanied Chief Justice Burger to talk to the Governor's conference 1 or 2 years ago. In our State, for instance, there is a parole reform bill which Governor Cahill is strongly supporting, to clean up inadequate parole practices, which is the chief cause, I would think, of prison unrest. That is, the parole board giving a prisoner who is a worthy prisoner and rehabilitating himself the "back of their hands," because they don't have the time. Part-time boards, for instance, are a weak point.

But this parole reform bill is being frustrated by the usual opposition, "Are you going to let these bad people out among the public," and so forth, which completely goes past the problem.

Mr. Mann. I wonder if we have identified any outstanding parole system in the country? Does anyone know of any one that seems to be working better than others?

Mr. Hughes. I am going to refer that to Dan Skoler, if I may. He was formerly with LEAA and is quite knowledgeable.

Mr. Skoler. I am really not prepared to answer that question, but I do want to mention, Congressman, that the American Correctional Association has a parole project supported by the Department of Labor's Manpower Administration. This is working with States, and I think is already operating in several States—California, and Wisconsin being two—and which does seek to define a program for the parolee which makes clear to him what will be expected of him,

both in obtaining the grant of parole and operating on parole with definite incentives and goals.

Mr. MANN. I think this is going to be an increasingly troublesome problem and we need to put as good minds and projects on it as we can.

Mr. HUGHES. Could I offer to send down to the committee copies of the New Jersey legislation, which I think is very useful, plus a reform reference by our commissioner of institutions and agencies in which he has administratively installed parole counselors to help worthy prisoners who may be inarticulate and unable to express themselves, work up a job or family plan outside, and counsel them when they come before the board—things of that nature?

Chairman PEPPER. We would be glad to have it. Please send it to us.

Mr. MANN. Thank you, Mr. Chairman.

[The information referred to above will be found at the end of Mr. Hughes' testimony.]

Chairman PEPPER. Mr. Wiggins?

Mr. WIGGINS. Thank you, Mr. Chairman.

Governor, I have no question concerning your testimony. I am going to explore two new areas. After touching on the first area I intend to yield to my colleague from Kansas, and then we will get back to my second area, if time permits.

Your background provides the committee with the unique opportunity to ask questions of a man who has been a chief executive of an important State of this Union, a judge, and an attorney as well. My concern relates to the proper role of the judiciary in producing internal reforms within prisons.

As you know, to an ever-increasing extent, it has been the Federal judiciary that has carried this burden as the result of petitions filed under section 1983 of title 42, a civil rights statute, or occasionally petitions files for posteonviction relief under section 2254 of title 28, by State prisoners.

Particularly in the former case, the court is granted broad equity power to compel action, and often the action that is compelled involves expenditure of public funds. Now that raises a serious question in my mind about the proper role of the judiciary in determining priorities for public funds, when by their very nature they are not exposed to the multiple challenges for funds, as is the case of a legislative body or chief executive.

I think I have set the stage for the problem that disturbs me and perhaps you might expand on it and give me your observation.

Mr. HUGHES. The constitutional right and the civil rights remedy of section 1983, approaching now the same status as a "cruel and unusual punishment" right, and so forth, at least in the eyes of many courts, is one which must be recognized by the courts and dealt fairly with. As you say, it is a very difficult problem. For instance, in my 18 years as Governor of New Jersey, I was totally unable to accomplish any substantial measure of penal reform because I was afflicted with the demands of colleges and education and highways and a lot of other things.

To the credit of my successor, he is concentrating on that. That is one of the reasons I am on this commission and spending about a third of my time on it—to make up that second chance.

Really, I think the court judge who insists on the common decencies Blackstone called for in the quote I just read, is good for Governors and for legislators, because it leaves them no alternative except to do what they ought to be doing anyhow. In other words, they aren't volunteers. They can't be called "do-gooders" or "bleeding hearts" by the public, if they are merely following the admonitions of the court.

Mr. WIGGINS. Of course, the judgment as to what the Governor ought to do is not society's judgment collectively, acting through their legislative, but rather the judgment of the court, which may hear only very narrow arguments. The court hears the arguments of the petitioner or the plaintiff in that lawsuit. It hears the attorney general's office argue in resistance to it, or some counsel. But the court doesn't hear the interest of schools and people interested in roads and others.

It means either that the other values are going to be shortchanged as we focus on prisons and the internal conditions of prisons, or it means the total pie is going to be increased by new revenue brought into the system as a result of a tax increase to take care of everybody.

But what really bothers me, Governor, is that the judge is making that determination, rather than elected bodies and elected Governors. Do you think that is fundamentally incorrect in our system?

Mr. HUGHES. I think it is correct where a vacuum exists and where the executive or legislative body doesn't attend to the problem. The problem must be attended to.

For instance, a year or two ago in Dade County, which is a pretty good jail as jails go, a 17-year-old runaway boy was thrown in the cage with 20 other pretty bad prisoners, two of whom murdered him during the night. They were only waiting for his father, a minister from Georgia, to come down and pick him up. That shouldn't happen. It will behoove a court at some level to say this kind of neglect can't happen any more.

I am convinced that the general public doesn't want these things to happen. They don't want people to die from neglect in jail. They don't want cruelty.

Mr. WIGGINS. The general public has not responded generously to bond issues when presented to them for reform, or at least the modernization, of the penal system.

Mr. HUGHES. That is correct. And it is too bad. That problem is part of the administrative concern of our commission and, for instance, this committee. I have noticed, however, after a long time in public life, that sometimes the Governor or legislator has to get out in front and do what is right, even though his mail doesn't run 30-to-1 in favor of that.

Mr. WIGGINS. We saw a lower Federal judge here in the District of Columbia, if my memory serves me right, ordering that any commitment to Lorton was cruel and unusual. Accordingly, the whole institution was to be closed down, and somebody had to provide the alternative of a different institution or turn those people loose.

That perhaps dramatizes the kind of problem I am talking about, where that judge had made his assessment of the priorities for the public expenditures and said more money should go into prisons as distinguished from perhaps some other area. I don't know the ultimate disposition of that case. I suspect it may have been reversed, but at least it dramatizes the problem.

Mr. Hughes. It has to be that way. Sometimes that is the only way the right can prevail. As you say, the public mind is hard to dent on this subject, but judges throughout the country have been closing jails.

Mr. Wiggins. Does it bother you that it is a Federal judge closing a State jail?

Mr. Hughes. If a State prisoner is being deprived of his constitutional rights, for instance, if kids are being thrown in with some of these older, hardened, brutal prisoners, it is the judge's duty, I think. The judge would be very unjudicial not to recognize that and, hot or cold, make his decision. Then the legislators and the money producers would have to worry about it from there on. But the judge can't turn his back on it.

Mr. Wiggins. Shouldn't there be an exhaustion of remedies requirement in the case of section 1983 petitions? Do you know the problem to which I am speaking? I think Mr. Skoler does, if he would like to comment upon this problem.

Mr. Skoler. Yes. The dilemma referred to by the Congressman is a very real one. As a matter of fact, the courts, perhaps from frustration with the decree aspect of their decisions, are becoming more positive and more detailed in the kinds of orders they want submitted to remedy unconstitutional conditions in prisons and jails. There are real cost questions involved in implementing these decisions. It has been my observation, however, that in the test of a decree like closing a jail down, or determining there must be additional space, which does ultimately require a bond issue and executive action, there are sufficient forces on the other side to create a mediating influence. That is, the court activism in the defense of constitutional rights in these cases doen't fully win out. The give-and-take usually involves a compromise between limited public dollars and the judicial assertion of constitutional rights.

So you do wind up with a more reasoned result than one that just has to make way for the kind of executive priorities you talk about.

Mr. Wiggins. I will conclude this portion with the observation that I, for one, would certainly not wish to repeal section 1983, but on the other hand, insofar as judges are exercising their equity jurisdiction by compelling affirmative action as distinguished from injunctive relief, which of necessity will require the expenditure of public funds, that in their own self-interest, if not in the interest of the society as a whole, they exercise great restraint and not be too much of a pioneer in this field, because the public reaction could be gross and most unfortunate to the judiciary.

I have other questions I will get to after Mr. Winn.

Chairman Pepper. Mr. Winn?

Mr. Winn. Mr. Chairman, I would yield some of my time to my colleague from California, who is a fine lawyer. And since I am not a lawyer, I would like to hear him explore his field.

Mr. Wiggins. I want to carry on with just a few questions on the subject that our colleague, Mr. Mann, talked about: namely, parole. At the present time, statutes in this country range all the way from granting to parole authorities maximum discretion to determine the total period of confinement, to almost no discretion at all, as in the case of mandatory sentences, no parole being authorized.

A maximum discretion statute is really in the nature of an indeterminate sentence procedure.

Do you have any views as to the proper balance here of what is right and what is wrong?

Mr. Hughes. Yes. I had occasion to veto repeatedly mandatory sentences, 2 years, 8 years, 10 years, all of which would have handcuffed the judge and perhaps compelled him to commit great injustice in a given case, or resulted in a very evil person being acquitted in a given case, because of the nature of the sentence. I thought as a lawyer that they were totally wrong.

Now, I know this drug problem is becoming so frightening to many people that that mandatory stiff sentence seems to be quite appealing. I know in New Jersey that the new parole reform bill, which would give the parole people authority any time after 6 months of a commitment, no matter how long a sentence, to consider and grant parole, is meeting great public resistance. In Massachusetts, a prisoner must serve two-thirds of the maximum of his sentence before being considered for parole. This is causing enormous unrest, as you may have noticed in the papers, in the maximum security institutions in Massachusetts.

So these extremes are, I think, wrong. I think the answer lies in liberalizing of parole availability but strengthening the parole boards in their procedures. In New Jersey, I think by the end of this year that the case of every prisoner will again have been reviewed.

Mr. Wiggins. We cherish the notion that the court is in the best position to sentence an offender fairly, and balance the interest of society and the needs of the defendant.

I really doubt that. I think that a court is sentencing a man at the wrong time. The court has just heard all of the grisly details of a heinous offense, perhaps. Of course, he has the benefit of the impassioned plea of defense counsel and he has the presentencing report. But the point is, he is making the judgment at the wrong point in time. We are talking about the future of the given offender and his hoped for rehabilitation and we are making that determination in passion. And I think that is incorrect.

I realize reforms in this area are very difficult to enact because of the hysteria that surrounds the matter of sentencing offenders. But would it be enlightening, in your view, Governor, if we moved in the direction at least of an indeterminate sentence, perhaps not totally wide open where a convict is unclear as to how long he is going to have to serve, but at least in that direction, granting greater flexibility to parole boards to determine whether or not at some point in time in the future an individual offender has been sufficiently rehabilitated to be reintroduced into society?

Mr. Hughes. There is a wave of public reaction to that sort of thing, which I think would make it pretty much unworkable. I would prefer the New Jersey system, which gives what we call an indeterminate sentence—and we are talking about different definitions of the word—not less than 3 nor no more than 10 years in the New Jersey State prison.

Under the present law, when the minimum is accomplished, or one-third of the maximum, that man with good time—good behavior time and work-time taken off—can be considered for parole.

Congressman, I think the first thing, and I think something the public would support if it could only learn the cost-benefit ratio from this committee, would be making sure there is excellent probation—fine probation facilities available to every judge in the country.

Mr. Wiggins. I think there is greater public resistance to probation than there is to parole. The public wants to see a man go to jail, and they are very resistant to the granting of straight probation or even probation upon condition of a minimal term served in the county jail.

But after the door is closed, as you well know, society forgets about that man and it is possible to do some enlightened things with respect to him, if legislation in that direction were drafted.

Mr. Hughes. I wonder, Congressman Wiggins, if I could file a statement later with the committee, including our parole reform bill in New Jersey, and the rationale behind it. I know there is a study. I would be more informed then than I am now.

Mr. Wiggins. It would be most helpful to the committee and me if you would do so.

As you know, Congress is confronted now with the specter of mandatory sentences in three areas. One is certain Federal crimes committed with a gun, another is drugs, trafficking particularly in the heroin-morphine field, and finally in the hijacking field, all very emotional crimes. Recommendations for punishment which have been described as mandatory sentences, but in fact are not actually that, are now pending before the Congress.

Your observation concerning this matter will be helpful to me and to the committee.

Mr. Hughes. We will file a later statement and file it very quickly, because I know the committee is well on the way to finishing its work.

[The statement mentioned above will be found at the end of Mr. Hughes' testimony.]

Chairman Pepper. Mr. Winn.

Mr. Winn. Thank you, Mr. Chairman.

I have only one question that has bothered me for quite some time, and that is the selection of probation officers. Do you have an idea of what percentage of probation officers really care, and are dedicated?

Mr. Hughes. My experience with probation officers in my own State, as a judge for 10 years, has been good. They are dedicated people in the main. I tried to get the New Jersey legislature to give me money for the creation of a system of paraprofessional probation officers, in which event, instead of a juvenile offender who had to be watched, say, in the central ward of Newark, on probation, instead of going down to the courthouse and seeing some crewcut, college-type probation officer and exchanging a few words with him—that is a bad word these days——

Mr. Wiggins. You are dating yourself when you talk about crewcut, college types.

Mr. Hughes. That is right. Instead of that, the paraprofessional may be a rehabilitated offender or someone from the offender's inner-city community and thus a store-front probation officer, where he would know what that boy was doing with his family, or whether he was getting into bad company and so forth. This kind of sympathetic and intensive contact and supervision would be the system.

As to the specific question, Congressman, I would like to ask Dan Skoler or Mr. Ford to answer.

Mr. Ford. Mr. Chairman and Congressmen. My viewpoint has been as a volunteer parole officer, seeing parole officers and probation officers in action in the State of Illinois, primarily. We found that there is a great diversity, of course, in the way they go about their task, but I think for the most part they do seem to really have a significant concern for what they are doing.

This seemed to be true of both the older and less apt to be professionally trained men who have been in the system for a long time, and of our younger ones just coming out of college and graduate school.

Mr. Winn. Are there any kind of training courses for those older ones that sort of have a job by the grandfather type of thing because of their age and experience?

Mr. Hughes. There are inservice courses. The chief probation officer in the county in which I sat for many years is a man named Simon J. Falsey, and he has not the college education and so forth. He is the type of older practitioner you mentioned. I believe that if I were to go back on the records, I could find hundreds of people whom that man saved from years in jail by guiding them as chief probation officer.

I would turn a pretty bad kid loose with him on probation, with reluctance, and 6 years later he would walk in, would be a Marine, be married, and fully rehabilitated. This was a great, dedicated but fairly uneducated probation officer. So it depends on what is in the heart as much as what is in the head.

Mr. Winn. I agree with you and that is why I think that some of them do have it in the heart and some don't have it in the heart, and some of them find the easy way out.

I have not been exposed to too many, but just enough to make me wonder about some of the types of personalities that we have, and wonder, really, if they care enough about individuals in general to spend the time that is probably necessary.

It seems to me more prevalent nowadays to spend more time with the individuals and listen to their problems and talk to them than the so-called old days, or crewcut days. I don't think too many of them made the home visits that were very necessary and they really didn't find out what may have—not always—what might have been the basic problem for the behavior of the offender.

Mr. Ford. If I could add, I would suggest that some of what might appear to be a lack of concern at times may just be a result of the layer of cynicism that seems to come out on top, because of having caseloads of 200 and 300 people.

Mr. Winn. My next question: I think it is pretty obvious in some parts of the country the caseload is too much for certain individuals to handle. I don't think there is any doubt about that.

Mr. Ford, what would be your answer—other than money. Don't just say money, because we hear that like a broken record up here. What else?

Mr. Ford. You seem to be kind of leading into what we are all about and that is volunteers. I am at the moment working with just getting lawyers to get involved in any type of correctional activity. One of our projects that the Governor has mentioned is the National Volunteers in Parole program. We have tried to match volunteers, 1-to-1, with felons coming out of institutions and in some cases, probationers, too. In Missouri, in particular, I believe they were with probationers.

But I think people resource is the answer. And if you can get people resource without money, or with less money, I think that is the best solution.

Mr. WINN. Of course, if you get people resource with practically no money, you have the people.

Mr. FORD. Right, correct.

Mr. WINN. We have the people in the country; whether we have the people with the heart or not, as my colleague from California brings out, is another thing. When we are voting bonds for correctional institutions, all of a sudden, even including schools these days, the public falls on its face.

Mr. HUGHES. This probation officer business, though, Congressman, is a little different, because if we mention the word "money," if you are spending $500 a year for worthwhile, 30-caseload-type probation supervision, and you are keeping a man out of the New Jersey State prison, where, considering his upkeep and maintenance and his family on welfare and the loss to the national product, you are saving $10,000-plus a year.

That is where the money is. If somebody could get that message over to the American public, somebody like this committee, by putting in this dollar we are going to save $10, that would be an enormous contribution.

We could begin saving it right away, because there are people in New Jersey State prison institutions now that ought to be out in the street on parole.

Mr. WINN. I think your point is well made and, of course, there are lots of us in Government that wish people would look at certain things this way and in these directions, but I am afraid this is one of those tough things to sell because it really doesn't have much to do with the check they see that they bring home and the money they have in their billfold.

Mr. Ford, I have long been associated, just in youth work, as a Boy Scout master, a Cub Scout master, and fraternity adviser in college for 15 years, and I tried and tried and tried, really, with little success, but I can see the results and there were good guys. These were the good young men from middle- to high-income areas that were impressed with the time, if we could ever get it from them, from athletes or people whose names and pictures are in the press every day. Or frequently, that they recognize, with name identification.

But you have to almost tackle some of those guys to bring them in to get them to spend 10 or 15 minutes with whatever the youth group might be. These are the same people, that many of them—and I have used this when talking to them—started in some areas, started in high crime rate areas. And I say, "You know what I am talking about; now if you will come talk to some of these fellows, spend an hour with them, tell them about your experiences as a champion miler or all-American basketball player—but there is the people power you referred to, but, boy, it is like pulling teeth to get them.

Mr. LYNCH. Mr. Chairman, if I might interrupt for a moment, please.

Mr. Wiggins indicated Governor Hughes brings a special background and experience to the committee, and I think it ought to be pointed out that the same is true of his staff director, Mr. Skoler. And

for the information of the committee, I would like to tell you very briefly something about Mr. Skoler.

He attended the University of Chicago, is a graduate of Harvard Law School. He was the gentleman whom Judge Arthur described as the man who took the National Juvenile Court Judges Association out of the bush league. He served as executive assistant in the pilot Office of Criminal Justice at the U.S. Department of Justice under Attorney General Katzenbach. He was the Associate Director of the Office of Law Enforcement Assistance, along with Courtney Evans, and was Director of the Office of Law Enforcement Programs for the Law Enforcement Assistance Administration.

In that capacity, he practically single-handedly drafted all Federal guidelines for Federal assistance to police, court, and correctional agencies.

He has been a prestigious and prolific worker in the criminal justice improvement field. I think he is in a unique position to indicate to the committee what areas of correctional work need Federal assistance.

Chairman PEPPER. Have you finished, Mr. Winn?

Mr. WINN. I just want to say, Mr. Chairman, I appreciate these gentlemen appearing before the committee. You and I should be embarrassed because your State and my State are not listed in the brochure here. So it looks like we have some homework to do ourselves.

Thank you, Mr. Chairman.

Chairman PEPPER. Well, I would like to say, Governor, I share your view that it is not only the right but the duty of the courts to protect the constitutional rights of people who are incarcerated in penal institutions. In addition to that, it does stir the political and civic leadership to action, to have the courts initiate reform, initiate requirements. I think we gradually have been seeing more and more of that, not only cases dealing directly with the prison population, but I remember it hasn't been so many years ago the Fifth Circuit Court of Appeals in an opinion written by my former law partner, Judge Waller, recognized that State prisoners under the Constitution are entitled to protection of their civil rights; and the courts began to move against brutality and against abuse, with respect to State officers who had custody of prisoners.

Then, of course, the courts have ruled in many other areas: Civil rights, voting rights, school requirements, school desegregation, elimination, and the like.

Now, we all realize, of course, that the rule of reason applies to almost anybody, including the courts. I am sure the courts will not in general allow themselves to intrude their authority into every act of administration in a penal institution. That would be frustrating to any kind of effective operation.

But if civil authorities are not going to provide protection of a decent sort for those people, then I see no alternative but to have the court come in and do it.

We cited in this committee's tentative draft of a report on correctional institutions one of the most horrible cases of where a young man was brought into a cell where several other older men were confined and that young man was immediately sexually attacked and brutally abused. When they finished with him and left him bloody and un-

conscious and bruised and battered, they went back to playing dominoes nearby.

It would seem to me that a young man who was being sentenced to a State prison like Raiford, or Attica, or some of these others, that I think are a shame to the penal system of this country, would almost have a justifiable right to an injunction from a court based upon past experiences of young men in these penal institutions.

Now, he is liable to incarceration, but I don't think he is liable to be thrown in where he will be brutalized, as so many are when they are incarcerated in these institutions.

We have statistics that are recited by the President and other officials, most of them police departments, that the rate of increase in crime is diminishing, except in certain areas of violent crime—murder, homicide, and forcible rape. Generally, those offenses seem to be increasing perceptively, rather than decreasing. But the problem is, where do we go from here, what can we do now? This committee is going to make recommendations to the House of Representatives. We hope we may have a measure of impact upon public opinion. We hope we will be able to send our recommendations and, in fact, our hearings to large numbers of people in this country, who will find something of importance in them, something stimulating to help them in trying to do something about the present system.

But in a summary way, what would you and Mr. Skoler and Mr. Ford say should be done today? What kind of a program could the Congress inaugurate that would have some reasonable hope of improving the present situation, and reducing crime in this country. I think we all agree there is an intolerable amount of violent and serious crime prevalent in this country.

Mr. Hughes. That is a very broad question, but I would say, just as a "for instance", there is legislation pending in Congress to create diversionary programs in every Federal district where an early offender or first offender, with the approval of the U.S. attorney and defense counsel and the court, be put under some other track than being sent out to a Federal prison or Federal reformatory.

He would get manpower training or vocational training. He would be tried out for a period of 6 months to see if he could organize his life. The success rate of such diversionary programs on the State basis are remarkable. The one in our State, the Hudson Tri-County Intervention project, is more than 60 percent successful.

Mr. Wiggins. Would those diversionary programs be in lieu of prosecution, or after prosecution and in lieu of sentence?

Mr. Hughes. They would be in lieu of prosecution. They would be predicated upon voluntariness on the part of the prisoner and the waiver of his right to speedy trial, so if perchance he failed on his experience, 6 months hence the prosecution could go forward.

Mr. Wiggins. Could it really go forward?

Mr. Hughes. Yes, it can go forward, because of limitation of time. The time in New Jersey on our court roll is 3 months plus 3 months. After that, the court has to make a decision.

Mr. Wiggins. I don't understand the 3 months.

Mr. Hughes. The program can take an early offender for 3 months, get him back to school or get him working back at his job, get him on

methadone or urinalysis, get him off drugs, and so forth. Then they come back to the court and say this man is working out fine. He has got a job at Westinghouse. He is back with his family. We think he ought not be prosecuted for stealing this car. If the court concurs that man doesn't have that criminal record to follow him the rest of his life.

In other words, the State is taking a chance on him.

Mr. WIGGINS. It amounts to statutory requirement for review of the effectiveness of the program for this particular individual?

Mr. HUGHES. By the court.

Mr. WIGGINS. Within 3 months?

Mr. HUGHES. Yes, and if they need more time they can come back for an extra 3 months, but that is all.

In Senator Burdick's bill, unfortunately, the money involved only would provide $45,000 for each Federal district. This is nowhere near enough money to handle that kind of program. Besides that, it is a very good bill.

Chairman PEPPER. Governor, we had hearings a few months ago in Chicago on the problem of drugs in schools. We were told there about a program the prosecuting attorney has in Chicago similar to the one you described, where he brings in these people charged with crime and he has seminars on Saturday mornings with them and their families, and they are sort of put on probation, as it were, over a reasonable period of time before charges are formally brought against them, where the offenses are not too serious.

I think all of us agree that we ought to improve the present correctional system and I was glad to see the estimate you gave there, that if we could reform the correctional system we probably would reduce crime about 50 percent in this country.

We take Florida. We have that big old prison in the rural area that is Raiford. And a few times, the Raiford administrators have made an appeal to the courts, "Don't send any more people here because we don't have room for them." The Governor has indicated he wants to get rid of that institution. But I suppose he has the same financial problem that all of the other Governors in the country have of finding the money.

We heard here yesterday and the day before, what I regard as this very commendable program for dealing with youth delinquents in Massachusetts, which was inaugurated by Dr. Miller, who appeared here and testified. What was done with a $2 million grant from the LEAA. In other words, that was Federal money that enabled them to initiate this new program, which I think is very innovative.

Would you think it might be developed for the Federal Government to offer to put up, let's say, 50 percent of the cost of innovative and improved programs by the States that would lead probably to the reduction in crime, and also the reduction in the cost of maintaining these institutions?

That wouldn't necessarily mean a commitment on the part of the Government to continue after these new programs became operational. Presumably the State would be able to carry them.

But what would you think about a recommendation that the Federal Government, being satisfied that the programs are generally desirable and would be properly useful, encouraging the States to inau-

gurate these reforms by proposing to bear a certain percentage? I should say it would be 50 pecent of the cost.

Mr. HUGHES. I would regard it as a much wiser national investment than the supplying, for instance, of police armor. That thing isn't working, but this other idea you suggest can work. However, the States have to be brought along by the Federal inducement. I would consider it an excellent idea.

Chairman PEPPER. Now, I think we generally agree that knowledgeable people seem to agree that the institutions should be located in the large centers as much as possible, so that the inmate would be near his family and friends; and should be small in size, not exceeding 300 in population. What would you say would be the kind of institution, assuming that one has to be incarcerated a part of the time at least, we should try to build?

Mr. SKOLER. Smaller institutions of the size you indicated are a wise investment and are terribly important. They avoid the explosiveness of a large, overcrowded prison. There is evidence, and this is supported by Bureau of Prisons studies, that an institution of about 350 could still be cost effective, even if it is a fairly secure institution. It permits all of the humanization, it links offenders with the outside, work release, educational programs, the ability to "pierce that wall" that is much harder with the larger institution.

Chairman PEPPER. The Governor was speaking a few weeks ago about dollar use of medical care. But medical attention is available in the cities which is not available in Raiford, Fla., for all of those people. In addition to that, when they get out there would be jobs around the city to be available for them, and people to visit them, and the like. Of course, it costs money to set up those new institutions in lieu of the ones we now have.

But if we can develop these preincarceration probation programs, that would be cheaper, assuming we could make them effective.

Mr. SKOLER. That is correct. And it is really in a combination of these approaches that you can achieve cost effectiveness. There must be some rebuilding, but if one can plan on smaller populations in prisons with heavier reliance on the preincarceration programs, the staggering cost of replacing the current prison plant can be mitigated. So it probably is a mixture of abandoning destructive, impossible prison plants, of emphasizing the community programs that have been discussed here today, and of enriching the rehabilitative factors in corrections, education, the ability to get a job, areas on which we have a great deal of technology that will provide the answer. This Nation knows or should know a great deal about manpower programs. There is no reason why that expertise need be developed separately within a correctional facility. The extent to which you are operating with offenders in the community permits you to tap the normal community resources available for job problems, educational problems, et cetera. There, too, one can achieve cost-effective results.

The area of medicine, for example, can be cited. Just yesterday, I was visiting with the new, very large Johnson Foundation in Princeton, N.J., where the role of the medical college in providing not merely inexpensive medical care to the metropolitan jail, but quality medical care, was discussed in detail as not having been fully tapped.

Chairman PEPPER. Governor, several members of this committee and I went up to Attica, on Friday, following the tragedy earlier in the week there. Before we went to Attica we had a conference with Governor Rockefeller in New York. And right away he said, "Yes, nobody knows more than I that we need prison reform in New York, that our correctional institutions are by and large out of date, and that they are not conducive to rehabilitation." But one of the State senators was there, chairman of the crime committee of the State senate, I think Senator Dunn. The Governor said, "But it would cost $100 million to reform the penal system of this State. What do you think, Senator?" Senator Dunn replied: "Probably it would cost nearly $200 million." He said, "There you are, we are already under deficit status here financially. Where are we going to get the money to do that?"

And, of course, Attica goes on. Maybe there have been some reforms there, but Attica goes on for that reason.

I thought maybe if the State and Governor Rockefeller had financial problems in New York, a lot of other States have even more serious problems financially. I thought the Federal Government, in the interests of curbing crime should help the States with the cost of caring for incarcerated people. As a matter of fact, this committee was influential to a degree in getting an amendment to the LEAA bill. Some time ago, it provided that 25 percent of LEAA funds were supposed to be spent on correctional institutions. I don't know whether that is being done or not. I hope so, because Congress recognized that this was in the interest of curbing crime.

Mr. HUGHES. I think Governor Rockefeller—and any other Governor or legislator—has to weigh that $100 million against the several hundred lives that are going to be lost in Manhattan this coming year from people being murdered in subways: and it is just the street crime, their street crime, we are talking about. That choice has to be portrayed to the people.

Chairman PEPPER. Governor, we were intrigued by Judge Leonhouts. Do you have any practical suggestion as to how Congress could encourage and aid that volunteers-in-probation program, making it sort of analogous to the Peace Corp in some way? You know we do put up money for the Peace Corp, although it is a lot of sacrifice on the people who serve. Have you any suggestions as to how Congress could help that program?

Mr. HUGHES. I think you could help by a type of probation subsidy modified, of course, from the California experience. If it is a national problem and the national objectives of cutting crime in half is to be achieved, it certainly is as important as anything before the Congress, even if it does cost money. In the long run, it will save money, plus lives, plus our society, which is really in danger. It is at the point in the major cities in my State where no one would think of walking down Main Street of a town after dark. And this committee is involved in, I think, one of the most important questions in this country—a question of survival.

Chairman PEPPER. Mr. Mann, do you have further questions?

Mr. MANN. Yes.

Governor, what consideration has been given to expunging in connection with employment as well as permanent rehabilitation?

Mr. HUGHES. I am sure the Burdick hearings, the Senate Subcommittee on National Penitentiaries, discussed expungement, but I am sorry I am not familiar with the legislation pending in Congress.

Mr. SKOLER. There was some legislation in the last Congress and I believe the bill introduced by Senator Burdick attacked that problem—S. 2732, 92d Congress, the Offender Rehabilitation Act. It provided for a reasonable waiting period before there was to be expungement. I don't think there was much action on it.

Mr. HUGHES. We will do a little checking on that.

Mr. MANN. As a lawyer, you will be interested in knowing the Special Subcommittee of the House Judiciary, of which I am a member, is working on the Federal Code of Evidence promulgated by the Supreme Court. The section that we are considering this week and after the recess, involves the attack upon the credibility upon the witness who takes the stand in court with reference to his criminal record. Some very difficult problems confront us in that connection. And it ties in, of course, with what may ultimately be done with reference to pardon, expungement, and the like.

One assertion I want to make. We have talked here about diversion and preincarceration probation, and I recognize clearly you feel this is one of the greatest solutions of the problem of corrections. But I am wondering—and I may be expressing a South Carolina deficiency when I make this assertion—in South Carolina we have no presentence investigation. The probation officers have the same caseload problem they have in most places, but they have the additional caseload problem of not doing presentence investigations at all. A judge can specifically request one, which he might do once every month or so, but judges have a pretty high regard for their own understanding of human nature, and they tend to sentence without enough information.

I agree with Mr. Wiggin's implications that maybe the final determination of the sentence at this point is not the best time. So I would suggest that the American Bar Association, representing the lawyers in the administration of justice, could well jawbone the heck out of the States on this question of presentence investigation, so as to be of assistance to the judge in the first instance. Because if he is going to employ—and we are talking about most sophisticated pretrial things when we are talking about the diversion system you described a moment ago—but if he is going to be able to employ the sentencing alternatives that you envision there is going to have to be a basic presentencing agency and it needs to be there now, with just the sentencing alternatives we now have, jail or probation.

I think too little attention is being given to that problem, as opposed to the postsentencing procedure and probation, for example, as well as to parole.

I feel deficient myself in not having jawboned it more in South Carolina.

Mr. HUGHES. You have a lot of good things in South Carolina, including the Austin Wilkes Visiting Association.

We recommend pretrial sentencing reports be mandatory.

As a matter of fact, if I had it my way, no judge would ever have jurisdiction to send a juvenile or adult to any institutions that he personally had not inspected within the previous 18 months. Many judges think about numbers too much and quite often a great injustice

comes when a young boy is sent into the circumstances that Mr. Pepper just mentioned. It is a terrible thing on the conscience of society.

Mr. MANN. Thank you.

Chairman PEPPER. Mr. Lynch, would you like to inquire?

Mr. LYNCH. Thank you.

Governor, I know you have another commitment, and I will try to make this brief.

We heard a long line of witnesses this week, Governor Hughes, indicate to us there was no question in their judgment in regards to the juvenile system that juveniles did at least as well if not better in various kinds of controlled type of probation programs than in prisons, jails, or other detention institutions.

Would the same hold true in your judgment for adults?

Mr. HUGHES. Yes. There is a hard core of antisocial adult criminals, mostly violent people, who need to be separated from society. But in the main, I would consider that, say, a decent man who embezzled $1,800 from his employer because his wife has to go to the hospital, and whose friends make restitution, doesn't belong in prison. And yet he is frequently in a prison, bumping into all kinds of bad people. He ought to be on probation.

Mr. LYNCH. Would it be your judgment, Governor, that kind of treatment in fact is criminogenic, rather than rehabilitative?

Mr. HUGHES. I believe strongly in probation. Given a wise judge supervising an intelligent, dedicated probation officer, I think that probation is rehabilitative in the highest sense.

Mr. LYNCH. We have several witnesses who indicated, they were in favor of centralizing correctional authorities within States. Has your commission taken any position with regard to placing correction departments directly under the executive and under the control of one man, including adult/juvenile institutions, adult/juvenile probation, aftercare services, and the like?

Mr. HUGHES. Let me refer that to Dan Skoler. Do you mean regionalization?

Mr. LYNCH. No. Creating a State department of corrections with authority to supervise the entire correctional system within a State.

Mr. SKOLER. I don't think the commission or our association has taken a formal position, but we have in our various projects recommended to the public a number of model statutes that call for a unified department of corrections. We have in mind here the terrible burden on the State chief executive, the Governor, with the proliferation of governmental departments. We have in mind the fact that juvenile and adult corrections over the years have come much more closely together. The rehabilitative approach originally came out of the concept of how we deal with juveniles, but more and more we are recognizing that the human needs of the offender, his needs for education and training, apply to him as an adult as well as a juvenile.

I think it is fair to say that our view of good reform practice does call of the unified correctional system with clear standards of performance and with clear accountability and differentiation within a system on a problem basis. If there are some aspects in which juvenile programs should be enriched, that could take place as well in the unified department as in fractionalized departments where there may

be competition for budget funds, different standards of quality and personnel, and the like.

Mr. Lynch. Mr. Skoler, during the Governor's statement, he indicated one of the needs in the correctional system was for a clearinghouse operation, so that information on new programs and the like could be disseminated. Your commission, I believe, recently published a compendium of model correctional legislation. Could you tell us a bit about that, and to whom that publication was sent?

Mr. Hughes. Mr. Lynch, excuse me.

I wonder if I could be excused by the committee with my thanks to all of you? I hate to do this, but my time is up and I must return to New Jersey.

Chairman Pepper. Thank you very much, Governor, for coming. We want to commend you and the American Bar Association for the manifestation of the greatness you have in this development. Thank you.

Mr. Hughes. You are most welcome. We will remain in touch with you, sir.

Chairman Pepper. Thank you. Go ahead, Mr. Skoler.

Mr. Skoler. Our compendium gathers in one place all of the model legislation and all of the standards—the formal legislative standards and standards of administration relating to correctional practices—that have been developed by responsible associations, not individuals, but in the course of careful study efforts. Thus, it would include the model statutes of the National Council of Crime and Delinquency, the Advisory Commission on Intergovernmental Relations, the American Law Institute, and the American Bar Association's own Criminal Justice Standards. As you know, the ABA standards do relate to corrections in some aspects; for example, with respect to sentencing and probation.

We include also the American Correctional Association standards of good practice. Times have changed and some of these are a bit outmoded. But the compendium of Model Correctional Legislation and Standards does gather in one spot the best reform thinking and legislative milestones that we have with respect to improvement of corrections.

Mr. Lynch. I wonder if I could ask you what your judgment would be as to the adequacy of the State comprehensive law-enforcement plans, insofar as corrections are concerned? It is my understanding that the 1970 amendment, part E, to the 1968 act, requires in essence separate State plans for corrections. Has your commission had occasion to examine those, and if so, how adequate are they?

Mr. Skoler. We really haven't had a chance to look closely at the separate plans for corrections. It has seemed to us that the State planning agencies, as they are called under the Omnibus Crime Control and Safe Streets Act, do have an understanding and sense of the importance of correctional reform and balances in the expenditure of overall crime control funds.

We have some concern because it is hard to pierce through plan provisions to determine how much is rhetoric and how much is actually implemented. Congressman Wiggins spoke about the balancing of many money demands among the goals that are stated in the plans.

and they generally read pretty well. There is no opposition to work release, to expanded probation, to diversion programs, and to more humane conditions in prisons. The extent to which dollars are actually flowing through the block grants into correctional agencies and to match some of those program goals is difficult to trace.

I think this is a large problem for the Nation and will remain such until the information system to track LEAA and crime control expenditures picks up some more thoroughness and ability to identify what is happening.

It is not so much lack of plans or poor plans we have concern about as what is actually happening in the correctional systems.

Mr. LYNCH. To what extent are we able to track that now? Who should be doing the tracking; an independent commission like yours, should it be LEAA; how can we find out whether there is a difference between rhetoric and practice?

Mr. SKOLER. It was my understanding LEAA was developing an information system to keep track of the end result of the now increasing investment in crime control funds. I for one would be quite content to rely on this system to tell us the baseline data. An organization like ours can focus on a particular need—model legislation, pretrial diversion techniques, volunteer techniques—and perhaps get more specific information in that area for the general use of the Nation.

I think with the current trend toward local decisionmaking, reflected in the revenue-sharing approach, with the notion that localities have not only the right but the capacity to analyze and deal with their own problems, that the need for accurate national information and clearinghouse data becomes one that requires increasing Federal attention.

It is difficult to make a good decision in Kansas about spending a lot of money on a new innovation if you have to go through exactly the same kind of research 49 other States have done on what has happened. As a complement to criminal justice planning and decisionmaking in localities, it seems to me there is great need for increased investment in really good and thorough tracking, clearinghouse, and data accumulation at the national level. These are not expensive programs. It is the direct program expenditures and subsidies that cost billions. But I think you will find, for instance, that technical assistance budgets and the LEAA contracts for information clearinghouses are only a fraction of what is being spent in the area of education or manpower or the investment in other data banks.

Yet, it is terribly important, if local and State governments are to make good decisions, that now more than ever they must have reliable, critical information and perspectives behind the rhetoric of criminal justice—whether it be police, court, or correctional improvement.

Mr. LYNCH. I think that is a very valuable observation.

Thank you. I have no further questions.

Chairman PEPPER. Mr. McDonald.

Mr. MCDONALD. I have one question, Mr. Chairman.

Mr. Skoler, as you know, disparity and severity of prison sentences of those incarcerated is a major source and cause of prison unrest today. Daily we have an example of severity in sentencing. We read in the papers of certain individuals who have been convicted of what might be called white-collar crime, a victimless crime, which in fact

most likely the victims are untold at this point. We see very stiff jail sentences being meted out to these individuals, and at the same time, we see criminals or individuals being convicted of violent crimes, including murder, rape, robbery, what have you, being given actually lesser sentences when we compare the lengths of time. Could you comment on this for the committee?

Mr. SKOLER. Disparity in sentencing is a difficult problem and its effect can be destructive. The American Bar Association has standards on sentencing alternatives and appellate reviews of sentences that do address the problem. They provide techniques through such devices as judicial conferences and sentence appeals, which take the edge off extreme and unfair disparity. At the same time, the standards of the American Bar Association with respect to sentencing and, I think, those incorporated in other model legislation, such as the "Model Penal Code" of the American Law Institute and the National Council on Crime & Delinquency's "Model Sentencing Act," take an overall approach with respect to length of sentences which I personally think is sound. This is something our commission has not yet taken a detailed stand on, but it does reflect the overall policy of the American Bar Association which has an even broader base. Sentences in this country are generally too long and ought to be shorter. The common norm of 5 years is mentioned in these standards as the maximum prison term for most offenses. When you get the dangerous or repeated offender, a different mode of handling can go into operation, permitting the longer sentence that will provide society the protection it needs.

Part of the mess we have had in sentencing may have been a lack of this differentiation, so that sentencing based solely on a crime confronts the court with the dilemmas at the point of sentencing as Congressman Wiggins mentioned—placing the early offender, simply because he has committed the same crime, in the same position perhaps as the repeated offender. We are beginning to get a pretty good idea of who is a dangerous man and should have a procedure to handle him differently.

So I would say we are behind the general notion of shorter sentences and a special procedure permitting longer sentences for the dangerous offender, for the man who has repeated and shown time and again he is not a safe risk for the community.

Mr. MCDONALD. Should we sentence individuals who have committed victimless crimes, white-collar crimes? Should they be placed in jail at all, if perfectly capable of getting along with society?

Mr. SKOLER. Your question is a difficult one and presents great dilemmas. It would hardly be necessary for me to point out the implications of a position that holds that the "safe" offender, the public official who grossly abuses the public trust, the labor union leader who also does this, ought not to receive some kind of confinement or punishment simply because we know he is not a dangerous or violent man. This dilemma, of course, does not apply to the overwhelming body of criminal offenders. It is a difficult case, and my personal view is that society might very well establish special priorities for equal justice that would call for severe measures of punishment in these cases. This would be to show that the high placed as well as the low, when they engage in illegal activities, must pay regardless of the strict factor that the person would be a safe bet on probation and the like.

Mr. McDonald. Thank you very much, Mr. Skoler.

I have no further questions, Mr. Chairman.

Chairman Pepper. Mr. Nolde.

Mr. Nolde. Regarding the issue of what kind of offender should be locked up and what kind should be given one of the alternative forms, such as probation diversion, have you covered basically the kind of offenders that you feel should be locked up?

Mr. Skoler. Generally, it would be the violent offender who presents the immediate problem of safety to society who would be the normal candidate for incarceration. There has been a finding, and this is reflected in the standards I spoke of, that the straight "habitual offender" statute has not been successful in isolating truly dangerous criminals. The test in defining the dangerous offender who can receive a larger sentence should not be merely based on the numerical record of crimes, but on judgments as to his danger and threat to the personal safety of the public.

To say that those who commit property crimes should in no case receive a sentence of incarceration may not be necessary. But it certainly seems that we can give free play to our notions of rehabilitation, of dealing with the offender in the community, and of trying to meet his deficiencies as a person with a somewhat safer feeling if he is the perpetrator of property rather than violent crime. There is less risk to society in pursuing our knowledge as to getting at the root causes of why a person resorts to criminal activity and in preparing him to function productively in the community.

Mr. Nolde. Can you give the committee a rough estimate of the percentage of offenders that really need to be locked up?

Mr. Skoler. Being an effort of the American Bar Association, we tend to be conservative in our estimates. You will find time and again knowledgeable prison administrators—and these are not necessarily extremely liberal administrators but someone like the head of the Federal Bureau of Prisons and a recent director of the California correctional system who sits on our ABA Corrections Commission—express the judgment that perhaps as many as three-quarters of the offenders in prison do not need to be there in terms of the public safety. We have taken the position in our target setting that reduction in prison populations by a factor of 25 or 50 percent would be in order, and could be realized by identifying those who most obviously ought not to be in prison and burdening society with the very high cost of institutional confinement.

Mr. Nolde. Without threat to public safety?

Mr. Skoler. Without threat to public safety.

Mr. Wiggins. Certainly public safety is not the only criterion for putting a person in jail, is it?

Mr. Skoler. That is right. That is why we have not been interested in emphasizing the estimates that project a potential 75 percent reduction to the *n*th degree. We think quite a bit of progress and tremendous inroads could be made if there were reasonable steps to weed out a number of people in confinement and get them into community programs, based on the perceptions of good solid prison and correctional administrators and parole decisionmakers. You do reach a point where

you start getting into close cases. I think the Governor was trying to express that you don't have to reach these close cases to shut down some of the large prisons.

As a matter of fact, there has been since Attica, I think, a very rather significant development in populations of the large prisons. They are going down, and you will find that most prisons today, the very large prisons, are well below their inmate populations of a few years ago.

Mr. NOLDE. Thank you, Mr. Skoler.

I have no further questions, Mr. Chairman.

Chairman PEPPER. Well, Mr. Skoler, Mr. Ford, we wish very much to thank you for coming and giving us this valuable information. We would like to have the privilege of continuing to keep in touch with you and perhaps get you to assist in forming recommendations that we will eventually make.

Mr. SKOLER. Mr. Chairman, Congressmen, Mr. Nolde, Mr. Lynch, Mr. McDonald, we were delighted to have the opportunity.

[The following material, previously referred to, was received for the record:]

AMERICAN BAR ASSOCIATION,
Washington, D.C., May 21, 1973.

Hon. CLAUDE PEPPER,
Chairman, House Select Committee on Crime,
Cannon House Office Building, Washington, D.C.

DEAR CHAIRMAN PEPPER: A copy of the recent New Jersey parole legislation (Senate Bill No. 1122, introduced July 17, 1972), which I referred to in my recent testimony before your Committee, is enclosed.

It is unfortunate that this bill has thus far been unsuccessful, for it embodies our philosophy of encouraging use of probation and parole whenever possible, in order to take advantage of the beneficial rehabilitative effects of supervising offenders in the community.

Consistent with this approach—and in agreement with Congressman Wiggins—I consider mandatory sentences to be harmful and inappropriate. Further, this view is advocated by the American Bar Association Standards Relating to Sentencing Alternatives and Procedures [Standards 2.1(c), 2.2, and 2.3(c)], copies of which are enclosed. Mandatory sentences prevent the judicious use of administrative discretion so necessary in rehabilitation and could impair the priority and flexibility for probation, parole and individualized treatment that we consider so essential to the effective redirection of criminal behavior.

Let me thank you for this opportunity to submit these additional exhibits and comments for the record.

Sincerely,

RICHARD J. HUGHES, *Chairman.*

Enclosures.

EXCERPTS FROM THE AMERICAN BAR ASSOCIATION STANDARDS RELATING TO SENTENCING ALTERNATIVES AND PROCEDURES

2.1 General principles: statutory structure.

(c) The legislature should not specify a mandatory sentence for any sentencing category or for any particular offense.

2.2 General principle: judicial discretion.

The sentence imposed in each case should call for the minimum amount of custody or confinement which is consistent with the protection of the public, the gravity of the offense and the rehabilitative needs of the defendant.

2.3 Sentences not involving confinement.

(c) A sentence not involving confinement is to be preferred to a sentence involving partial or total confinement in the absence of affirmative reasons to the contrary.

[S. No. 1122, State of New Jersey, introduced July 17, 1972, by Senator Maraziti]

Referred to Committee on Institutions, Health and Welfare.

An act concerning the sentencing and parole of persons convicted of misdemeanors or high misdemeanors and amending R. S. 30:4–107, 30:4–108 and P.L. 1948, c. 84, and repealing sections 12 and 14 of P.L. 1948, c. 84.

Be it enacted *by the Senate and General Assembly of the State of New Jersey:*

1. At the time of sentencing a person convicted of a misdemeanor or a high misdemeanor, the court by whom such person is to be sentenced shall provide a statement indicating the reason for the specific sentence imposed. Such sentence may be for a fixed minimum and maximum term; however, any such minimum term shall be considered by the parole board as merely advisory in nature. Any such person so sentenced shall be otherwise eligible for consideration for parole in accordance with the other provisions of this amendatory act.

2. R. S. 30:4–107 is amended to read as follows:

30:4–107. A patient admitted to any institution in this State, other than a correctional institution, may be paroled or discharged therefrom in accordance with the rules and regulations prescribed by the board of managers or the board of chosen freeholders or the proper committee thereof, as the case may be. In all cases where the patient shall have been transferred to the institution from a correctional institution he shall [not] be paroled or discharged therefrom *in accordance with the other provisions of this amendatory act* [prior to the expiration of the maximum period of detention]. The chief executive officer of any State institution, other than a correctional institution, subject to regulations of the [State Board of Control] *Department of Institutions and Agencies*, may make arrangements with suitable families for the care, maintenance and treatment of patients of the institution and may place at board on parole in a family with whom any such arrangements have been made, any patient for whom family care may be deemed beneficial. Patients so placed on parole in family care shall be returned to the institution at any time upon order of the chief executive officer. Subject to such regulations, provision may be made by the chief executive officer for payment of the necessary expenses for the board and care of such patients in a suitable family, over and above the value of any service rendered by such patient; provided, that such net cost shall not exceed the daily per capita cost of maintaining any such patient within the institution. All such patients placed in family care shall be and remain patients of the institution until discharged therefrom as provided for in this chapter.

The legal jurisdiction of the professional staff of the hospital over any person discharged therefrom shall terminate at the time of discharge of the person from inpatient status. However, upon recommendation of the professional staff of the hospital, patients so discharged may continue to receive further professional services on an outpatient basis or may be assisted in securing continued treatment from other community resources.

The chief executive officer is empowered to negotiate with the legally responsible relatives of any such patient for the purpose of securing payment to the institution or to a suitable family of all or a portion of the net cost of maintaining such patient in such family placement or providing services on an outpatient basis after discharge.

3. R.S. 30:4–108 is amended to read as follows:

30:4–108. Conditions of parole; procedure. The [State board] *State Parole Board* shall *in accordance with the other provisions of this amendatory act* prescribe by rules formally adopted the terms, conditions and procedure for granting a parole and, subject to the provisions of section 30:4–109 of this Title, for securing the parolee in proper cases permission to reside without the State.

4. Section 5 of P.L. 1948, c. 84 (C. 30:4–123.5) is amended to read as follows:

5. It shall be the duty of the [board] *State Parole Board* to determine when, and under what conditions, subject to the provisions of this act, *and in accordance with the other provisions of this amendatory act* persons now or hereafter serving sentences having fixed minimum and maximum terms or serving sentences for life, in the several penal and correctional institutions of this State may be released upon parole.

In addition thereto, the board shall have full and complete jurisdiction over all persons sentenced to any penal or correctional institution of this State for minimum and maximum terms who have been paroled by the board of managers of any penal or correctional institution of this State, for and during the term of

Explanation.—Matter enclosed in brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

such parole and pursuant to the terms, conditions and limitations thereof, and the powers, functions and duties formerly exercised by and conferred upon any such board of managers for revoking paroles in such cases hereby are continued and are transferred to, and vested in, said board.

The board shall have such other powers and jurisdictions as are provided in this act.

5. Section 6 of P.L. 1948, c. 84 (C. 30:4–123.6) is amended to read as follows:

6. The board is empowered and authorized to promulgate reasonable rules and regulations *in accordance with the other provisions of this amendatory act* which shall establish the general conditions under which parole shall be granted and revoked and shall have authority to adopt special rules to govern particular cases. Such rules and regulations, both general and special, may include, among other things, a requirement that the parolee shall not leave the State without the written consent of the board, that he shall contribute to the support of his dependents, that he shall make restitution for his crime, that he shall abandon evil associates and ways, that he shall conduct himself in society in compliance with the law and with due regard for moral standards, that he shall carry out the general and special instructions of his parole officer and give evidence of good conduct at all times and satisfactory proof that he is a fit person to be at liberty.

6. Section 10 of P.L. 1948, c. 84 (C. 30:4–123.10) is amended to read as follows:

10. [No] *Each* inmate of a penal or correctional institution serving a sentence for a fixed minimum and maximum term shall be eligible for consideration for release on parole *immediately after commitment and being received at such institution, and shall appear before the parole board within 6 months after being received by State institutional authorities. However, after a prisoner shall have* [until he has] served his minimum sentence or [⅓] ½ of his fixed maximum sentence, less, in each instance, commutation time therefrom for good behavior and for diligent application to work assignments, whichever occurs sooner, [subject to the provisions of section 12 hereof.] *he shall appear before the parole board as soon thereafter as conveniently possible and shall be released on parole unless the parole board shall find that there is a reasonable probability that release on parole at that time would endanger the community with respect to the safety of persons or the security of property or that the purposes of the sentence as specifically stated by the sentencing court have not been accomplished.*

No prisoner shall be released on parole merely as a reward for good conduct or efficient performance of duties assigned while under sentence, but only if the board is of the opinion that there is reasonable probability that, if such prisoner is released, he will assume his proper and rightful place in society, without violation of the law, and that his release is not compatible with the welfare of society.

Whenever, after the effective date of this act, two or more sentences to run consecutively are imposed at the same time by any court of this State upon any person convicted of crime herein, there shall be deemed to be imposed upon such person a sentence the minimum of which shall be the total of the minimum limits of the several sentences so imposed, and the maximum of which shall be the total of the maximum limits of such sentences. [For purposes of determining the date upon which such a person shall be eligible for consideration for release on parole, the board shall consider the minimum sentence of such person to be the total aggregate of all the minimum limits of such consecutive sentences and the maximum sentence of such person to be the total aggregate of all of the maximum limits of such consecutive sentences.]

With regard to consecutive sentences imposed upon prisoners prior to July 3, 1950, and also with regard to consecutive sentences imposed upon prisoners subsequent to July 3, 1950, by different courts at different times, all such consecutive sentences, with the consent of the prisoner, may be aggregated by the board to produce a single sentence, the minimum and maximum of which shall consist of the total of the minima and maxima of such consecutive sentences. [Such aggregation shall be for the purpose of establishing the date upon which such prisoner shall be eligible for consideration for release on parole.]

When any such prisoner is released on parole the period of his supervision under parole shall be measured by the aggregated maxima of his consecutive sentences.

Notwithstanding any of the other provisions of this act, whenever it shall appear that the date upon which a prisoner shall be eligible for consideration

for release on parole occurs later than the date upon which he would be so eligible if a life sentence had been imposed upon him, then, and in such case, he shall be deemed eligible for consideration for release on parole after having served 25 years of his sentence, or sentences, less commutation time for good behavior and time credits earned and allowed by reason of diligent application to work assignments.

7. Section 24 of P.L. 1948, c. 84 (C. 30:4–123.24) is amended to read as follows:

24. A prisoner, whose parole has been revoked because of a violation of a condition of parole or commission of an offense which subsequently results in conviction of a crime committed while on parole, even though such conviction be subsequent to the date of revocation of parole, shall be required, unless said revocation is rescinded, or unless sooner reparoled by the board, to serve the balance of time due on his sentence to be computed from the date of [his original release on parole] *such violation of condition or commission of offense*. If parole is revoked for reasons other than subsequent conviction for crime while on parole then the parolee, unless said revocation is rescinded, or unless sooner reparoled by the board, shall be required to serve the balance of time due on his sentence to be computed as of the date that he was declared delinquent on parole.

8. Section 12 of P. L. 1948, c. 84 (C. 30:4–123.12) and section 14 of P. L. 1948, c. 84 (C. 30:4–123.14) are repealed.

9. The parole eligibility and qualifications of those inmates who, prior to the effective date of this act, have received "fixed" minimum or maximum sentences or who are otherwise subject to the jurisdiction of the parole board on said effective date shall be governed by this act, provided however that those inmates who are immediately eligible for hearing or rehearing shall be considered by the board and decision rendered within 1 year from the effective date hereof.

The parole board may adopt such regulations and procedures as may be necessary to implement this act which are consistent with due process of law.

10. This act shall take effect 60 days after enactment.

Chairman Pepper. I think this has been a very good week. I want to commend the staff on this week's hearings, as well as last week's, they have been very helpful. I hope these hearings will prove profitable toward curbing crime in this country.

We will adjourn until 10 o'clock the morning of May 1.

[Whereupon at 1 p.m., the hearing was adjourned, to reconvene at 10 a.m., Tuesday, May 1, 1973, in room 1302, Longworth House Office Building.]

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STREET CRIME IN AMERICA
(PROSECUTION AND COURT INNOVATIONS)

HEARINGS

BEFORE THE

SELECT COMMITTEE ON CRIME

HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

FIRST SESSION

APRIL 9–13, 16–19; MAY 1–3, 8, 9, 1973
WASHINGTON, D.C.

Part 3 of 3 Parts

Part 1.—THE POLICE RESPONSE
Part 2.—CORRECTIONS APPROACHES

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STREET CRIME IN AMERICA

(Prosecution and Court Innovations)

TUESDAY, MAY 1, 1973

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON CRIME,
Washington, D.C.

The committee met, pursuant to notice at 10:15 a.m., in room 1302, Longworth House Office Building, the Honorable Claude Pepper (chairman) presiding.

Present: Representatives Pepper, Waldie, Mann, and Rangel.

Also present: Chris Nolde, chief counsel; Bob Trainor, assistant counsel; Thomas O'Halloran, assistant counsel; and Leroy Bedell, hearings officer.

Chairman PEPPER. The committee will come to order, please.

I would like to first observe that this is the fourth anniversary of the creation of the committee by resolution of the House of Representatives, dated May 1, 1969. During that time, we have had hearings in over 20 cities; we have heard over 1,000 witnesses; we have published numerous reports, have four other reports yet to be presented to the House; and we have endeavored to find ways and means by which crime in the United States can be reduced.

The last of our hearings has related to the problems of street crime, of violent crime, and particularly concerning itself with various aspects of this problem, with the view to determining what are the most innovative procedures and techniques in the country that would be a good example for others to follow, which have an impact on curbing crime.

Today the Select Committee on Crime continues its hearings on "Street Crime in America" by turning to "prosecution, courts, and repeat offenders."

In prior weeks, the committee dealt with the "Police Response," and with "Reduction of Juvenile and Adult Recidivism Through Use of New Correctional Approaches." Our police response hearings included testimony from 13 major police departments across the country, disclosing innovative programs designed to reduce street crime and to make our cities safer places in which to live.

Our "Corrections Approaches" hearings elicited testimony from some of the Nation's foremost experts and administrators charged with operating correctional systems. For example, these hearings revealed Massachusetts' bold experiment in eliminating entirely its traditional juvenile institutions, and replacing them with community-based rehabilitation centers and small group homes.

This was done, as you recall, under the leadership and inspiration of Dr. Jerome Miller, who testified before our committee, as did other outstanding authorities on the same subject in the country.

Novel techniques must be tried, because if we have learned one thing from our year's work in this field, it is that our traditional correctional systems have been abject and dismal failures. They neither protect the public nor rehabilitate criminals, particularly young offenders, as evidenced by our national recidivism rate of approximately 75 percent.

I have just returned from a conference on penal institutions and correctional systems at Ditchley Park in England, under the auspices of the Ditchly Park Foundation, where people knowledgeable in this area for the United States and Great Britain discussed from Friday until Sunday evening various aspects of this problem of crime. It happened I was the chairman of group B, which dealt with the inmates who were under long-term sentences; "sentences," as we described, as being over 10 years, generally, in duration.

It was generally agreed that the long-term offender had three previous incarcerations.

We were concerned with what do you do with a person who has had a record as a juvenile delinquent, who had been in the juvenile courts, and who has had at least three instances of incarceration before the fourth one, when we regard him as a long-term offender.

Society has failed after a fashion with respect to that man, he has failed in finding himself and finding a useful role for his life, and the penal system has failed either to deter that man from the commission of a subsequent crime, or to correct whatever the predeliction, if any, that leads him into the commission of crime.

So while it is difficult to get the public together to accept some of the experiments that may have to be taken in approaching with a new point of view this problem, I heard a very encouraging statement made at our conference by the representative of the disciplinary military authorities at Leavenworth, Kans.

He told the conference, at my urging, that in the last year and a half the military authorities who deal with criminal conduct on the part of men and women in the service in the last year and a half have released 550 men who have been incarcerated in their institution at Leavenworth, to go home on a week's furlough; and only two of those men, some of whom were under long sentences, failed to return.

This gentleman said that they have a regiment there with that same number of people—500 people. If you were to let the regiment go home on a week's furlough, probably more than two of the regiment would not return. He thought this was an interesting experiment in extending faith and confidence to these people, and giving them a better attitude toward their role and perhaps toward trying to get out of the life of crime and the nature of crime with which they had been previously associated.

We have been encouraged by these imaginative police and correctional programs which have demonstrated progress in reducing levels of violence in our streets, and repetitive criminal conduct, particularly among juveniles.

This week, in the prosecution and courts phase of our hearings, we will deal with several issues directly relating to crime prevention. For example, what approaches should be utilized to divert certain

cases out of the criminal justice system so as to enable the prosecution and courts to concentrate their limited resources on violent offenders who threaten our physical safety?

What kinds of punishment should judges mete out to insure physical safety? What kind of punishment should judges mete out to habitual offenders to prevent future criminal conduct? What effect does protracted litigation in processing offenders through our criminal justice system have upon the deterrent theory of our criminal law?

Our hearings this week will provide some answers to these questions. We will hear from several of the Nation's outstanding prosecutors who have devised forward-looking case screening programs making use of computers and other techniques to make better use of the resources. We will hear from eminent judges who will articulate their philosophy in dealing with criminals, particularly repeat offenders, and who will also describe some imaginative devices such as videotape, omnibus hearings, elimination of grand juries, written briefs, and other techniques they are utilizing—or propose to utilize—to cut the tremendous delays and court backlogs which so plague our process of criminal justice.

Regarding the latter, a recent study by the Federal Judicial Center found that the average delay between arrest and trial in the busier Federal courts is approximately 350 days. Nearly a year. That is in the Federal system, which I dare say is better than you will find in many of the States, if not in most.

In my State—Florida—the supreme court, about a year ago, laid down a rule that all cases had to be brought to trial within 60 days after the indictment brought the defendant within the custody of the court. While there were a few cases dismissed at the beginning, the prosecutors have generally found themselves to labor within that rule.

Add to that figure the time for the actual trial, plus the lengthy delays inherent in our appellate process, and the end result is that possibly years pass between when a typical defendant is arrested and ultimately brought to justice by final disposition of his case.

We are going to hear today from one outstanding prosecutor. I don't know what he will say about the matter, but my distinguished colleagues here will recall we had, in the early days of this committee, the district attorney from Los Angeles County, I believe the largest office of a prosecutor in the United States. He came here to tell us how frustrating it was to him as prosecuting attorney to have the appellate delay which occurred in respect to the final disposition of the cases that he tried and when he got convictions in his court.

Some of them went on for years. I think one, I don't know whether it is California or not, there is one celebrated case in the country that went on for 12 years.

Simple logic dictates that such protracted litigation most certainly negates the deterrent effect of our criminal law.

To restore respect for the law it is imperative that we alleviate the "speedy trial" crisis in our courts. Disposition of defendant's guilt or innocence must be promptly established with finality; the guilty should be placed under immediate supervision and, where appropriate, taken off the streets. That is a matter that requires careful consideration, of course. The innocent must be cleared without delay. Judges, prosecutors, and other experts will testify as to methods for achieving these goals.

Our first witness this morning is one of our Nation's foremost prosecutors, Mr. Arlen Specter, district attorney from Philadelphia, Pa. We remember with great pleasure Mr. Specter's valuable testimony before our committee when we held hearings a few years ago in Philadelphia.

Mr. Specter is a Phi Beta Kappa from the University of Pennsylvania and a law review graduate of the Yale Law School. He served as assistant counsel to the Warren Commission on the assassination of President Kennedy, and has had a distinguished career as the district attorney in Philadelphia for the past 7 years.

He has received numerous awards, both national and local. Although known for being very firm on law and order issues, Mr. Specter operates one of the most innovative and well-run prosecutor's offices in the United States. We will learn about some of his programs to screen cases and divert certain offenders out of the traditional judicial process in order to better utilize prosecution and court resources.

We are delighted to welcome you, Mr. Specter, as our opening witness.

Mr. Counsel, would you proceed.

Mr. NOLDE. Thank you, Mr. Chairman.

Mr. Specter, would you care to present an opening statement?

STATEMENT OF ARLEN SPECTER, DISTRICT ATTORNEY, PHILADELPHIA, PA.

Mr. SPECTER. Yes. Thank you very much, Chairman Pepper, for those very generous introductory remarks.

I am pleased to have been invited by this Select Committee on Crime of the U.S. House of Representatives. I have prepared a statement and if it is acceptable to the committee, I would like to submit it for the record and then move to a more brief summary statement of it this morning.

Chairman PEPPER. Without objection, your statement will be received in the record.

[Mr. Specter's prepared statement appears at the conclusion of his testimony.]

Chairman PEPPER. We see an old friend here from Philadelphia. Won't you come up and sit with me, Mr. Green?

Representative GREEN. I just dropped in because I was doing a television spot outside and I just wanted to say hello to Arlen.

Chairman PEPPER. We would be glad to have you stay, if you could.

Representative GREEN. I would, but I must leave.

Chairman PEPPER. You may proceed, Mr. Specter.

Mr. SPECTER. Mr. Chairman, members of the committee, notwithstanding the tremendous problems on street crime in the United States, I continue to be optimistic that as a nation we can solve this problem if we turn our minds to it and demonstrate the determination and will to solve the problem. I personally believe that we have the know-how and the resources to get the job done. It is just a matter of the day-by-day application and the determination to succeed on it.

I believe the essential question turns on three issues. They are, No. 1, speedy trial; No. 2, adequate sentencing; and No. 3, realistic rehabilitation.

On the issue of speedy trial, I think that Chairman Pepper's home State of Florida has the proper standard, which is 60 days from arrest to trial. That is the standard which has been recently adopted by the National Commission on Criminal Justice Standards and Goals, on which I have been privileged to serve. That standard, I might add, however, is not imminent for the big cities in the United States, certainly not Philadelphia, because of the problems of backlog, but I believe that is the goal which we have to attain.

I believe that we can attain that goal if we divert out of the system the lesser offenses and add some additional resources and then make some administrative changes so that we can then focus in on the really serious crimes involving violence, involving repeat offenders, and focus the attention of the courts on those cases on a priority basis.

In Philadelphia, we have been experimenting with a series of diversionary programs which I know this committee is interested in and I would like to elaborate on only briefly.

The program which we put into effect in the city of Philadelphia was a program for trial without jury through a new municipal court. We had a magisterial system in our city which came into effect with William Penn's Second Charter in 1691. It was corrupt, it was inefficient, it was changed through a long reform process in 1966, 1967, and 1968, and so on January 1, 1969, we put into effect a municipal court which tries cases without indictment and without a jury and it has enormously speeded up our criminal process, giving to the defendant the right to a de novo hearing if he is dissatisfied with the result.

There are a great many cases which ought to be tried but they do not require the elaborate jury trials, nor are they likely to result in jail, and the defense is satisfied with a conviction and they can be summarily tried through a procedure such as our municipal court without the elongated jury trial practices.

A second program which we have experimented with was originally called, Preindictment probation, which describes its functional operation, and its name was changed to a fancier title of "accelerated rehabilitative disposition" when our State supreme court took the Philadelphia model and applied it throughout the Commonwealth of Pennsylvania.

In essence, that program provided for first offenders on nonviolent crimes, with some exceptions. They are brought into an informal hearing room where a judge presides. There is no determination of innocence or guilt, but there is an inquiry to see if it is appropriate to place the man under probation for a year or perhaps 2, and if he maintains that probation, at the end of that year or 2, to wipe the record clear. That eliminates the necessity of multiple listings which have become the hallmark of the administration of criminal justice in the big city; it does not get involved with the issue of whether the man is innocent or guilty. There is a presumption that he is, but there is no inquiry made because the offense does not rise to the level of meriting such extensive inquiry and there is no effort made to impose a jail sentence, but only a brief period of probation.

That program has resulted in diverting a great many cases which do not merit the time and attention of the courts.

Another program which we have put into effect in terms of diversionary programs has been police counseling, where my office has obtained a Federal grant which has enabled us to hire assistant district attorneys to sit in police districts on a 24-hour basis and in the police districts these assistant district attorneys counsel the police officers on what is sufficient evidence to constitute a case which will stand up in court.

There is a review of evidence which is obtained as, for example, by search and seizure, where there may be a constitutional issue of suppression if illegally obtained, or where there may be statements which may be suppressible under *Miranda* or identification which may be suppressible in terms of failure to comply with the U.S. Supreme Court decisions.

So there is an effort through this process to evaluate the cases before they get into the judicial system. Last year, was our first full year of operation—it went into effect as of August of 1971—but in 1972, we processed out more than 3,500 cases through this police counseling procedure.

It has been in operation in only three of Philadelphia's police detective districts, of which there are eight, and we have recently made an effort to expand it by having the assistant not stay in one district full time but to spend part of their time in each of the three districts. We believe that ultimately it is desirable to have a prosecuting attorney in every police district and it would result in tremendous savings of time of the police officers on getting rid of cases which will not hold up and would save the courts ultimately tremendous time.

Our fourth program, on the heels of the municipal court, preindictment probation, and police counseling, has been an experiment with narcotic addicts on a program called TASC—treatment alternatives to street crime—and it has been federally funded with a $1 million grant, where we make an effort to divert narcotic offenders at the time of arrest and at the time of immediate arraignment out of the court system to a treatment program.

Here, again, we make the distinction between those who are only addicts, contrasted with those who are both addicts and charged with a serious crime, such as a burglary or robbery. We will not take into the program anyone who is charged with a major crime. But there are a great many addicts who come into the system who ultimately, through elongated procedures, receive probation which is appropriate disposition, and the appropriate disposition at the end of the probation or after probation is imposed is to have rehabilitation, and we are seeking to bring that rehabilitation into play at a much earlier stage and divert them out of the criminal justice system.

I might say to you, parenthetically, on that program that we are in need of substantial additional facilities for drug addicts in the city of Philadelphia, which is a matter, I think, would be appropriate for this committee in terms of appropriate Federal funding, and I think it would be appropriate for this committee to consider the desirability as you see fit in your wisdom and discretion on having prosecuting attorneys in every police district, because to achieve that is a massive program for expenditures.

Well, those are the four programs which we have used by way of diversion, and I think that if the lesser cases are diverted out of the

system, then it is possible to concentrate on the crimes of violence and the repeat offenders.

I believe that there have to be administrative changes made in our State court systems, and one of the changes that we have pushed for in Philadelphia is the adoption of an individual judge calendar, which is a program where every case on entry into the system is assigned to a specific judge. This program is in operation in many of the Federal courts, and we have put it into effect in Philadelphia on an experimental basis, but we have not moved ahead as far as my office and I would like to move ahead.

We believe that it is a very useful program because it eliminates the possibility for judge shopping. And by judge shopping, I mean an interest on the part of the defendant and sometimes, frankly, on the part of the prosecution, although we discourage it and, as a matter of office policy, are rigorously opposed to it, but an effort to have a case placed before a specific judge who may be lenient or who may promote the interests of whichever party is interested in the judge shopping.

But when a case is called in the city of Philadelphia, and it is listed before Judge A, if Judge A is a tough judge, it will be in the interest of the defense attorney and the defendant to have the case continued because when the case is relisted, it will be before a different judge, and Judge B may be more receptive to the defendant's point of view. The result is that the witnesses who have come to court, police officers, civilian witnesses, both, are compelled to come to court on a second occasion.

If it were known that the same judge would hear the case no matter when it was tried, then there would be no point in trying to get a shift from one day to another.

Also, there would be greater responsibility on an individual judge to dispose of a case if he knew it was his once and for all. But in the court system which has 81 common pleas judges, there is an inevitable tendency on the part of some judges to believe that if a case is not tried, let it go over and I won't have to see it again.

Another factor which comes into play is that the same excuse for continuance may be given repeatedly if you come before a different judge, whereas, if you have the same judge, the case is on a fourth listing, the judge is going to be less likely to listen to my assistant say the prosecuting witness is out of town, or to the defense lawyer saying he is busy somewhere else, or his alibi witnesses are not available, and the judge can maintain a closer control, perhaps continue it for a day or 2 or 3, and set it for 4 or 5 weeks.

I think that kind of individual responsibility and certainty would be enormously helpful as an administrative change.

I think that the courts in our society, especially the big cities, are going to have to treat the criminal justice system as a crisis in terms of longer hours. I believe that we are going to have to move to night sessions to accommodate the interest of the people who are witnesses or victims in our criminal courts and really ought to move to Saturday sessions as well, because we have an overpowering backlog. We have a shortage in Philadelphia of courtrooms. We have some shortage of judges, as well, but the whole administrative procedures are going to have to be shifted and improved.

I think we do need additional judges yet, although Philadelphia received 25 judges from the legislature last year, but before we can take that case back to our general assembly, I believe we are going to have to show more progress and more productivity and more effort out of the existing judges which we have. Currently, we have a shortage of courtrooms, so that all of the judges cannot sit and some of us are trying to move to a split-shift session where court may run from 8 in the morning until 3 in the afternoon, which would be the equivalent of a full day, and then again, from 3 in the afternoon until 10 or 11 at night, and be able to use the courthouse more effectively.

I think we are going to have to provide more different counsel in this country. Certainly, in the city of Philadelphia, where there is a shortage of defense counsel. There have to be supporting personnel from the prosecutor's staff, probation authority's, et cetera, and administrative changes in order to have sufficient resources to try the crimes of violence.

With respect to the issue on the serious cases, I think that one fundamental change has to be made in the attitude of the prosecutors and the attitude of the courts and that relates to the issue of plea bargaining. The practice of plea bargaining has grown up in our country as a result of shortage of court facilities, and there has grown up a practice in many areas, especially in many of the big cities, although not in Philadelphia, of accepting a guilty plea to a lesser offense in exchange for a period of probation.

It is my firm belief that is a very undesirable way to deal with the problem of violent crime, because the critical part of the entire criminal process is the moment of sentencing. If the sentencing is not adequate and it doesn't make any difference how good the arrest was or how good the prosecution was, the adjudication of guilt, it is simply all a nullity if the sentence is not adequate.

In Philadelphia, we have a guilty plea rate of 32 percent. In some of the big cities in the United States—in many of them—the guilty plea rate is in excess of 90 percent. I do not mean to say that the offenders should not plead guilty when they are guilty and, in fact, they should plead guilty and they have an absolute right to plead guilty. But what I am saying is, the prosecutor should not bargain away city hall in exchange for a guilty plea.

The prosecutor should not feel the press of the criminal backlog, nor should the courts feel the press of criminal backlogs as a reason for making dispositions in cases which do not make sense on the facts of those cases.

It is a problem for the defendants as well as for the prosecutor because there are occasions when a defendant will have been in jail unable to raise bail. Example: For 2 months he will be in on an "operating motor vehicles without the consent of the owner" charge. He will assert his innocence. He will face a court calendar where his case cannot be tried on a given day. He will be faced with the proposition, if he wishes to maintain his innocence, he will have to go back to jail until the case is listed again 4 weeks later. But if he is willing to enter a guilty plea, his case can be disposed of at that hearing, and he will be released.

That is a very tough decision for a man to face who asserts his innocence, who knows if he pleads guilty he walks out of court that day

and if he insists on a trial, he goes back to jail for another listing, which may be 4 weeks away.

So the process of plea bargaining is undesirable fundamentally from both the point of prosecution as well as from the defense.

Once we have the speedy trial, and once we are able by diverting the cases by administrative changes and focusing in on the serious cases, then I think the second step has to be adequacy of sentencing. I would suggest to this committee today that we do not have adequate sentencing in a great many of the serious cases which come into our criminal courts in the big cities, at least in the city of Philadelphia.

I would like to touch on this subject for just a moment if I may. There is a pattern of repeat offenders on crimes of violence where they are receiving probation. A case in our Philadelphia court system that was in the press on Saturday of last week involved a man who was convicted in 1965 of a holdup murder, second degree. It turned out to be a sentence of 4 to 20 years. He went to jail, was released in 1969, then he was arrested on charges of possessing a revolver, a violation of the Uniform Firearms Act.

He comes up for trial, gets convicted, and the judge places him on probation. Placing him on probation says that he is probably making a mistake. I have no doubt as to the error of that judgment and my office is taking steps now to have his parole revoked so that he can be committed. I do not want to identify the case further because it is a pending matter. But we have problems, judging from prior cases, where the parole authorities, when we will seek to have parole revoked, because if it wasn't serious enough for a jail sentence, the parole authorities are then reluctant.

But I would like to call to the attention of this committee three cases which we have litigated extensively which are illustrative of the problem of sentencing. They are closed matters, although they are relatively recent matters. These are three cases where my office was grosssly dissatisfied with the sentence, where we petitioned the sentencing judge for reconsideration of the sentence, asked him to impose a longer sentence, where we were so dissatisfied with the sentence we took appeals to the State supreme court, although the law had been established that you cannot appeal on the issue of sentence; it is a nonappealable order.

But we took the appeals because of our gross dissatisfaction with what had happened and we made an effort to even draft a new common-law rule, criminal procedure, to have appellate review of sentences. We were turned down. The State supreme court did not want to become involved in this issue, thinking it would flood them with problems which they do not have the time for.

We pursued the matter beyond, to try to get legislation on appellate review of sentencing and while we had some support, the matter was not enacted and later our State supreme court, in a case called *Commonwealth* v. *Silverman*, ruled any increase of sentence was an issue of double jeopardy. So we are now foreclosed, at least in the State of Pennsylvania.

There is some latitude, not much, on the Federal level, after *Spears* v. *North Carolina*, decided by the U.S. Supreme Court, some latitude perhaps for increasing sentences.

So, essentially, at least in Pennsylvania, we are left with the discretionary decisions of the trial judge. One of the cases involved the juvenile problems which Mr. Pepper came to Philadelphia a few years ago to hear testimony on. It was a case called *Commonwealth* v. *Wrona*, where two juveniles in the South Philadelphia streets were engaged in a fight, and it was a fair fistfight at the start, until one of the boys, one of the juveniles was getting the worst of it and he picked a knife out of his pocket and went after his opponent with the knife and he stabbed him twice and he killed him.

The autopsy report showed that they were very serious blows, that the plunge and depth of the knife was substantially longer than the blade, showing substantial push-down, and the wounds were substantially wider than the blade, showing there was a real effort to inflict grievous bodily harm. It wasn't a matter of some light touching with a knife.

The defendant denied his guilt and said he was only defending himself, which was an absurd plea where you use a knife in a fistfight. He was tried before the common pleas court in Philadelphia on a waiver, found guilty, and my office urged the maximum sentences of 6 to 12 years in this kind of a brutal killing, in the light of the gang problems and juvenile crime problems we have in the city of Philadelphia.

Joseph Wrona was placed on probation.

We had a case called *Commonwealth* v. *Arnold Marks*, who was charged with possession of heroin, 4 ounces of pure, uncut heroin, worth on the diluted market sale, bags in the street, worth $280,000. So it was no small-time matter. He denied his guilt and was tried. He was convicted. He was sentenced from 5½ to 11 months—not years, mind you, but months. Which is, in my judgment, a totally inadequate sentence, if somebody is going to be able to deal with $280,000 worth of heroin and if you are then to be able to apprehend them and have a constitutional search and seizure and succeed in conviction, after all of those hurdles, it is a major sentence of the maximum of 11 months and the minimum of 5½.

Our efforts to get the sentence altered by the trial judge were unsuccessful.

We took appeal in that case, as we did in *Wrona*, because we thought those were unusual cases to illustrate the purpose of illegal sentence, and the State supreme court, as I said, declined to reach the merits of the case.

A third case involved a man by the name of Donovan, *Commonwealth* v. *Donovan*, who was the deputy commissioner of licenses and inspection in Philadelphia, which is the department in charge of slum housing and the issuance of permits and it goes to the very core of our city operations in terms of making sure that slum landlords comply with the laws on housing, and it goes to the very core of our city operations on new construction, safety provisions, and this man was the operational head in the capacity as deputy commissioner of licenses and inspections.

We tried him and convicted him on multiple counts of bribery and corrupt practices. We asked for a lengthy jail sentence. Donovan was placed on probation.

I mention those three cases because all three were appealed after we could not get the trial judge to change the sentence. They are

illustrative of violent crime, corrupt practices of government officials, and of the narcotic problems.

Those are not atypical. I could bring to your attention reams, which would fill the room, virtually, on cases which involve serious charges where probation has been imposed.

As a third step after speedy trial and after adequate sentencing, I would just touch very briefly on the issue of rehabilitation and realistic rehabilitation. I have visited all of Pennsylvania's State correctional institutions and I am sorry to say that the term "correctional" is a misnomer; they do not correct anything.

The necessity exists in terms of the defendant himself, in terms of humanity, of rehabilitating him. But fundamentally, in terms of protecting society, because almost everyone who goes to jail today gets out of jail, there are insufficient facilities on drug rehabilitation, which I have already touched upon, and the factor which I found the most surprising, both for Pennsylvania and also for the Federal correctional system in Lewisburg in Pennsylvania, when I visited that institution, is that the correctional authorities do not know what their success rate is.

There are no statistics maintained on what happened to inmates, convicts, residents, after they leave the jails. You may find out what happens to a man if he has a further scrape with the law and then his record will be available for you when he is arrested again and his record comes to your attention, the attention of the sentencing judge, or the press, for one reason or another. But there is no systematic check made of those who leave the correctional institutions, so that an evaluation may be made as to whether the procedures on rehabilitation made sense or not in that particular case.

I think that enormous attention has to be given to that area but I am not going to dwell on it because this committee has heard of the experts in that field.

Chairman PEPPER. That certainly is an interesting statement, Mr. Specter.

Mr. Counsel, would you like to start with the questioning?

Mr. NOLDE. Thank you, Mr. Chairman. Mr. Specter, your discretionary and screening programs are superb programs. However, certain questions have been raised, particularly by the National Council on Criminal Justice Standards and Goals, on which you serve as a member. One, that there is inherent danger the cases might be screened on the basis of deeply held social or political attitudes. Do you see any substantial danger in that?

Mr. SPECTER. Yes; I do see a danger in that. I think that screening poses a problem, that there may be corrupt practices, or there may be practices which yield to special interests, as your question raises an issue as to whether it will be responsive to special social interests. That is why I think it is desirable to have it as visible as possible and the ARD program avoids that because we do a number of things.

First of all, we contact the victim and get the victim's agreement for the program. Second, we take it into a public hearing where there is a judge, and any member of the public can walk in, and although it is informal and brief, the case is fully stated. So that procedure eliminates the possibility of abuse.

With respect to police counseling, when you have an assistant district attorney and a police officer reviewing the case, there is, in effect, an adversary proceeding because the police officer made the arrest and he has an interest and it is a vested interest in having that case go forward. If he is dissatisfied with the screening process, he has ways of complaining to his police captain, who then takes it through the chain of command and can bring it to the attention of the supervisory personnel and the district attorney's office.

Mr. NOLDE. Have you found any resentment on the part of the police in having their work reviewed by the district attorney's office?

Mr. SPECTER. I think that "resentment" might be too controversial a word, but I think it is an accurate word; yes. I think resentment is probably too strong. The reaction of the policeman on the beat is "It's a good arrest," and he will listen on the issue of search and seizure and on the law, but he wants his arrest to stand up and he wants a chance to push his arrest. We have found that we have worked it out, that there have been cases where we have disagreement and, for that matter, I disagreed with the police commissioner about cases.

We have had some celebrated battles on the issue of arrest on police brutality which have been major. But, of course, that is all right if they are publicly aired. The final responsibility rests with the courts to make the decision and below that it is the prosecutor's discretion which is to govern, providing it is displayed openly for it to be reviewed by the public. But we have worked out most of our problems with the police.

Mr. NOLDE. As I understand it, approximately a third of the cases are screened out.

Mr. SPECTER. That is correct.

Mr. NOLDE. Has this process resulted in improved police techniques, police work?

Mr. SPECTER. Yes, I think it has, to some extent. But I believe that will be a long process. I do not think you can see enormous improvements in a course of a year and a half of that. But I believe that as we expose more policemen at the district level to an assistant district attorney who is going to get into the "give and take" with him, a dialog on what is constitutional search and seizure, that it will be an enormously beneficial, educational process to the police in the long run.

Mr. NOLDE. Is there any significant risk that individuals who are innocent may be suddenly coerced into participating in diversionary programs rather than waiting the many months it takes to go to trial?

Mr. SPECTER. Yes. I think there is a risk on that. Say, our program on ARD—accelerated rehabilitation disposition—preindictment probation, because they do avoid the delays and the inconvenience of trial. We are very careful in explaining that fully to them and they have to be represented by counsel or the voluntary defender, and we receive waivers on the record that they understand what they are doing, that they are giving up their right to trial.

So that the coercion forces are as minimal as possible. That is, we go as far as we can to make it a voluntary choice. But you cannot take the coercive factor out in terms of the alternative of the trial.

But I think that the consequence is so minimal that that is not a major problem. When I say "consequence," I mean a period of time subject to some probation, which may be very minimal, and then to

having the record wiped clean. So I think on balance it is well worth the effort. Well worth that particular risk problem.

Mr. NOLDE. Referring to your notification to the complainant of this procedure, do the complainants tend to cooperate for the most part? Have you had any difficulties in their objecting to diverting this offender?

Mr. SPECTER. The complainants are almost uniformly glad to see a diversionary program.

Mr. NOLDE. How do you account for that?

Mr. SPECTER. I account for it in a number of ways. The charges are ordinarily minimal. They are not aggravated assault and battery, or they are not robbery, they are not rape, they are not really serious charges. They may be minor larceny or they may be a bad check or they may be credit card theft. The victims are not anxious at all to get into the criminal justice system as victims. They do not want to come to court on a number of occasions and sit around the courtroom.

They are acquainted with that particular problem which they may face. Our letter asking for their acquiescence is a relative full statement of what we are trying to achieve and the social desirability of the program and the solicitation of their cooperation in the program, leaving to them the choice, and they understand that.

I think those are the reasons that probably go through their minds, but we have had really great success in having their cooperation.

Mr. NOLDE. In both your ARD and the TASC programs, eligibility is strictly limited to nonviolent offenders and first offenders, as I understand it. Does that really disqualify too many people who otherwise might benefit from such treatment?

Mr. SPECTER. I think it does eliminate a lot of people who would probably be all right in the program, and while we set those as general rules, we are flexible in specific cases; if a person has a prior arrest which is inconsequential and in which he has been aquitted. We do not deviate, though, if the specific charge involved is violence.

I just do not think we can if you have a burglary or any other violent charge.

I think, also, that at least in the initial stages—and we are in the initial stages on all of these diversionary programs—we have to move slowly and gain public support and public acquiescence in the programs because they are very difficult.

We also have to gain police acquiescence in these programs. If we move too fast and too far and have cases which are too serious and have these cases come back on us, and have someone charged with a crime of violence who goes through a diversionary program and then goes out and commits another crime of violence, we can set back the diversionary programs very materially.

We are able to persuade the police about the desirability of some of these programs because we point to the backlog on the robbery cases and the murder cases and the rape cases, and they are concerned about the prompt trials. It is a delicate balancing process and I do not believe we can go too fast. Ultimately, the objective would be to screen out many more cases which are going to result in acquittals. We can tell pretty well, even though there may be a prima facie case, but I do not think we are at the stage yet where we can screen out all of the

cases which are calculated to result in acquittals, if there is justification for prima facie case for trial. Or perhaps we ought to move to preindictment probation, ARD, on all of the cases where we are reasonably confident probation will result.

But I think we can't go quite that far, at least at the present time.

Mr. NOLDE. Concerning drug abusers, many of them either have prior records or, typically, they don't always limit their crimes to nonviolent ones. What sort of treatment should they get?

Mr. SPECTER. The best.

Mr. NOLDE. How can we deal with them if they don't qualify for the program?

Mr. SPECTER. Well, we have alternative programs for them. If a person has prior records of violent crime, then he goes to the trial process generally and goes through. And when comes the day of sentencing, if it is an armed robbery, we will seek to have a jail sentence imposed. If the court imposes a jail sentence and he goes to jail, there are not facilities nearly adequate to deal with the drug addicts inside of prison. If it is a matter where there is an extensive record for drug abuse and perhaps a burglary involved which does not call for a jail sentence, we have experimented in Philadelphia with a program of what we call, "One Day To Two Years," where we ask the court to impose sentence of 1 day to 2 years, so that the person is eligible for parole instantly.

And if he then remains in a treatment program, he stays on parole. If he does not maintain a treatment program, then we conclude that he is likely to be back to crime to support his habit, we ask for his parole to be revoked and put him in jail for the 2-year period.

So there are a variety of ways of dealing with the defendants, depending on what stage they are. But all of the programs essentially turn on whether there are facilities for treatment of the drug addicts, residential treatment centers, or methadone out-patient. Those facilities are in very short supply.

Mr. NOLDE. What is your estimate of the percentage of crime that is drug related?

Mr. SPECTER. About 50 to 70 percent. We test those who come into our detention center, take case histories, and have tests, and on various days it ranges between 50 and 70 percent of the serious crimes that are drug related.

Mr. NOLDE. I take it you favor stiffer penalties for drug pushers?

Mr. SPECTER. I certainly do. I think where we deal with the pushers that we really ought to be talking about really throwing the book at them. I think there is a deterrent value in criminal law enforcement and I think if it is more expensive to violate the law than it is to comply with the law, that we will have results. I believe when you deal with people who carry, possess or sell more than 1 ounce of heroin, which has tremendous diffusionary potential, there ought to be mandatory life sentences.

Mr. NOLDE. Would you distinguish between an addict offender and nonaddict offender?

Mr. SPECTER. I would distinguish, yes; but principally on the grounds of how many bags they push. If you have an addict offender pushing five bags on the corner, three bags on the corner, I am not talking about a life sentence for him. But if you are talking about an addict

who is pushing an ounce, I talk about a life sentence for him. You ordinarily don't find addicts who have ounces.

But I think the principal distinction is the volume of their traffic and whether they are really selling it to support their own habit.

Mr. Nolde. Do you foresee constitutional problems in the urinalysis sample you require of candidates for your TASC program?

Mr. Specter. I do not see constitutional problems because we have refused in Philadelphia to condition bail on acceptance of the program. Some experimental programs which have been federally funded have made, as a condition to bail, agreement to go into the TASC program. I have problems with that in terms of the constitutional issue and that simply is not the purpose of bail, to compel somebody to undergo a treatment program, even though it has a salutary effect.

So that our TASC program does not have a constitutional problem, as I see it.

Mr. Nolde. Returning to requiring speedy trial—and I am glad to hear you say you support a 60-day limitation—would you support a mandatory dismissal if such a requirement is not complied with?

Mr. Specter. Yes; providing you have a system which is capable of handling the backlog and the workload and providing you exclude from the time the continuances which are caused by the defense, or the continuances which are out of control of the prosecutor.

I think that at the end of the rainbow you have to provide for dismissal. It has to be a system which is tough on the prosecution, but I think it has to be realistic and fair in terms of capabilities to prosecute to start with, and excluding time which is not our fault.

Mr. Nolde. What about requirements on the defense side, if you had a statutory requirement that trial must be brought within 60 days of arrest? Several States have such a statutory requirement but they provide an out where the defendant agrees the delay should not bar the prosecution. Would you support such an escape clause, or would it be feasible to impose a similar burden on the defense, that they be ready to proceed within 60 days?

Mr. Specter. I do not like the idea of having the defense waive the speedy trial issue. There are some jurisdictions which have had 60-day trial limitations for a long time and they are totally meaningless because the waiver has become a way of life. The defense lawyer is busy and he waives for his client and a smart defendant who waives and drags the case out for several years almost assures his acquittal, witnesses forgetting or dying or moving away, or the matter being less important if it is an old case.

I think this is a matter for the administration of criminal justice and a matter for the courts and I think the objective of a speedy trial is one which ought to be obtained regardless of what the parties say about it.

Chairman Pepper. Mr. Waldie?

Mr. Waldie. Mr. Specter, with the improvements that you have recited, has there been a measurable impact upon crime in Philadelphia that you could relate to these improvements?

Mr. Specter. Our major crime rate went down last year. Philadelphia has statistically the lowest crime rate of any of the 10 big cities of the United States, according to the FBI figures.

Mr. WALDIE. How long has that been the case?

Mr. SPECTER. That has been the case for the past 8 years that I am personally familiar with.

Mr. WALDIE. And the crime rate went down all over the country last year; did it not?

Mr. SPECTER. Yes; it did.

Mr. WALDIE. Can you ascribe these reforms relating then to that?

Mr. SPECTER. No. That is the conclusion of my sentence. I do not think you can point statistically to these changes on case diversion to come to any basic conclusions. We have not yet dealt with our backlog on crimes of violence.

I think that in the long haul, that over the course of the past 8 years, say—I am tentative on this—that there may be a relationship between our crime rate and an attitude which we have had on pushing for sentences and our opposition to plea bargaining.

In Philadelphia, we have had a running dialog for the past 7½ years with the judges, pushing very hard on sentencing, and it has only been partially successful. We have had a hard line by our police department and I think there has been more controversy between law enforcement in Philadelphia and our bench than perhaps in any other city.

Mr. WALDIE. Is that desirable?

Mr. SPECTER. No; I think it is very undesirable. I think it would be highly preferable if the courts imposed appropriate sentences without having any necessity for the district attorney to speak up at all.

Mr. WALDIE. I gather there is a thread that runs through your testimony that you don't have much confidence in your judiciary?

Mr. SPECTER. I do not have confidence in the way judges are imposing sentences at the present time.

Mr. WALDIE. Do you believe that is the function of the prosecutor to impose sentence?

Mr. SPECTER. Yes, I do; I believe that.

Mr. WALDIE. What is the function of the judicial system?

Mr. SPECTER. I believe the function of the judicial system is to make the ultimate determination, but I believe the prosecutor has standing to make sentence recommendation.

Mr. WALDIE. I understand that, but do you believe he should impose the sentence?

Mr. SPECTER. Of course not.

Mr. WALDIE. But when you disagree with the sentence, when they don't follow his recommendation, you believe he should have the right to appeal?

Mr. SPECTER. I do.

Mr. WALDIE. You also believe that mandatory sentence removes the judiciary from any contemplation of any individual differences?

Mr. SPECTER. No; I do not believe mandatory sentences are practical.

Mr. WALDIE. Would you call for a life mandatory sentence?

Mr. SPECTER. I do on the issue of drug sales. I think that is an area where a mandatory sentence is desirable.

Mr. WALDIE. Why is it practical there?

Mr. SPECTER. Because I think that the normal problem on the imposition of mandatory sentences would not hold sway on major drug-

pushers. I think there is an inclination on the part of the courts on waivers to reduce the level of discretion to acquittals if they don't want to face the problem of a mandatory sentence, as for example on carrying a revolver.

But I do not think we are dealing with a major pusher, somebody who has an ounce of pure heroin, that the judge will acquit to avoid the problem of mandatory sentence.

Mr. WALDIE. If we would not avoid the problem of mandatory sentence by acquittal or reduction, why do you think he would avoid the problem of sentencing sufficiently severe that you should require mandatory sentence?

Mr. SPECTER. Because our experience has been when we have possessors or sellers of an ounce or more, we do not get appropriate jail sentence.

Mr. WALDIE. If you had the life sentence mandatory, why do you conclude the judge would not accept the lesser plea or dismiss?

Mr. SPECTER. Well, because I would——

Mr. WALDIE. It seems inconsistent to me.

Mr. SPECTER. I don't think the judge ought to have the discretion to accept a lesser plea if a man is charged with the sale of drugs. If that is the charge, then he either pleads guilty or he does not plead guilty.

Mr. WALDIE. I thought you said your general disagreement with mandatory sentence was inducement of the judge to engage in plea bargaining or accepting lesser pleas or dismissing.

Mr. SPECTER. Well, what——

Mr. WALDIE. In this case, I say if you have a mandatory sentence of life imprisonment for possession, is the inclination of the judge less in this instance than it would be in any other? If you say in response to that because he wouldn't do that with a strong heroin pusher, then why would you need a life sentence mandatory if you are so concerned about the pusher?

Mr. SPECTER. Because, although he will not be motivated to acquit a major heroin pusher, when he comes to the point of convicting him, he will not impose a sufficient sentence. I will cite the *Marks* case I already told you about, 5½ to 11 months.

Mr. WALDIE. Has that been your experience that the judge is too lenient on heavy heroin pushers?

Mr. SPECTER. Yes, sir.

Mr. WALDIE. You don't address the problem in the statement of yours as to the disparate sentences by individual judges. Do you suggest the way to handle that is whatever the drawer of the lottery comes out; that is, the judge, the defendant and prosecutor is stuck with? That would address the problem of delay, perhaps, coming to court more quickly. But that isn't really the problem, is it?

The problem is the contempt for the system that the defendant must have, to know the lottery draw will determine the sentence they receive.

Mr. SPECTER. Well, I do not address that problem in my statement, nor do I address a great many other problems.

Mr. WALDIE. How do you address that problem? Do you have thoughts on that?

Mr. SPECTER. Yes; I do have thoughts on that. I believe sentencing ought to be taken away from trial judges and ought to be lodged in

panelists. I have proposed legislation to our general assembly in Pennsylvania on a number of occasions on the sentencing matter and I proposed this legislation last year, and, as a matter of coincidence, submitted it just yesterday to the general assembly, calling for the creation of a 24-man panel in Pennsylvania to impose sentences in panels of three.

[See material received for the record, at the end of Mr. Specter's testimony, for a copy of the proposed legislation.]

Mr. SPECTER. I have come to that conclusion after our efforts at appellate review of sentence were of no effect because of the double jeopardy provision.

But I would take away the sentencing function totally from the judges on offenses which call for a term of 5 years or more. We modeled our program after the California sentencing panel. But that would provide the uniformity and, I think, would provide the appropriate severity.

Mr. WALDIE. In determinate sentence?

Mr. SPECTER. Yes. Well, it is indeterminate in the sense that when the judge convicts on a waiver or jury convicts, the matter would be referred to the sentencing panel, which would then have the authority to sentence to the maximum and that panel would then obtain the uniformity and severity.

Mr. WALDIE. One final question. With that approach to sentencing, would you still call for mandatory life sentences?

Mr. SPECTER. I think on heroin pushers, major heroin pushers, I would.

Mr. WALDIE. No matter how the sentencing is done?

Mr. SPECTER. Yes; I think that heroin is that kind of a problem in our society today.

Mr. WALDIE. Is that the only crime that you would call for a mandatory life sentence?

Mr. SPECTER. No; I would call for it on first-degree murder, except for the category of especially outrageous murders, which I would call for the death penalty.

Mr. WALDIE. And what others?

Mr. SPECTER. None.

Mr. WALDIE. Just first-degree murder and major heroin pusher?

Mr. SPECTER. Yes.

Mr. WALDIE. And first-degree murder would be either mandatory life or the death sentence?

Mr. SPECTER. Yes.

Mr. WALDIE. Death sentence for any other crime?

Mr. SPECTER. No, sir; just for murders which result in a variety of particularly outrageous situations, contract assassinations, or recidivist.

Mr. WALDIE. Would those be up to the sentencing panel to determine?

Mr. SPECTER. No.

Mr. WALDIE. That would be mandatory?

Mr. SPECTER. The legislation which my office has proposed on that would call for the imposition of the death penalty on a mandatory basis in eight categories of first-degree murder and then an automatic review of cases where the death penalty was imposed by the State board of pardons. That is in order to have the requisite flexibility I

think you have to have if you use the death penalty, but no discretion on the part of juries in those cases, or the courts, in order to avoid the unconstitutional problems which are present in firm or wanton or freakish or irrational imposition of the death penalty.

Mr. WALDIE. So, if there were freakish or irrational imposition of the death penalty, it would happen under this situation as there would be no opportunity to review or make exception?

Mr. SPECTER. There would not be an opportunity, in my opinion, for freakish or wanton imposition of the death penalty on the legislation which we have proposed in Pennsylvania.

Mr. WALDIE. Which makes it mandatory?

Mr. SPECTER. Which makes it mandatory for given offenses, but then has automatic review by a board of pardons, which has the authority to change from the death penalty to life imprisonment. This provides what I conceive to be the necessary flexibility, and it comports with the Supreme Court's standards, because instead of having a jury in Philadelphia coming to one conclusion and a jury in Pittsburgh coming to another, which is the wanton aspect, each of those juries would have no alternative but to impose death. Then the matter would be reviewed by one board in Pennsylvania, the board of pardons, which operates under the standards we have taken in the model penal codes.

If that board said the case A in Philadelphia was a death case and case B in Pittsburgh was a life case, it would be with the same group applying uniform standards, which I think would satisfy the requirements of Justice White and Justice Stewart, who are affirmed to have those swing votes to uphold the constitutionality of that kind of application of the death penalty.

Mr. WALDIE. Have you found the extension of the rights of defendants in terms of evidentiary rules that the Warren court came down with a handicap in terms of your responsibilities?

Mr. SPECTER. I think they have been in some cases. I think that, by and large, the decisions of the Warren court has been desirable for the administration of criminal justice as a nation. But I was very much opposed, and am very much opposed, to the retroactive application of the *Miranda* rule.

We had search granted in one of our cases out of Philadelphia, then reversed seriatim when he found out it was State grounds, I feel that goes too far, I think the fourth *Miranda* warning, I don't think there is any such thing as intelligent waiver to right of counsel. I think any intelligent application doesn't result in the waiver of right to counsel.

I think by the time you give the fourth *Miranda* warning, you are not really being realistic. That goes to far. Some of the decisions on search and seizure, I think, have gone too far. But I think, basically, the insistence on high constitutional standards for law enforcement officers makes good national sense.

Mr. WALDIE. No further questions.

Chairman PEPPER. Mr. Mann?

Mr. MANN. Mr. Specter, I am intrigued by your ideas on sentencing and agree with it. In the meantime, what resources does a trial judge have in your court to assist him in sentencing? Does he have pretrials?

Mr. SPECTER. He has a presentence report. We have our probation de-

partment obtain presentence reports, which will obtain a psychiatric evaluation, a case history, family background, detailing the prior record, educational background, and work record.

Mr. MANN. Given the independence of most judges, is there a conference in your area where the judges confer on the questions of uniformity, deterrence, and so forth?

Mr. SPECTER. They do when they sit en banc, three judges on a murder case, where they all have the function to decide it. There may be consultation on an informal basis. There is a proposed rule of criminal procedure to set the mechanism up for some consultation, but the case histories in Philadelphia have not provided for such consultation.

Mr. MANN. There is no judicial conference in your area where the judges gather occasionally and discuss problems of mutual interest?

Mr. SPECTER. There have been a couple. I can only think of one offhand where there have been sentencing institutes where there are lectures and discussions. I think more than one, perhaps two or three. They have been very limited and only of recent origin.

When I was addressing myself earlier to the question of conference, I was addressing it to whether a judge would confer with any other judges before he imposed sentence in a specific case. And as I say, there is none of that, except for rare cases.

Mr. MANN. Who administers the ARD program?

Mr. SPECTER. It is administered by the court administrator and by the district attorney's office. Cases are selected out of the system by my assistants. They are then listed by the court administrator and they are presided over by a judge.

Mr. MANN. Does the probation that is imposed, preindictment probation imposed in most of those cases, carry conditions at the time which, in effect, amount to restitution to the victim?

Mr. SPECTER. Yes, on occasion.

Mr. MANN. How is the individual judge assigned? Who makes that decision?

Mr. SPECTER. To the limited extent we have experimented with it, it is administered by the court administrator, who makes an assignment. He assigns the judge and the judge is then assigned a group of cases. We have never gone so far as to have a judge get cases the moment they are docketed, which is what I think we ought to come to ultimately, but we have a large pool of cases in our major trial program and the court administrator recently designated two judges and took a group of cases, 50 cases, and gave them to one judge and 50 more cases to another judge.

Mr. MANN. On the question of plea bargaining, I recognize that you have taken a hard line against plea bargaining. But, given your dissatisfaction with the sentences, isn't it the feature of plea bargaining that even sentences are sometimes bargaining?

Mr. SPECTER. Isn't it a feature of plea bargaining that sentences are bargained?

Mr. MANN. Yes.

Mr. SPECTER. Yes, it is. That is the whole essence of plea bargaining.

Mr. MANN. How have you been able to resist that temptation?

Mr. SPECTER. Because I will not be a party to agreeing to what I consider to be improper sentences on serious cases. I don't get the sentences that I would like and I have made that clear, but we do

get some sentences. I think if we succumb to plea bargaining, we won't get sentences at all.

Mr. MANN. In many cases, you have your own idea about what the court is doing and you may get it in the bargain.

Mr. SPECTER. That is fine, but it is not a bargain. When I say, "no plea bargaining," I mean no negotiation or discussion, trying to come to a compromise. My assistants review cases and they consult with the chief of homicide or major trial counsel and they make a determination as to what a sentence recommendation is and we put it on file. We tell the defense counsel what we think an appropriate sentence would be and then he knows if he pleads guilty that is our sentence recommendation.

But I am not prepared to reduce it in order to save my office work or the court's time.

Mr. MANN. But it is a prearrangement to agree upon which the defendant can rely.

Mr. SPECTER. He may rely when we tell him what we think a proper sentence recommendation is. We will observe our word on it absolutely.

Mr. MANN. All right.

Thank you, Mr. Chairman.

Chairman PEPPER. Mr. Rangel?

Mr. RANGEL. Thank you, Mr. Chairman.

Mr. Specter, we are living in a time now where most communities share your belief that the judges are not giving adequate sentences for convictions of serious crimes. Why do you believe judges who normally are considered a part of this general community act in this manner?

Mr. SPECTER. I think that judges are very reluctant to send people to our deplorable prisons. I think that is a good reason, not a sufficient reason, but a reason which has some validity. They believe that going to the prisons, the defendants will come out worse than when they went in. The response I make to that is, given two undesirable choices, of sending a man to the bad jail or leaving him on the street, we have to send him to the bad jail, although we ought to improve the jail.

I think the judges for a second reason are gun shy in terms of appellate reversals. I had judges say to me, "I gave him probation. We avoided appeal. If we had an appeal, you would have lost on search and seizure ground."

I said, "I don't think we have gained anything if we are worse off than we are now. Let's take our chances. I think we can hold the case. If there is an error, let him be exonerated."

I think judges are reluctant to see appeals taken.

I think beyond those considerations, it is a very difficult moment in a courtroom to sentence a man, terribly difficult moment. Let me tell you about one case. We had a defendant by the name of T. F. Bailey who was charged with murder and confessed to all sorts of corroborating evidence before *Miranda*. It didn't come to trial until after *Miranda* and his confession was suppressed and all of the evidence went out—clear-cut holdup murder.

He walked away because of the retroactive application of *Miranda*. *Miranda* applies to every case where the trial was begun after June 13, 1966, even if the confession was obtained before and was constitutional when obtained.

T. F. Bailey got into trouble with the law on another offense, on a lesser charge, where the maximum sentence was 2 years. There was a

very difficult time in getting the maximum sentence imposed in that case and I think it would have been hard put to impose the sentence on Bailey in that case, really, a maximum sentence which was 1 to 2 years, although not really out of line. And my office urged a 1- to 2-year sentence.

We were very frank about it. We urged in part because of the man's record, and I think it was fair to consider the case where he had not been convicted because that was part of his background. And at that moment of sentencing, when Mr. Bailey's family was in the courtroom—and it is a frequent occurrence where there are wives and mothers and children and there is sobbing and it is a great human tragedy when a man is sent to jail——

Mr. RANGEL. As a former prosecutor, I don't see how that would affect the judge and not affect the district attorney at the same time.

Mr. SPECTER. Well, let me say this to you: I was the district attorney and I was affected by it. The judge did impose a sentence, not the maximum of 1 to 2 years on Bailey, but I felt the difficulties that he experienced at that particular moment in sentencing the man.

Mr. RANGEL. Well, with your background, certainly in your position, if you are affected by these emotional things, then I assume you would suspect that the judges would be.

Your second thesis, that of worry of appellate review, would only apply to the question of whether the judge convicted in the first instance, or perhaps the question of excessive sentence; but I don't see how it would apply to being gun shy. In situations where you have a crime with a statutory maximum sentence I think what you are saying and many people are saying that judges are not using the tools they have available.

Mr. SPECTER. When I say "gun shy," I am saying that the judge is reluctant to have the appellate court review the issue of trial error. He is gun shy about whether he is going to be reversed on appeal.

Mr. RANGEL. What difference would it be if he sentenced 5 months or 5 years?

Mr. SPECTER. If he proposes probation, there is no appeal.

Mr. RANGEL. I wasn't really talking about probation. I was talking about low sentences.

Mr. SPECTER. Well, it is probation, Congressman. That is what happened. That is what happened in that particular case, and that is what happens.

Mr. RANGEL. I assume you are just as strong an advocate of prison reform as you are of longer sentences?

Mr. SPECTER. I sure am. I don't think the longer sentences make any sense unless you have prison reform. Well, they make some sense in terms of separating the man for that period of time, but they don't make any sense in terms of long-range solution.

Mr. RANGEL. I was very interested in your screening process. It seems as though this has relieved your office, as well as the court, of a lot of unnecessary litigation. Does this mean law enforcement officers have the benefit of the legal opinion of your office prior to the arrest?

Mr. SPECTER. Yes, sir. Well, it is not prior to actually taking the person into custody, but it is prior to making the formal booking. So the person is taken into custody and brought to the police district, and

it is at that point, that early point in the process, my assistant reviews it and makes a determination whether or not the man should be detained, fingerprinted, photographed, sent to the central police administration building.

Mr. RANGEL. Prior to the time, the police officer has written his complaint?

Mr. SPECTER. Yes.

Mr. RANGEL. Then, in a hypothetical, would a police officer, prior to making an arrest, check with your office to see whether or not that arrest would be constitutional, according to the recent opinions as known by members of your district attorney's office?

Mr. SPECTER. Not in the legal counseling program that I have described to you. That is a matter of what goes on in the district. We have procedures on homicide and on rape cases where I have an assistant available 24 hours a day who is a specialist, where the police will review the evidence before they make arrest in those cases, make an arrest at all.

But if you have somebody who is charged with illegal liquor sales or larceny or receiving stolen goods, he is in the district and the policeman will see some activities, see someone carrying a television set, they will take him into custody and take him to the police station. Technically, an arrest has been made when they restrain his liberty. So my man does not come into counseling the policeman until they get to the police station. So we have not intervened before arrest.

But we have intervened before booking or processing. The police might not even classify it as an arrest until they write up the criminal complaint or make an arrest report on it.

Mr. RANGEL. That is my problem. What prevents, knowing most police officers believe they are making good arrests and really want to make good arrests, and in their opinion there is no question the person they apprehended is guilty, what is to prevent a police officer from getting a prior legal opinion from your office and conforming the complaint to existing law, to make certain that the case is not thrown out on technicalities?

Mr. SPECTER. If you mean to be sure he complies with the law, there is nothing.

Mr. RANGEL. That his complaint complies with the law.

Mr. SPECTER. Honestly complies with the law?

Mr. RANGEL. No.

Mr. SPECTER. Then it is a fraudulent complaint that is tailored and he has not made a constitutional search and seizure, but he finds out what would be necessary for a constitutional search and seizure and tailors the facts to fraudulently comply with the constitutional point.

Mr. RANGEL. I think you would agree your office has been frustrated by certain opinions by the Supreme Court, and certainly police organizations throughout the country believe that certain opinions have handcuffed them and allowed guilty people to be released. With this feeling, and the fact that your office makes available legal information as to what would be upheld in the court, what is to prevent the police officer from including in the complaint the language of the most recent opinion to justify how he dealt with the arrest?

Mr. SPECTER. We make available legal information. We do not make available illegal information. However frustrated we may feel, I may

feel, about what the Supreme Court has done, I observe that law meticulously. It is not up to me to convict the guilty beyond the procedures which were established by the courts. That is what my assistants do.

Mr. RANGEL. I did not mean to imply that.

Mr. SPECTER. I am saying our sense of frustration does not lead us to disregard what the courts have said. We are not so concerned with convicting the guilty that we will take it upon ourselves to decide what procedures are to be used to determine innocence or guilt.

My assistant district attorneys review facts.

Mr. RANGEL. That is my whole point. Do you get the facts and review them, or does your office make available legal opinions to the police officer before the apprehension? The cases I am thinking about, in New York, involve situations in which the prosecutor's offices made available to the police department a 24-hour district attorney available prior to arrest, in order to avoid court congestion. Policemen would call him prior to roundups and arrests, and inquire about recent opinions, or opinions they weren't really certain of, and the result was that all of the complaints that were coming into the district attorneys office had really recent Supreme Court decision language incorporated in them.

Mr. SPECTER. Well, it is improper if the district attorney would be in complicity with the police, or the police on their own, would falsify the facts to conform with recent Supreme Court decisions. But it is entirely proper and it is a goal to be achieved to have an assistant district attorney who will advise a policeman before he takes some law enforcement action on how he may do it constitutionally.

So that a search and seizure warrant prior to arrest is drafted with a full statement of probable cause.

Mr. RANGEL. But you do see the temptation of the call being made after the arrest and the complaint conforming with the legal opinion given.

Mr. SPECTER. There are constrictions in the process and they are all around us and that temptation is present. It has to be resisted like all others.

Mr. RANGEL. I assume you haven't run across those types of experiences?

Mr. SPECTER. No, I think there are cases where police officers tailor their testimony and falsify it. We have matters like that. I think it is something we have to be vigilant on all the time.

It isn't easy in terms of being a lawyer who gives advice, because a numbers writer can't have a lawyer on retainer. That is against the law. You can't do that. But it is proper for a police department to have counseling and they should have the educational value of information in advance because one of the things we seek to do is to avoid confrontations between police and citizens, where the police are going into a house without a search warrant or stopping someone on the street without probable cause.

Mr. RANGEL. I think it is a good idea. I was just wondering whether you had some safeguards we perhaps didn't have in New York.

I yield back the balance of my time.

Chairman PEPPER. Mr. Specter, do you have enough judges and do they have enough assistance and facilities to keep your dockets reasonably up to date?

Mr. SPECTER. No, sir; we do not. We received 25 new judgeships for our court of common pleas in December of 1971, just slightly under a year and a half ago. I think with those additional judges, we are still short. But as I said in my earlier testimony, I do not think we are in a position to complain at this time because I do not believe we have made sufficient use of what resources we currently have.

Chairman PEPPER. You cannot carry out, then, a system in Philadelphia that the cases must be brought to trial 60 days after the charge is made?

Mr. SPECTER. We could not do that now, even if we had no backlog. We could not do that.

Chairman PEPPER. What is your idea about the sentence? Should the judge fix the maximum sentence of the individual, giving the parole authorities or executive authorities the power to reduce that sentence in case they found justification for it, as distinguished from giving nonjudicial authorities the power to impose almost an indefinite sentence upon an individual found to be guilty?

Mr. SPECTER. Mr. Pepper, my choice would be, given all of the problems of the system, to give a sentencing board the total range of authority. I come to that conclusion reluctantly because it is a major departure from our traditional sentencing practices, but I think it is necessary. I come to it with the experience in California and I understand the experience in the State of Washington, which has sentencing by panels, none of whom is the judge in the case.

Chairman PEPPER. What would be the criteria of those sentences?

Mr. SPECTER. I think that the sentences should be based upon two factors: the nature of the act, to wit, the crime, and the nature of the man, to wit, his background and his prior record and his potential for rehabilitation and the necessity for confinement.

Chairman PEPPER. Do you find that longer sentences are more of a deterrent to the commission of crime than shorter sentences?

Mr. SPECTER. In my opinion, they are, Mr. Pepper. I think that the criminal element is aware of the opportunity for committing crimes of violence and being placed on probation, and I think that there is some calculation, some substantial calculation, that goes into the criminal planning and they would be deterred by knowledge of longer sentences.

I asked our board of judges several years ago to establish a policy, subject to exceptions and extenuating circumstances, that anybody found in possession of a loaded revolver in Philadelphia, illegally, possession of a loaded revolver, would go to jail. I believe that if that message went out loud and clear that that result was going to obtain, that there would be many fewer people with loaded revolvers in our city.

Chairman PEPPER. What would you say would be the effect as a deterrent against the commission of crime if someone convicted of a major crime would have to serve 5 years in an institution under some sort of public authority as distinguished from receiving a longer sentence? Do you think the possibility of a longer sentence would have more of a deterrent effect; knowing they were going to have to serve a reasonable length of time, even 3, if not 5, years?

Mr. SPECTER. Mr. Pepper, I do not think it is possible to come to a conclusion in any general way that 5 years would be the right sentence for a major crime of violence. There is just too much difference in the type of the offender.

There are many burglaries which don't call for 5 years for a man to be in jail; and there are many burglaries that call for more than 5 years. So I would want more flexibility. I do think it is desirable to have a jail sentence in excess of 5 years so that a man may serve, for example, on an aggravated robbery case where he has a bad record, may warrant a sentence from 5 to 15 years, and he really ought to be in 5 years in terms of toughness for sentence and opportunity for a rehabilitation system to work.

Chairman PEPPER. That is on the theory the purpose of sentencing people convicted of crime is the retributive idea they have offended against society and they must suffer. Would that be the justification for that?

Mr. SPECTER. No; I would not focus on retribution or vengeance or punishment per se. I think the legitimate goals of sentencing are deterrence of the individual who is under sentence and deterrence of others and rehabilitation. I think those are the real purposes of sentencing.

Chairman PEPPER. What percentage would you say of the defendants who have been convicted in your court have served previous sentences in some sort of institution of penal character and generally how many they have served in?

Mr. SPECTER. Mr. Pepper, that is one question I would like to give you an answer on at a later date, because I do not want to speculate on that. What I would prefer to do is review, say, 100 cases in our major felony program and give you an answer specifically as to how many of those convicted have been previously convicted, on how many occasions, whether they served time.

[The following information was subsequently received for the record:]

The District Attorney's Office in the fall of 1969 completed an extensive study of a group of 275 open cases considered representative of the hard-core criminal recidivist. It was found that in 25 per cent of those repeat-offender cases, the defendant had a prior history of at least one narcotics arrest. Of this group of narcotic offenders, further analysis showed that: (1) 77 per cent of these recidivists had an average of three burglary arrests on their records; (2) 66 per cent had an average of two larceny or related-type violations; and (3) 60 per cent had an average of two arrests for aggravated robbery.

Chairman PEPPER. Chief Justice Burger, in making a speech in New York, said we have about a 75-percent rate of recidivism in the country from institutions of penal character. At the Ditchley Conference I referred to, the concensus was the long-term people, the people who were under long-term sentences, meaning sentences over 10 years, generally had as many as three incarcerations previously.

I was just wondering, from the point of view of the protection of the society, if a man has been in prison three different times and he comes out to commit one or more crimes again, apparently the punishment he has received is not a deterrent and, as you say, because of the nature of the penal institutions we have in most places in this country, few get any corrections.

The institutions we have today have been referred to as colleges for crime rather than correctional institutions. Might it be that if society could forego its very natural desire for a certain measure of vengeance in longer sentences when a heinous crime has been committed and think only of the future safety of the citizenry of the country, that it might be better if we could try to do something to prevent that person from committing another crime rather than to

give so much emphasis to punishment for the crime he committed?

Mr. SPECTER. Mr. Pepper, I would agree with that completely. I think that we ought to arrange our criminal justice system to focus all of our resources on turning that man's behavior around and try to prevent him from committing another crime.

If I might amplify for a minute, I think the class of individuals we are referring to here is in some substantial measure a very difficult problem, if not an impossible problem. We are trying to find programs for dealing with our juvenile delinquents on what we see to be a pattern, where an individual at the age of 8 may be a truant; and at the age of 9, vandalism; and 11, burglarizing a vacant house; and working his way up to robbery and perhaps a murder, and trying to dig in with the 18-year-old in order to prevent the 18-year-old in 1983 from being a major felon.

Chairman PEPPER. In relation to that, may I ask you: What has been your observation as to the number of people coming before your court charged with index crimes who have had a delinquency or criminal experience in their teens?

Mr. SPECTER. Very, very high.

Chairman PEPPER. Then it might well be if we are trying to protect our people from crime that we put more emphasis on trying to prevent the juvenile class from becoming senior criminals at a later time.

Mr. SPECTER. That is what I was suggesting. We talked about the heavy emphasis on the third-time offender. That person may well be beyond redemption. I don't like to say that but he may be. I would suggest the best place to work is the 8-year-old, probably 8-to-11 category, or perhaps even before. But we can already identify at 8, 9, 10, and 11, patterns which we have seen on many criminal records which end up with felony murder.

Chairman PEPPER. Isn't it true the majority of the crime is committed by a relatively few people?

Mr. SPECTER. Yes.

Chairman PEPPER. That would seem to suggest that it may be wise from a social point of view that we try to concentrate on those people, to see if we can't some way or the other, prevent them from falling into the criminal class, going into the pipeline so to speak and coming out later on as an adult criminal, a habitual criminal who has committed serious crimes.

As you refer to penal institutions, I wonder if we haven't, to a large degree, been spinning our wheels. We go through the expensive process of apprehension, with a large police force, an extensive prosecuting and court system, an inadequate probation system, and then we have these expensive penal institutions.

We were told at our juvenile hearings the week before the recess that in some instances public authorities were paying as much as $36,000 a year for individual delinquents who were in some of these institutions; from which they generally come out worse than they entered.

Somebody pointed out that you could not only send them to college, but you could send them abroad every summer and still save money compared to what you are spending on them now.

Mr. SPECTER. A one-way ticket, Mr. Chairman?

Chairman PEPPER. Well, we might give them the choice at least.

But in dealing with our penal institutions, I remember very well when our committee went up to Attica, we had an interview with

Governor Rockefeller before we went on down to Attica, and right off the Governor said, "I know the penal system of New York needs correction; it needs modernizing; it needs improvement; but where is the money coming from?

It seems to me that most of the systems that we now have, most of the penal institutions, the end results of all of this fine effort you put in as a prosecutor and all of the efforts that the court makes, the end result is frustrating to all of your effort.

The concern to me is how we can arouse the public consciousness to be willing to do something about that most important aspect of the whole criminal problem. Would you say that the penal institution, by its nature and character and its worth, is very relevant to what you are seeking to achieve in your criminal system?

Mr. SPECTER. Absolutely. I think unless you have a realistic sentence, and then some rehabilitation beyond, the entire police arrest, prosecution, court inputs are meaningless.

Chairman PEPPER. I am hoping that this committee will recommend to the House of Representatives that the Federal Government be willing, at least in the initial stages of such a program, to put up 50 percent of the cost of building small institutions of the most modern character, with perhaps relatively few facilities for maximum security, to house a population not to exceed 300 or 400, preferably 300, located in urban areas as much as possible, in territories from which these inmates come, where outside work opportunities are available for them, and where there will be an opportunity for them to keep contact with their families and friends.

If we could encourage the States to start building that type of institution with the best possible techniques applied in their operation, once they got them built we could experiment with them to see whether they were doing a better job than the old, large institutions. And then once they were built, the State could carry them on and the Federal Government wouldn't have to participate so much in the expense thereafter.

Any other questions?

Mr. WALDIE. Just one.

Mr. Specter, I know you support long-term sentencing—you thought it could serve two purposes: as a deterrent, and for rehabilitation, and, obviously, rehabilitation is not part of the deterrent. The only function to be served by the imposition of the death sentence, then, is deterrence.

Mr. SPECTER. Yes, sir.

Mr. WALDIE. Has Pennsylvania had the death sentence up until——

Mr. SPECTER. Yes, sir.

Mr. WALDIE. Until the period of the moratorium?

Mr. SPECTER. Yes, sir.

Mr. WALDIE. How long has it been since an execution?

Mr. SPECTER. 1962.

Mr. WALDIE. Is there some feeling, some statistical indication, that the failure to impose the death sentence during that period of time has had impact on the deterrence?

Mr. SPECTER. While there are statistics which can be mustered on that in Pennsylvania, I do not believe they are at all conclusive. I am loathe to use the statistics in almost any line to support a conclusion with the criminal justice system, as we were discussing on the crime rate.

There is a judgment on my part that the death penalty is an effective deterrent and I come to that conclusion based on many cases which I have seen, where professional burglars say they do not carry weapons because they are fearful of being apprehended and facing the possibility of the death sentence. Cases where we have seen juveniles going on robberies who will refuse to go along if a weapon is involved, for fear of the death penalty.

Cases in our criminal institution at Dallas where there have been two murders allegedly committed by lifers since the *Furman* decision came down.

As a matter of judgment, I am persuaded that the death penalty is a deterrent.

Mr. WALDIE. If you were not so persuaded there would be no other justification, would there?

Mr. SPECTER. No, sir.

Mr. WALDIE. For street crimes, violence on the streets, the death penalty has little impact on that; I would presume?

Mr. SPECTER. No; I would say that it does. I would say the death penalty is a very serious matter on robbery/murder—the No. 1 street crime. It is hard to say it is really No. 1. The three big street crimes are robbery, rape, and burglary, probably in that order, but I think the death penalty has a real impact on the robbery issue.

Mr. WALDIE. No further questions, Mr. Chairman.

Chairman PEPPER. Mr. Specter, we wish to thank you very much for coming and making a valuable contribution to our hearing.

Mr. SPECTER. I appreciate the invitation.

[The following material, previously mentioned, was received for the record:]

PREPARED STATEMENT OF ARLEN SPECTER, DISTRICT ATTORNEY, PHILADELPHIA, PA.

After seven years as District Attorney of Philadelphia, I continue to be confident that this nation can turn back the wave of violent crime providing we demonstrate the will to do so. As a nation, we have the resources and the technology to accomplish that objective. All we lack is a firm commitment and a day-by-day application to get the job done.

In outline form, America can win the war on crime by:

I. Providing Speedy Trials for Defendants Accused of Crime.

A. Defendants, charged with robbery and rape, should be brought to trial in a few weeks instead of many months so that they are not on bail committing other robberies and rapes.

B. The constitutional right to a speedy trial must be made more than a myth which can be found only in the Constitution and not in the bulging detention centers of our big cities. Men and women incarcerated before trial must be tried promptly.

C. Sufficient courtrooms, judges, prosecutors, defense attorneys and supporting personnel must be provided to try the serious cases.

D. Plea bargaining must be eliminated. Giving away City Hall is not the answer to clearing the docket.

E. Extensive use must be made of police counseling to eliminate minor cases at the time of arrest and of diversionary programs such as Pre-Indictment Probation, Accelerated Rehabilitative Disposition, and TASC (Treatment Alternatives to Street Crime) so that lesser matters may be eliminated from the traditional criminal justice system case flow to give the trial courts time to concentrate on the serious cases.

F. The individual judge calendar must be instituted so that the motive to "judge shop" is eliminated, and court hours must be extended to include evening and weekend sessions.

II. Tough Sentences for Tough Criminals Where Warranted by the Facts.

III. Realistic Rehabilitation.

A. Correctional systems must be reformed to teach inmates to read and write and train with a vocational skill.

B. Psychological counseling and psychiatric therapy must be made available in the prisons.

C. Cure of drug addicts, who cause fifty to seventy per cent of serious crime, must be undertaken on a systematic nationwide basis.

Americans are, of course, looking to their public officials—the police, prosecutors, judges and correctional authorities—to find answers to the problem of violent crime which confronts this nation.

After fifteen months of deliberation and debate, the National Advisory Commission on Criminal Justice Standards and Goals recently completed its blueprint for vast improvements in the criminal justice system in the United States. I served as a member of that Commission. We approached our task with the realization of the deep and destructive impact that violent crime has on the quality of life in America, especially in our major cities.

To paraphrase President Franklin Delano Roosevelt—what we have to fear is fear itself.

Referring to New York City, the National Observer has characterized that city's problem as "fear by day, terror by night." The Observer made the point that the after-dark fear of the Bedford-Stuyvesant ghetto has now moved into the elegant apartments of Sutton Place. The Observer quotes Herman Glaser, former President of the New York Trial Lawyers Association and a man who was mugged and robbed in broad daylight just off Madison Avenue, as saying, "There were about 100 people on the street, but nobody came to help me. Nobody."

This public paralysis is a shameful legacy of the 1960s when our population grew by 13% while the incidence of serious crime in America increased by 148%. Our citizens not only stand mute on the streets, but stay fearful in their homes at night.

A recent Newsweek Magazine analyzed the consequences of America's "fortress mentality". A generation ago, that would have meant concern about attack from powers outside our borders instead of prowlers inside our bedrooms. The Newsweek article catalogued the increasing insignias of a frightened society: "four locks on an apartment door, the evening bridge game abandoned, cabs and buses that no longer make change, the armed guard inside a junior high school—and with nearly everyone, a perpetual feeling of vulnerability."

To confront this problem, America has produced a criminal justice system where criminals too seldom go to trial, too frequently evade conviction and too rarely go to prison. The unhappy result is more crime in the streets and more confusion in the courts.

But the problem of violent crime is susceptible to long-range solution and short-range improvement. While moving to eliminate the underlying causes of crime, we can put into operation reasonably immediate reforms in the criminal justice system to: (1) make the speedy trial a reality so that criminal defendants are tried within a few weeks instead of months or years; (2) obtain adequate sentences for the guilty; and (3) provide a correctional system with realistic rehabilitation to curtail the plague of revolving door justice where defendants move through crimes, the courts and corrections, and then right back to crime again.

The National Commission on Criminal Justice Standards and Goals has proposed specific reforms to make it happen, to push us toward victory in the war on crime—providing its recommendations are properly implemented.

The first step in moving away from what has become a commitment to confusion is to move toward the elimination of trial delay.

The delay in trial of criminal cases is the most pressing problem facing the Prosecuting Attorney of any large city. In far too many instances, the District Attorney's hardest job is not convicting the guilty but bringing a defendant to trial in the first place.

While defendants are on bail for months and months, too many commit more crimes of violence. The hard answer is not to deny the defendants the right to bail, but to deny the court system the self-asserted privilege to trial delay.

To make the speedy trial a reality, the court system needs more manpower, muscle and methodology. If Americans continue to spend more money on cosmetics than on courtrooms, they may be beautiful but they won't be safe.

But more money alone is not the answer. Public officials cannot continue the perpetual plea for more money without applying creative innovations to reform the administration of the criminal courts.

To solve the massive problem of backlog, court resources must be increased, but even more fundamentally court caseloads must be decreased. As a first step, cases should be screened by the Prosecuting Attorney before arrests are made by the police. Through such review, cases can be dropped at the police stations

before they are dragged through the courts. Court time should not be wasted where the evidence must be suppressed because it was obtained by unconstitutional means.

We have put this case-screening concept into operation in Philadelphia with a pilot project funded by the Law Enforcement Assistance Administration. Assistant District Attorneys have been assigned around the clock in selected police districts. These prosecutors review every criminal complaint prior to arrest and every search warrant affidavit prior to execution. Our statistics show that we reject one-third of all the cases which are brought to us by the police for review.

A second diversionary program has the potential to divert large numbers of cases from the trial courts where experience shows that jail sentences are not required. This program, called Accelerated Rehabilitative Disposition, removes from the trial docket those cases involving defendants with no previous record or an insignificant prior record who are charged with nonviolent criminal offenses. After a brief, informal conference, defendants are placed on probation with the stipulation that the charges will be dropped if they stay out of trouble for a year or two, as designated by the conference judge.

While it might be preferable to de-criminalize some of these charges, that requires lengthy proceedings through indifferent state legislatures. The Prosecutor has ample discretion, and should use it to segregate out the cases which do not have sufficient priority to compete with violent crimes for the attention of the trial courts.

After 2 years of successful operation in Philadelphia where more than 12,000 cases have been handled through this program, the Supreme Court of Pennsylvania has promulgated rules which establish detailed procedures for District Attorneys around the State to divert cases through Accelerated Rehabilitative Disposition.

The third innovative screening program initiated by this Office is Treatment Alternatives to Street Crime (TASC), which offers heroin addicts who meet criteria established to assess the seriousness of their past record and current charge, a whole range of drug treatment programs and counseling.

As yet another means of streamlining the trial process on lesser cases, we amended our Pennsylvania State Constitution in 1968 to establish a new Municipal Court where lesser charges could be tried without indictment or jury trial. The great majority of these cases are tried at their first or second listing. During the first 2 years of operation, the average length of time between arrest and trial in Municipal Court was only 44 days.

In 1972, 42,500 cases were tried in the Philadelphia Municipal Court. While defendants have a right to trial de novo with a jury after indictment on an appeal from a Municipal Court conviction, this right to appeal was exercised in only approximately 12% of these cases.

By use of such innovations, it is possible to meet the Commission's proposed standard of sixty days from arrest to trial.

Through the use of these reforms, Philadelphia's criminal backlog has been reduced from 11,645 cases in 1965 to 5,079 cases in 1972. This reduction in backlog has been achieved in the face of a firm policy against wholesale dispositions through plea bargaining. Contrasted with some other major American cities where more than 90% of cases are concluded by guilty plea, we have disposed of only 32% of our cases in Philadelphia through the guilty plea—and the vast majority of these pleas are non-negotiated.

Once we have isolated the important cases which require a determination of innocence or guilt and call for tough sentences for criminals convicted of tough crimes, those cases should go to trial without plea bargaining. The long-standing reliance on plea negotiations to break up the logjam of the criminal docket destroys the adversary process, denies essential constitutional rights and diminishes the prospect of sentencing for the violent recidivist.

In practical application, plea bargaining often turns into a sophisticated form of the coerced confession. All too often defendants are faced with the choice of: (1) confess, through the guilty plea, and walk out of court free on probation; or (2) stay in jail for weeks or months awaiting trial assignment and then face a much longer sentence if convicted. While all condemn the rack and thumbscrew confessions of 15th century Spain, our judicial system daily encourages its 20th Century counterpart—plea bargaining.

An unhappy by-product of this courtroom bargaining is the cynicism which it engenders in the defendant. Serving time on a charge that has little relation to reality corrodes and complicates the tasks of rehabilitation and correction. This

finding appears in the Report of the recent New York State Special Commission on Attica which concluded: "What makes inmates most cynical about their preprison experience is the plea-bargaining system . . ."

The pressures of plea bargaining are totally destructive of the Prosecutor's effort to obtain tough sentences for tough criminals. The District Attorney should not be coerced by a crushing backlog to give away City Hall in order to avoid trial through the guilty plea.

Experience with plea bargaining in many jurisdictions has taught us the painful lesson, again and again, that the violent criminal who secures his freedom through plea bargaining is often encouraged to rob or rape again. The practical effect of plea bargaining unquestionably results in the violent recidivist receiving less than adequate prison sentence.

Because of crushing backlogs in the criminal courts, the system has surrendered to the apparent necessity for plea bargaining. Plea bargaining received its ultimate sanction a year ago when Chief Justice Warren Burger wrote in a United States Supreme Court opinion:

"The disposition of criminal charges by agreement between the prosecutor and the accused, sometimes loosely called 'plea bargaining' is an essential component of the administration of justice. Properly administered, it is to be encouraged."

I submit to you, respectfully, that Chief Justice Burger is wrong and the system is wrong which clings to life through the artificial respiration of plea bargaining. The National Commission is both correct and courageous in demanding an end to plea bargaining.

The bitter experience of our criminal courtrooms has demonstrated that the bargained plea is really no bargain. We should not settle for a system which simultaneously deprives the innocent defendant of the forum where the prosecutor is compelled to prove his case, and the public is victimized by excessive leniency for hard-core criminal repeaters.

Almost as important as the elimination of plea bargaining is the institution of the individual judge calendar so that responsibility is assigned to one judge for each case the moment that an indictment is returned.

This reform would eliminate judge shopping because counsel would know that a continuance would not result in having another judge hear the case. Accordingly, the motive to judge shop would be eliminated once it was plain that the assigned judge will ultimately try the case and impose sentence no matter how many times it is continued.

As a part of this effort to more effectively utilize existing resources we must be prepared to try cases on Saturdays and at night—and on split shifts if the need dictates, as it certainly seems to.

Ultimately, however, we must be prepared to try the serious criminal cases without plea bargaining or judge shopping. Our criminal justice system must be updated from the horse and buggy era, where horse trading for guilty pleas has tainted the system and degraded its participants.

In calling for the elimination of plea bargaining in five years, the Commission has sounded the clarion call for the most fundamental of reforms in the criminal justice system. Following appropriate sentencing for the violent recidivist, the correctional system must then be in a position to provide realistic rehabilitation. These reforms will provide the best opportunity for dealing with the problems of violent crime while protecting constitutional safeguards for those accused of crimes.

Our first President, moving quickly in his first term to enact legislation establishing our judiciary, stated: "Impressed with the conviction that the true administration of justice is the firmest pillar of good government, I have considered the first arrangement of the Judicial Department as essential to the happiness of our country and the stability of its political system." In the finest tradition of that excellent advice, we should move forward on what George Washington started out to do—make our courts effective, even-handed agents of justice.

It may be possible that the fear which is rampant in our cities today is the catalyst required to cause our collective efforts to catch fire. The message of the National Commission is not blowing in the wind, it is written on the face of every citizen in this country who thinks he has a better chance of getting jumped in the streets than of getting justice in the courts.

Some of the problems have been defined and overdefined. The battle to overcome these problems will not be won in a day or perhaps even in a decade. Our efforts and concern at improving our system of criminal justice must be matched by efforts and concern at improving our system of social justice. We

cannot overlook the ills of air and water pollution, or of inadequate food and housing for the poor in our cities, or of low-grade education in an era which demands high-grade skills. If you were to mark on a map the areas in our country where there is poor housing, inadequate education, poverty, and crime, you would be pointing to the same place every time.

For this reason, we must help our nation's poor not out of charity, but out of choice; not solely with money, but also with motivation; not because we are afraid of their increasing hostility, but because we are aware of our increasing responsibility. For the real greatness of a nation must be measured against the wealth, not of its richest citizens, but of its poorest.

In closing, may I remind you of the famous colloquy in ancient Athens where an Athenian citizen asked one of the political leaders the same question we are asking here today: "When will there be justice in Athens?" The famous reply: "We will have justice in Athens only when those who have not suffered injustice are as outraged as those who have."

Only a sense of outrage can generate sufficient concern and action to reform our criminal justice system. Let America be the master of outrage by acting on it to secure justice in our courts instead of being the victim of outrage by suffering violence in our streets.

Attachment:

DISTRICT ATTORNEY'S OFFICE,
Philadelphia, Pa., April 30, 1973.

To the Honorable, the Members of the Pennsylvania General Assembly:

With this letter, I am sending on to you copies of two proposed bills.

These proposals relate to procedures on sentencing in criminal cases.

I think the passage of this legislation would be significant in moving us closer to solving the problem of violent crime.

I very much urge your support of these bills.

Sincerely,

ARLEN SPECTER.

SUMMARY OF ATTACHED PROPOSALS ON SENTENCING

In September 1968, this Office suggested to the Task Force on Courts of the Pennsylvania Crime Commission a proposed "Act Permitting Review of Sentences in Criminal Cases." This proposal was subsequently introduced for passage in the State General Assembly in 1969 as Senate Bill 77 and House Bill 2419. The bill remained before the Judiciary Committee of the Senate during 1970 and was reintroduced in 1971.

This proposed Act provided that the Chief Justice of the Supreme Court of Pennsylvania would appoint five judges of the Courts of Common Pleas in Pennsylvania to act as a Special Court of Review on sentences imposed by any Court of Common Pleas in the state. The Act allowed for this appellate review of sentences on the application of either the defendant or the Commonwealth. Its aim was to provide specific guidelines and better uniformity in the sentencing process.

After the decision of the Pennsylvania Supreme Court in *Commonwealth v. Silverman*, 442 Pa. 211 (1971), this Office revised its legislation to reflect the Supreme Court's Opinion. The result was the submission of the Sentencing Review Act of 1972, which was substantially similar to the attached Sentencing Review Act.

This bill would completely revamp the procedures for sentencing criminal defendants by establishing a statewide Sentencing Board comprised of 24 experts from a number of different disciplines. This Board would evaluate and classify the background and psychological condition of each defendant and then more properly dispose of his case. This Board would set the minimum and maximum sentences in any case where a defendant is convicted of a crime punishable by imprisonment in a state penitentiary for a period longer than five years.

A companion bill to this legislation would revoke the right to bail after conviction of certain serious felonies by giving the trial judge the authority to commit the defendant to prison pending the impositions of sentence. This second proposed statute would also allow the court, in any case, to impose sentence immediately upon determination of guilt, so that a convicted defendant, in the discretion of the court, would not have an absolute right to bail pending a separate sentence hearing. This legislation was first proposed for passage in the

General Assembly in 1970 and has been resubmitted by this Office in each subsequent year.

PROPOSED STATUTE FOR IMMEDIATE SENTENCING OR COMMITMENT AFTER CONVICTION

The court may, in its discretion, impose sentence immediately upon a determination of guilt. The imposition of sentence shall not alter the defendant's right to file post-conviction motions as heretofore. The time for appeal shall be computed from the date the court rules on the final post-conviction motion.

After a determination of guilt, the court may, in its discretion, commit the defendant to prison pending the imposition of sentence for the following crimes: murder in the second degree, voluntary manslaughter, involuntary manslaughter, robbery, rape, burglary, kidnapping, mayhem, aggravated assault and battery, assault with intent to kill, breaking and entering with intent to commit a felony, sale of narcotics or dangerous drugs, and larceny.

SENTENCING REVIEW ACT OF 1973

SECTION 1. BOARD ESTABLISHED POWERS AND DUTIES GENERALLY

There shall be and there is hereby established an independent administrative board which shall determine the minimum and maximum limits of imprisonment if not mandatory as provided by law for all persons convicted of a crime and sentenced by any court of this Commonwealth to an indeterminate period of imprisonment longer than five years. The administrative board shall be known as the Pennsylvania Sentencing Board and shall herein be referred to as the "Board".

Subject to the provisions of this act, the Board shall have all the powers and shall perform the duties generally vested in and imposed upon independent administrative boards and commissions by the act, approved the ninth day of April, one thousand nine hundred twenty nine (Pamphlet Laws, one hundred seventy seven, designated as the "Administrative Code of 1929"), and its amendments, and shall be subject to all the provisions of such code which apply generally to independent administrative boards and commissions.

SECTION 2. MEMBERS; APPOINTMENT; TERM; CHAIRMAN; VACANCIES

The Board shall be composed of 24 members, each of whom shall be appointed by the Governor, with the advice and consent of two-thirds of the Senate, for a term of four years and until the appointment and qualification of his successor. However, each of the first twelve members shall be appointed for a six year term. Members shall be eligible for reappointment.

The Chairman of the Board shall be designated from time to time. The Chairman shall be the administrative head of the Board and shall exercise all duties and functions necessary to insure that the responsibilities of the Board are successfully discharged. He shall be the appointing authority for all positions of employment by the Board. During the absence or incapacity of the Chairman, the remaining Board members by majority vote shall designate an acting chairman who shall assume the full duties of Chairman in his absence.

Persons appointed to the Board shall have a broad background in and ability for appraisal of law offenders and the circumstances of the offense for which convicted. Insofar as practicable members shall be selected who have a varied interest in corrections work including but not limited to persons widely experienced in the fields of corrections, sociology, law, law enforcement, and education.

SECTION 3. OFFICE

The principal office of the Board shall be in Harrisburg and the Board shall appoint and employ therein the necessary employees to carry out the functions of this act. The salaries of persons so appointed and employed shall be fixed by the Board. The Board may with the consent of the Governor establish a suitable number of district offices, not to exceed four, to facilitate the exercise of the Board's responsibilities. The Board shall appoint and employ therein the necessary employees to carry out the functions of this act. The Board is hereby authorized and empowered to enter into contracts on behalf of the Commonwealth for such office accommodations, furniture, equipment and supplies as needed to carry out its duties through the Department of Property and Supplies.

SECTION 4. SALARY; EXPENSES

The Chairman of the Board shall receive a salary of eighteen thousand dollars ($18,000) per annum and each of the other members of the Board shall receive a salary of seventeen thousand dollars ($17,000) per annum. Each member of the Board shall receive his actual necessary travelling expenses incurred in the performance of his official duties.

SECTION 5. QUORUM

Except as herein otherwise provided a quorum shall consist of no less than twelve members of the Board.

SECTION 6. OFFICIAL SEAL

The Board shall adopt an official seal by which its acts and proceedings shall be authenticated and of which the courts shall take judicial notice. The certificate of the Chairman of the Board, under the seal of the Board and attested by the secretary, shall be accepted in evidence in any judicial proceeding in any court of this Commonwealth as adequate and sufficient proof of the acts and proceedings of the Board therein certified to.

SECTION 7. ORGANIZATION; SECRETARY

As soon as may be convenient after their appointment the members of the Board shall meet and organize. They shall appoint a secretary, who shall not be a member of the Board who shall hold office at their pleasure, who shall have such powers and perform such duties not inconsistent with any law of this Commonwealth as the Board shall prescribe, and who shall receive such compensation as the Board shall determine in conformity with the rules of the Executive Board. In the absence or incapacity of the secretary to act the Board may designate such other person as it may choose to perform temporarily the duties of secretary.

SECTION 8. INVESTIGATION OR CIRCUMSTANCES OF OFFENSE AND CHARACTER AND HISTORY OF PRISONER; HEARINGS

The Board shall meet at the state correctional institutions or other locations at such times as may be necessary for a full and complete study of the cases of all prisoners whose terms of imprisonment are to be determined by the Board.

For the purposes of determining terms of imprisonment of prisoners the Board may meet in panels. Each panel shall consist of at least three members of the Board.

The panel upon receipt of a prisoner's court records shall set a date for a hearing. The hearing shall be scheduled no later than ninety days after the sentence has been imposed and service of the sentence commenced. The hearing shall take place at a location to be determined by the Board which shall be designed to effect the greatest convenience for all parties concerned.

Ten days notice of the time and location for the hearing shall be given in writing to the prisoner, the prosecuting attorney and the trial judge. The prisoner may be represented by counsel at the hearing. Counsel for either the prisoner or the prosecution may present evidence and may make recommendations. The trial judge may submit his recommendation to the panel in writing prior to the hearing. The proceedings at the hearing shall be stenographically recorded in their entireties. At the termination of the hearing the panel by majority vote shall establish the terms of the prisoner's sentence and shall remit the prisoner to the custody of the Correctional Diagnostic and Classification Center designated by the Commission of Corrections to receive the prisoner.

SECTION 9. COURT TO TRANSMIT RECORDS TO BOARD

It shall be the duty of any court sentencing any person for an indeterminate term greater than five years to furnish the Board, within thirty days of imposition of such sentence, a full and complete copy of the record upon which the sentence was imposed including any notes of testimony which are of record, together with the prior criminal history of the person and any presentence investigation reports or psychiatric reports which may have been prepared. The latter

two reports being confidential shall only be made available to the Board members and counsel for any sentenced person as well as the prosecuting attorney. Upon the Board's determining the terms of imprisonment the record along with the independent findings of the Board shall be transferred to the Board of Parole which shall upon receipt of the record be responsible for its safe-keeping. If prior to the imposition of sentence the Court shall not have ordered a presentence investigation report and a psychiatric evaluation it shall be the duty of said court. The prisoner shall be housed in the appropriate county prison until the and examinations are to be prepared by qualified personnel employed by the court. The prisoner shall be housed in the appropriate county prison until the necessary data for the reports has been collected at which time he shall be transferred to the appropriate state correctional institution. The data must be collected and the prisoner transferred to the state institution within ten (10) days of the date that the sentence is effected.

SECTION 10. COMPUTATION OF MULTIPLE SENTENCES

Whenever a person shall be convicted of more than one crime and where one of the crimes shall be subject to the action of the Board, the Board shall set a maximum limit of imprisonment not greater than the total maximum limits of the sentences imposed and a minimum limit not greater than the total of the minimum limits for the sentence imposed.

SECTION 11. RECORDS TO BE KEPT BY THE BOARD

It shall be the duty of the Board to keep records of all actions of the Board. The Board each year shall submit to the Governor, the Attorney General, and the several District Attorneys a report indicating its action with regard to each prisoner brought before the Board and stating in brief the basis for the action.

SECTION 12. REMOVAL AND SUSPENSION OF EMPLOYEES

No employee of the Board, except the secretary, shall be removed, discharged or reduced in pay or position, except for cause, and only after giving him the reasons therefor in writing and affording him an opportunity to be heard in answer thereto: Provided, however, that an employee may be suspended without pay and without hearing for a period not exceeding thirty days, but the reason or reasons for such suspension shall be given to the employee by the Board in writing: And provided further, that successive suspensions of the same employee under the power hereby granted shall not be made.

SECTION 13. POLITICAL ACTIVITIES OF MEMBERS AND EMPLOYEES

No member of the Board, or officer, clerk or employee thereof, or any person officially connected therewith, shall take any active part in politics or be a member of or delegate or alternate to any political convention or be present at such convention, except in the performance of his official duties hereunder. No member of the Board, officer, clerk or employee thereof, or any person officially connected therewith, shall serve as a member of or attend the meetings of any committee of any political party, or take any part in political management or political campaigns, or use his office to influence political movements, or to influence the action of any other officer, clerk or employee of said Board. No member of the Board, officer, clerk or employee thereof, or any person officially connected therewith, shall in any way or manner interfere with or participate in the conduct of any election or the preparation therefor at the polling place, or with the election officers while counting the votes or returning the ballot boxes, books, papers, election paraphernalia and machinery to the place provided by law, or be within any polling place, save only for the purpose of voting as speedily as it reasonably can be done, or be otherwise within fifty feet thereof, except for purposes of ordinary travel or residence during the period of time beginning with one hour preceding the opening of the polls for holding the election and ending with the time when the election officers shall have finished counting the votes and have left the polling place. No member of the Board, officer, clerk or employee thereof, or any person officially connected therewith, shall directly or indirectly make or give, demand or solicit, or be in any manner concerned in making, giving, demanding, soliciting or receiving any assessments, subscriptions or contributions, whether voluntary or involuntary, to any political party or for any political purpose whatsoever. Any person or persons who shall violate

any of the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, be punished by a fine not exceeding five hundred dollars ($500) and imprisonment not exceeding one year, either or both, in the discretion of the court, and in addition thereto, shall forfeit his office or employment, as the case may be, and shall not thereafter be appointed or employed by the Board in any position or capacity whatsoever. It shall be the duty of the Board to dismiss from his office or employment any officer, clerk or employee thereof who shall violate this section.

SECTION 14. OTHER OFFICE, BUSINESS OR EMPLOYMENT; REMOVAL OR SUSPENSION

The members of the Board shall not hold any other public office or employment, nor engage in any business, profession or employment during their terms of service as members thereof, and shall hold their offices during the terms for which they shall have been appointed, if they shall so long behave themselves well. A member of the Board may be removed by the Governor, by and with the advice and consent of two-thirds of all the members of the Senate. During a recess of the Senate the Governor may suspend a member of the Board for cause, and before suspension he shall furnish to such member a statement in writing of the reasons for his proposed suspension, and such suspension shall operate and be effective only until the adjournment of the next session of the Senate following such suspension.

SECTION 15. USE OF FACILITIES

The Board in the performance of its duties shall utilize as needed the resources of the Board of Parole, the Department of Welfare and the diagnostic and treatment facilities of the state correctional institutions.

SECTION 16. LEGISLATIVE PURPOSE

It shall be the purpose of this Board in the exercise of its duties to establish terms of imprisonment which both reflect consideration of the protection of society as well as the rehabilitation of the prisoner. Prior to fixing the terms of imprisonment the Board shall undertake a complete study of the circumstances of the crime and the complete history of the prisoner.

SECTION 17. SENTENCE FOR INDEFINITE TERM; RELEASE ON PAROLE; RIGHT OF COMMUTATION

Whenever any person, convicted in any court of this Commonwealth of any crime punishable by imprisonment in a State Penitentiary for a period not longer than five years, shall be sentenced to imprisonment therefor in any penitentiary or other institution of this State, or in any county or municipal institution, the court, instead of pronouncing upon such convict a definite or fixed term of imprisonment, shall pronounce upon such convict a sentence of imprisonment for an indefinite term: Stating in such sentence the minimum and maximum limits thereof; and the maximum limit thereof shall never exceed the maximum time now or hereafter prescribed as a penalty for such offense; and the minimum limit shall never exceed one-half of the maximum sentence prescribed by any court.

Whenever any person is convicted in any court of this Commonwealth of any crime punishable by imprisonment in a State penitentiary for a period longer than five years as prescribed by law, the Court shall, unless such convicted person is granted a new trial or if sentence is suspended, sentence the person to be imprisoned in a state correctional institution but the court shall not set the minimum and maximum limits thereof unless a mandatory minimum or maximum limit is specifically prescribed by law. The minimum and maximum limits shall be set by the Pennsylvania Sentencing Board within 90 days of the execution of sentence unless mandatory minimum or maximum is specifically prescribed by law, but in any event the maximum limit shall not be greater than that authorized by law and the minimum shall not be greater than half the maximum limit set by the Board.

Whenever any person is convicted of any crime punishable by simple imprisonment, the court may, in its discretion, pronounce a sentence either for a fixed term or for an indefinite term, as may seem proper under the circumstances of the case, but in no case to exceed the maximum term prescribed by law as a penalty for such offense:

Provided that nothing herein contained shall be construed to derogate from the power of the judges of the courts of quarter sessions and of the courts of oyer and terminer, or other court of record having jurisdiction, of the several judicial districts of the Commonwealth, after due inquiry, to release on parole any convict confined in the county jail, house of correction, or workhouse of their respective districts, as provided in section one of an act, approved the nineteenth day of June, one thousand nine hundred and eleven (Pamphlet Laws, one thousand fifty-nine), entitled "An act extending the powers of judges of courts of quarter sessions and of oyer and terminer, in relation to releasing prisoners in jails and workhouses on parole," its amendments and for an indeterminate term not longer than five years shall be entitled to any benefits under the act, entitled "An act providing for the commutation of sentences for good behavior of convicts in prisons, penitentiaries, workhouses, and county jails in this State, and regulations governing the same," approved the eleventh day of May, Anno Domini one thousand nine hundred and one;

And provided further, that, before any parole shall be granted pursuant to the terms hereof, notice of an intention so to do shall be given, at least ten days prior thereto, by the Board of prison inspectors to the judge of the county who imposed the sentence, if he be still in office, but otherwise to the judge or judges of the court of oyer and terminer or the court of quarter sessions then in session, or if there be no current term, then to the next ensuing term thereof, and having jurisdiction of cases of the like character. Similar notice shall also be given to the District Attorney then in office in said county.

Chairman PEPPER. Mr. Counsel, would you call the next witness.

Mr. NOLDE. Mr. Justice Ross, would you come forward, please.

Mr. Rangel would like to introduce the witness, Mr. Chairman.

Mr. RANGEL. Yes, Mr. Chairman.

I asked for the opportunity to introduce to this committee Mr. Justice Ross, who has 20 years of outstanding public services to the city and State of New York, including experience as a member of the New York State Assembly. Mr. Justice Ross is a member and majority leader of the New York City Council of Justices of the supreme court, administrative justice of the criminal court system, and now is the administrative justice of the supreme court.

Not only has he made a valuable contribution in both the judicial and legislative areas he has served. I think Justice Ross is best known in the city and State of New York as being a compassionate, understanding individual, and it is indeed a pleasure for me to have an opportunity to be here on this committee as he tries to share with us the policies that have led to his great success, as well as the frustrations he has had in our court system. And, certainly, since he has been administrator, we have had more successes than we have had in the past.

Chairman PEPPER. Judge Ross, we are very much pleased to have you here. Thank you for coming.

STATEMENT OF HON. DAVID ROSS, ADMINISTRATIVE JUDGE, CRIMINAL COURT OF THE CITY OF NEW YORK; ACCOMPANIED BY LESTER GOODCHILD, EXECUTIVE OFFICER

Judge Ross. Thank you very much.

Congressman Rangel, thank you for your very kind remarks, and honorable members of this committee.

On January 1 of 1971, by direction of my superiors, I took over the administration of the criminal court of the city of New York.

Now, that court is part of the unified court system of the State. It operates in the five counties comprising the city. We are authorized

98 judges and approximately 1,100 employees, just about all of whom, with the exception of perhaps two, are civil service.

The gentleman to my left, Mr. Lester Goodchild, who is from the court system, is my executive officer and directly responsible for seeing to it that all of my administrative mandates and memorandums are carried out.

That court, gentlemen, handles every single arrest that takes place in the city of New York, whether it be as insignificant as smoking in the subway—and believe me, we get those; I don't know why, but we do—right up to the most atrocious robberies, rapes, and homicides. If the matter remains a misdemeanor, then it stays in that court for its ultimate disposition, whether it be by plea, trial, acquittal, whatever the facts happen to be.

If it is a felony, we have the responsibility, unless, of course, defense waives a hearing to send the case directly to the grand jury or conducting a felony hearing on it. Should the matter survive the hearing as a felony, it then goes to the grand jury.

From there it goes, if there is an indictment returned, to the criminal branch of the supreme court and, as of March—as of March 5 of this year—I was again designated by Mr. Justice Stevens, our presiding justice of our appellate division, to take over the administration of the criminal branch of the supreme court in addition to other duties.

On January 1, 1971, the criminal court of the city of New York had a backlog of approximately 60,000 cases. The reason I say 60,000 is that we have no conception of what we had there. So we had a hand count, and when we reached 60,000, gentlemen, in all honesty, I directed them to stop counting because I went into shock.

We now average a caseload of about 16,000 cases per month, which is less than 1 month's intake. We average on a monthly basis from a low of 15,000 arrests to a high of about 20,000 arrests. Those judges sit in 11 different buildings around the city, and since the Supreme Court of the United States came down with the last directive on jury trials, they conduct jury trials.

And today I can say without fear of contradiction by anyone, the largest criminal court—and I don't say this as a matter of pride; I say it as a matter of volume—is totally current.

The budget for this court, gentlemen, for the city of New York, is $14.8 million. We return to the city of New York, in fines, the sum of $11 million-plus. I will refer to an analysis that was done of our court by the accounting firm of Peat, Marwick & Mitchell, not by our request, not that we can afford them, but by the request of the Economic Development Council of the City of New York, and they have come to the conclusion that our increased productivity has saved the city of New York somewhere in the nature of $6.5 million per year as a continuing savings.

So if you take that, plus the fines we have been delivering back to the city treasury, we don't cost the city a dime to operate. We are not in the business of making money, but, in fact, the city has been making a profit on us. I haven't been successful, gentleman, in convincing the city fathers to return that money into the court for its own operation.

In addition, there was a raging battle for about a year in New York City—I am sure Congressman Rangel is very well aware of it as he was involved in it—whether we should or should not build additional

prison facilities within the city. The criminal justice coordinating counsel and this accounting firm came to the conclusion that our increased productivity has resulted in a one-shot savings to the city in capital funds of $48 million, the price of one prison.

Gentlemen, what I am talking about here is approximately $45,000–to $50,000 per bed, and the most expensive construction in the world.

So I think before we jump to build these great prison fortresses and take in inexperienced youngsters and produce real hard-nosed tough guys, that we have got to think in terms of using this money more intelligently. The correctional system, gentlemen—I can only speak for the State of New York—doesn't work. It doesn't correct; it doesn't rehabilitate.

Mr. Chairman. I was listening to your questions. Do we get them back? Absolutely. It gets to the point where sometimes older judges, who have been around a lot longer than I, have started to recognize some defendants they had 6 and 8 years ago. But some of the nonsense you contend with is. "Send the man to jail in my State and we will teach him to be a barber." And up until a couple of years ago, he couldn't get a license to be a barber when he came out of jail.

We put him to work manufacturing license plates for automobiles. Well, there is no such occupation in civil life. He manufactures on the inside, but once he gets outside, we unfortunately, get him on another charge.

We can teach him to be a carpenter, plumber, electrician, but he can't get a union card. And if he can't get a union card, you can't be a carpenter, plumber, or electrician in my town because they will shut the job down. So I think we are all responsible. When I say "we," I mean our entire society.

I think what we have been most responsible for, what I consider the biggest sin of all: The sin of nonfeasance. We have ignored the problem of rehabilitation. We have ignored it because the only people concerned other than those in the field as professionals would be the mother or father of the defendant, or the victim who was injured. But the individual families who are not victims or a defendant, they weren't interested.

You know, narcotics is a new problem in the last several years in the United States. Narcotics has been a problem to me, gentlemen, since 1951 when I was first elected to the State legislature, because I represented the southeastern portion of Bronx County, which was a very low-income area then and is still a low-income area now. Narcotics was a problem there in 1951.

As Congressman Rangel would recall, we couldn't sell that to anyone until it became a problem in the suburban areas. Narcotics, so far as using is concerned, is not a problem of the ghetto alone; it is a universal problem. Then, for the first time, government, and professionals, got involved.

In our court, gentlemen, in January 1971, when I took over, we had in detention about 3,500 prisoners awaiting disposition. As of January 1973, we had only 1,315 defendants awaiting trial.

Chairman Pepper. Excuse me, Judge. We will have to excuse ourselves and go over to the floor and vote. We will be back in a few minutes.

[A brief recess was taken.]

Chairman PEPPER. The committee will come to order, please.

Judge, you may proceed.

Judge Ross. Thank you.

Just to briefly finish on my statistics and then perhaps, if I may, try to explain to you how we think we have accomplished some of this.

In January of 1971 the average duration of a case in the criminal court of the city of New York, from the moment of arraignment through disposition was 8.91 weeks, approximately 9 weeks. As of the close of January 1973 the average duration was 3.3 weeks. We have cut that time by two-thirds.

Now, in order to accomplish that we had to reduce the inordinate delay that is automatically built in by long adjournments. In January of 1971 the average adjournment in my court was 4.45 weeks. We have cut that to 1.38 weeks. The average adjournment. That is bail and jail cases both now average 1.38 weeks.

Many things had to be done to reach this point and the first thing I decided to do——

Chairman PEPPER. Excuse me. What was that: 1.38?

Judge Ross. 1.38 weeks is now the average length of adjournment granted in any court.

Chairman PEPPER. What do you mean by "adjournment"? You mean adjournment of cases?

Judge Ross. Individual matters, the lawyer isn't ready, the district attorney isn't ready.

Chairman PEPPER. I see.

Judge Ross. Or counsel hasn't been paid; he has a missing witness. One thing we told the lawyers immediately, "Gentlemen, you will have to get your fees up front. Mr. Green, as a missing witness, is no longer an acceptable excuse in the criminal court of the city of New York."

The lawyers screamed, the district attorney screamed. We did it and today they tell us it is fine. It is a question of turning people around after a lifetime of habits which aren't always good habits.

It wasn't really that difficult, insofar as the professionals in the profession are concerned. I find lawyers are very adaptable people. You know, we learn the law, we think we are experts, and the next day the U.S. Supreme Court changes it all. We don't get hysterical. We may be critical, but that is our privilege. But we conform and, after all, judges are just lawyers, too, who made it.

The first thing that I noticed was that all of the ancillary services—and when I speak of the criminal justice system ancillary services, I am referring to the district attorneys, defense counsel, Legal Aid Society, police departments, the department of probation, the department of corrections, the psychiatric hospitals where our examinations are conducted—all operated as if the other agencies didn't exist. If any one of these agencies fails to fulfill its obligation, the court must falter. If the department of corrections cannot deliver a prisoner to my judge on time, we can't move his case.

If the district attorney isn't prepared, he won't move the case. If the defense counsel isn't prepared, he wants an adjournment.

I then convinced my judges that before I had a right to demand better service from the ancillary services, they had to first render better service. I made them a promise, which I have kept, that should

the judge in any instance be criticized and it is correct, we will make a change. If the criticism is unjustified, I will personally reply for him.

I have done that. You see, it is very easy for a reporter to walk into a courtroom at 10:30 in the morning and if a bench is empty assume the judge isn't working. The fact of the matter may be he was there at 9:30 a.m. but the prisoners haven't been delivered. Counsel hasn't shown. The Bellevue report, psychiatric report, isn't back. If it is a narcotics case, the police laboratory hasn't finished their analysis.

I decided that none of these would be acceptable excuses and I made my judges give me their word—and they did—they would mount the bench at 9:30 a.m. It was my responsibility to get the other ancillary services there. We met with the ancillary services, individually and collectively, and we let them know in no uncertain terms what they had to expect of me but certainly what I demanded of them. Again, they were professionals, they screamed a little bit; but we get our prisoners, basically, on time. In fact, I get a report every morning from all 65 of my trial parts in the criminal court and all 42 of my trial parts in the supreme court, setting forth the time when the first prisoner was available to the court.

And in any instance in which it is beyond 9:30 a.m., a copy of that goes directly with a note from me to the commissioner of corrections.

In order to conform the profession, we instituted what we call, for want of a better term, "sanctions." I had our appellate division, I needed their authority for it, and they gave it to me. Under our sanctions we recommend to the judge that if a defendant is incarcerated, and a request is made for an adjournment, a proper request, that that judge think in terms of an adjournment not to exceed 5 days. After all, this is an incarcerated defendant and he might be innocent. As of this moment there has been no determination of guilt or innocence. And he certainly has the presumption we all have in America.

We further pointed out to him, if this defendant is incarcerated in excess of 12 days, that he think in terms of 2 days as a sufficient adjournment. In a bail case, we suggest he think in terms of a maximum of 2 weeks.

We then instructed the judge, in every instance where an attorney doesn't show, or is late, and for want of an acceptable excuse—and we list the acceptable excuses: Illness; death in the family; police officer, for example on another arrest—but for want of an acceptable excuse, if a lawyer doesn't appear he receives a letter from one of my supervising judges. I appointed one in each county as my direct representative, and the first letter is a very gentle letter informing him of my great desire to bring the criminal justice system into the 20th century. We need his cooperation as an officer of the court; we are sure there is an explanation as to why he didn't appear. But the last paragraph requires him to respond as to the reasons why.

And invariably, as we predicted, the letter would come back, "Sorry about that, Judge. My secretary inadvertently entered it on the wrong page."

I wasn't shocked. I used that excuse 25 years ago, for want of a better one. But the second time it doesn't happen. No lawyer wants to receive a letter from a judge which might be preparatory to a disciplinary proceeding.

Now, we are not in the business of hurting lawyers. We are lawyers. I made my livelihood as a lawyer for a long time. And that hasn't arisen, with the exception of two or three, who perhaps shouldn't be practicing in our town because of their personal problems.

You get total compliance. If that lawyer is going to be 15 minutes late, he makes sure the clerk in that part gets a message from him. So at least when the calendar is called, the clerk is in position to say, "Your Honor, Counselor Jones called. Would you please hold the case for a second call."

I also noticed at the very inception of my administration there that, at my arraignment parts, a tremendous amount of cases were being dismissed on the motion of the district attorney. It sounded something like—like a liturgy. You couldn't understand the first few lines, but the last line said, "Therefore, I move to dismiss."

I didn't know what was going on, so I inquired. These are called in New York City, "343's," because the form is No. 343. This would be an instance in which a police officer makes an arrest, walks into the district attorney's complaint room, and as he walks in—I am sure Congressman Rangel is way ahead of me because he has been exposed to it—he calls out to the district attorney, "I have a 343."

The arresting officer is already telling the district attorney "I have an arrest that is not worthy of prosecution."

Now, of course, the question is, Why did he make the arrest? A very simple answer. He gets credit for arrests, not for convictions. I guess in that numbers game you play you need x amount of "collars" to use the police parlance. Otherwise, he hasn't done his function.

The present commissioner and I have gone around and around on that one many a time. Give me one peddler of heroin in kilo lots as against a thousand nickel-bag junkies. But to get that one felon, the policeman who is working that case can't be bringing in his 20 or 30 arrests a month. That case may take a year of high-class investigation. I say it is worth it. We know it is worth it because, in the last few months, the last year in New York City, we have had periods of heroin drying up on the streets because 6 months prior the Federal task force and local combined task force, has made major arrests of large volumes of heroin.

It takes a few months to have an effect in the street. That is why, Congressman Rangel, you may have read in the paper a few months ago that cocaine and methadone became the popular item in Queens County because apparently the big haul that was destined to go to Queens County, whatever the operation was by the people doing it, was intercepted by the task force. It was a multikilo lot.

I then sat down with the five district attorneys and told them they were wasting too much of my court's time on this trivia. I demanded that they stop going through all of the administration of a 343, where the policeman says there is no case, prepare the same affidavits and the same complaints as you would for the most troublesome crime, then docket it in my court, and then at the arraignment, stand up and move to dismiss on the grounds there isn't sufficient evidence.

Well, the district attorneys were a little leary about that one. I then went to the appellate division and received a directive from the appellate division that the district attorneys are to fulfill their constitutional obligations right in the complaint room and refuse to honor

the arrest. If it is a 343, it is out. That took approximately 10 percent of my caseload out of my arraignment part.

When you are talking in terms of 250,000 arrests, that is a lot of work. What I was trying to do was reach the important cases.

We then instituted a practice which we called "front loading." As I said when I first started, we get everything from smoking on the subway to homicide. A good experienced judge—and we developed a team of what I call "arraignment judges," and it is not instant expertise; it is a lifetime of experience—can look at a set of papers and he knows that 6 weeks from now, back in the trial part, this defendant is going to plead and probably get 6 months because that is all it is worth; or 3 months, or a year, or probation.

Now, if those are the facts, I want my judges doing that right at the original arraignment and save all of the bookkeeping—perhaps the incarceration of the defendant who shouldn't be incarcerated—save all of the work and administration that goes in carrying calendars from day to day, and have the same end result.

These are not dismissals we are talking about, these are convictions. In the city of New York, approximately one-third of our entire calendar in the criminal court is disposed of at the first appearance, and properly so. These are the $2 fine cases, $25 fine cases, 30-day sentences, the probation, the withdrawal of complaints by getting people to shake hands, because not all persons coming into my system are criminals. Some are next-door neighbors. Someone makes a complaint because his neighbor plays his stereo too loud. He receives a summons but we have to treat him with the same dignity as any other person who comes to my court. He is entitled to it, but there is no reason to drag those cases through our system for months at a time.

So my arraignment judge disposes of it up front. Incidentally, I was very interested in what the last speaker said. I didn't hear him out. In New York, a judge cannot reduce a charge without the district attorney's consent. So if a defendant is brought in under a complaint that reads as felonious assault, for example, my judge can't reduce that to a simple assault, a misdemeanor, in the absence of a hearing unless the district attorney consents. So we have this balance and counterbalance.

The district attorney isn't interested in giving away his good cases. He wants his wins. We judges couldn't care less what the end result is, whether it is conviction or acquittal. We are referees. We don't win when the district attorney gets a conviction, or lose when there is an acquittal. That is not our function. A lot of people, including the news media, seem to forget that.

I have been asked to respond to a policeman's protest; that we weren't supporting the police. I told them it is not our function to support the police; not as a judge. As a private citizen, that is another story. As a judge I am there to referee the ball game. If I see a foul, I blow the whistle, and if the home team doesn't like it they can "boo" me and call me dirty names; but that is what my responsibility is.

We are getting the police a little trained to that now. They found out, as Congressman Rangel knows, they get instant calls. They had better be right before they criticize. Because it is historical throughout the country, that the judiciary doesn't answer back. We don't get involved in public controversy, and we shouldn't. But when Judge

Stevens asked me 2½ years ago to take over the criminal court, I only had one condition that I asked him for. I said, "Harold, if my court is criticized unfairly, I want the right to respond and tell the truth."

Now, courts have not done this. As a result, the story is always a distorted story because if it is one sided, it is unilateral, it can't be factually correct. Certainly not the way I have been brought up.

Now, the sanctions have worked. The front loading has worked. Then we came to the problem of how do we reduce the time between arraignment and disposition. It is in the system. I listened to the previous speaker talking about getting the cases before the right judge. For 2½ years in New York City, all of my parts have been what we call "all purpose parts," which means when that case goes before that judge, and we pull them out like a jury box wheel, the first case out goes to part 1, 2, 3. Each one gets his calendar. And that case stays with that judge until that case is completed.

A defendant has motions. He can make any application he wishes and we will handle it for him right up front. We will take a court trial for him in our arraignment part, in our calendar part.

If he asks for a hearing, that will be conducted by the judge, that same judge. If it goes to trial, it will be before that same judge. We have done away with judge shopping in the criminal court in the city of New York because no matter how many times you adjourn that case you will come back and find the same judge sitting there. So you can't look for the tough guy, the easy guy, depending on what side you are on.

One thing I would like to indicate is that judge shopping is not unique to the defense counsel. Prosecutors are great at that, too. It is not a unilateral thing. We get it on both sides. We have done away with that in the criminal court of the city of New York. Once that case is in that part that lawyer has to anticipate, no matter when he comes back, that same judge is sitting. So if there is to be a proper disposition, you might as well do it now, because you are not going to get a better break or the district attorney won't get a tougher judge at a later date. Judge shopping doesn't work in the criminal court.

Now, we found out we were short of courtrooms. Incidentally, 50 percent of all of my courtrooms are inadequate. They have no holding facilities for prisoners. These courtrooms are old. They were built at a time when we didn't have this great volume. Many of the courtrooms we occupy now were originally intended for civil parts. If you haven't got a holding pen, that means that my court officer has to bring a prisoner from a different part of the building, frequently through the public corridors.

It certainly isn't the best type of security; it certainly is a tremendous drain on an already understaffed personnel. Security is a terrible problem in our courts.

I am short right now, by the city figures, 70 court officers—70. That is their figure. I reject that. By my figures, I am short almost 150, but I can't get the 70, either. I am running courtrooms, trying incarcerated defendants, with two court officers. It can't be done. It cannot be done. There are a minimum of five court officers to every courtroom required where you have a single defendant.

There must be one in the form of a bridge man. If you were the presiding justice, he would be between you and the defendant. He also

hands the evidence to the witness. There has got to be one seated behind the—I am the defendant; I am incarcerated. I may just be a tough guy. That is No. 2.

There has got to be one at that rail that separates the public part of the courtroom from the courtroom itself. There has got to be one to walk the aisle where the public now sits and participates. And what I mean by "participates," when I was a young lawyer, after the judge said, "Quiet, gentlemen," it got quiet. Today you might have an epithet.

There is one or two things he can do. He can say, "Arrest that man," and 40 men stand up in the courtroom. Because it has now become what the defendants like to refer to as a "political trial." He has got his followers here and I have two court officers. I learned a long time ago you don't commit your troops if you know you can't manage the situation. I have two men. They can't handle 40. I can't push a buzzer and a flying squad of reserves come running in. I have no reserves.

And the fifth one must be at that door, both to keep people out and to keep people in. That is with one defendant. We have multiple defendants. I have trials with four and five incarcerated defendants. Obviously, you need more court officers, and on top of this, my court officers now take this defendant, handcuff him, walk him through public corridors and up steps and back to a correctional facility and bring the next prisoner down.

It is the most atrocious, most dangerous situation. We have been fortunate, but we have daily incidents.

One of my court officers, 2 weeks ago, in Bronx County, had his wrist broken while he and another court officer were escorting a defendant who had just been sentenced. Five of the defendant's friends were out in the corridors. Someone shouted, "Let's free Jose," and so my court officer was trampled in the rush.

If it weren't for the fact that they were just in front of the district attorney's office, where his detective squad came to their assistance, God knows, the fellow may have been shot dead. One of my men suffered a broken wrist.

The Government has no right to ask me to have my uniformed force escort incarcerated defendants through public corridors. There should be a door there that takes them to a holding pen. Fifty percent of my courtrooms are like that.

But I need more courtrooms. I don't know how long it takes the Government to build a courtroom in Washington, but I know how long it takes in New York City, and I would hate to stand on one foot that long.

I learned there are two legal requirements in this State for a court to be a courtroom. One, obviously, public access, and the second requirement, there has to be a sign up there that says, "In God we trust." Those are the two legal requirements.

We called the carpenters and asked them to build judges' benches with casters and they folded up like a child's playpen. I hate to say that, speaking about a judge's bench, but that is the way it folds up. We have a portable jury platform with casters and a rail, and we have a nice little podium effect for the lawyer to put his papers down.

Then we went scouting for rooms. And we found a couple of rooms that could hold 40 or 50 people. We made access to the public corridor,

we put our benches in, and our sign on the wall and ran courtrooms there.

It is not in the best interest of the image of justice. I would love to have all beautiful courtrooms. I don't have them. And in the entire city of New York, the entire five counties, the only decent building I have is in Queens County, and that is because it is the newest. Brooklyn is a disaster. I have no holding pens there. The building where I maintain my own office in New York County, at 100 Center Street, is not a courthouse; that is a misnomer. I share it with the corrections department, district attorneys, probation, with computer operators. Who else have we got there? It is not a courthouse.

In spite of all that, the 98 judges I am authorized—incidentally, I never have more than 95 because the appointing authority, for reasons best known to him, always holds back a few. It really isn't the true picture because those judges and the nonjudicial personnel have done a heroic job. Without them, it couldn't have been done. But right now, I have 15 of my criminal court judges on assignment to the supreme court as acting supreme court justices.

I listened to all kinds of recommendations. I want you to know that in New York City, my court works 7 days and 7 nights a week. When I first took over, we had a night and weekend court in New York County which also serviced Bronx County, and we had a night court in Brooklyn County which also serviced Queens County. It was a disaster.

If a policeman made an arrest in the Bronx at 9 o'clock in the evening, by the time he booked his defendant and got a complaint drawn and brought him down to Manhattan, it was 1 o'clock in the morning, and the court had just recessed for the night.

I applied for a Federal grant and received a grant, for which I want to thank you gentlemen, with which we opened night and weekend court in Bronx County and Queens County. So we now have night court working in four out of five counties. Staten Island doesn't require it because their volume is too low.

The prisoners aren't hauled long trips by vans. I don't know what we save the police department. They are not anxious to discuss it, but I do know we did away with about 15 of their vans, and 40 or 50 of the escort officers. As for quality of justice, there is no way I know how to put a dollar sign on the quality of justice.

A person who has to face the judge in the evening in Bronx County, from 6 p.m. to 1 a.m., has a judge there. The same in Queens, Manhattan, Brooklyn.

Now, in most jurisdictions in my own State, you get arrested on a Friday afternoon, you may sit until Monday morning before you see a judge. It may very well be a trivial, insignificant matter in which there was no right to incarcerate the person in the first place. Of course, there is always the risk. I say "risk" in quotes from the police viewpoint.

We may have an innocent person here. And to a person who isn't a hardened jailbird, those are not nice places to spend a couple of nights. They are terrible places.

We keep our court open 7 days and nights. My arraignment parts are working Christmas Day, July 4th, you name it. There is no holiday in those arraignment parts. So any person arrested is brought to my arraignment part which is going from 9:30 a.m. until 1 a.m., every

person arrested on any day of the year, the police have no excuse for not bringing him in for speedy arraignment.

You can't use the excuse that this is Christmas, there are no judges. Nonsense. My arraignment parts work.

It becomes more difficult as I send more of my judges to the supreme court to use our methods up there because when I first took over the average judge—everyone—had to pull an assignment at night or weekends. It is not a desired assignment, obviously. They were averaging night and weekend assignments about 1½ times per year. We are up to about four now. We are now up to four times a year. I don't think they like it; I haven't heard any strenuous complaints because they get answers when they complain.

We have very few judges in my State—perhaps it is different in Florida—that were drafted for the bench. We have no difficulty in finding volunteers who want to be judges.

One thing I know, and I said this publicly, in our operation in New York City the day when a lawyer retired by going on the bench is gone. I don't care how hard he practices, how hard he worked at his practice. If he comes into our system today he is going to earn his bread. He is going to work, and after awhile they love it. Because people like to have a sense of accomplishment.

Now, one thing that we must do, I think, in every part of the judicial system, and we are doing it with more success, is have regular meetings with the court's ancillary services. God knows I hate all of the appointments I have because they take me from my office most of the time, but certain meetings must be held with the five district attorneys I have to deal with, the Legal Aid Society, police department, corrections department, mayor's office, because the mayor, incidentally, is the appointing authority for the judges of the court I supervise, where I administer, and the criminal court and supreme court, the appellate division, which is our superior judges, the judicial conference, which is the statewide umbrella over all of the courts in our State and, of course, last and most important and where we have failed in the past, is the bureau of the budget.

But we meet and meet constantly. We scream at each other. We tell them wherein they fell down last month. They tell us wherein we fell down last month, and they are not always wrong and I am not always right. But we have an onging continuing dialog where everyone must pick up their load. The minute they don't, they hear from me. And, believe me, the minute one of my judges doesn't, I hear about it. Because they don't let me get away with it. And the judge hears about it.

I must say, and say it publicly and on the record, that complaints about our judges have become quite scarce because our judges are producing.

That is about as brief as I could make it. I do have reports if the committee wants them. I have our first annual report which tells, in effect, exactly what we did and how. I have my second report, for the 9 months of 1972—I haven't completed the last 3 months of 1972. I have the Rand Institute report, which I think might be of particular interest to you gentlemen because my night court being federally funded, the State of New York employed Rand to analyze and survey and report, evaluate the night court operation.

Their evaluation speaks for itself. I couldn't have written a better one myself.

But I think I would like to point out here that our operation, by Rand computation, saved 30,000 police appearances in the period of time they evaluated. Roughly, that is worth about a million dollars. We are talking in terms of about $30 or $35 in cost per appearance, besides freeing police from court duty back to street duty.

Now, it is not the million I am interested in; I am interested in the fact I have 30,000 saved appearances when, in theory, and I hope in practice, the patrolman is out in the street where he belongs rather than sitting around warming the bench in any courtroom. We are doing well in the criminal court and we did it, all of these things I am talking about, for very little additional cost to the community.

I intend to address myself to the same in the supreme court. There is only one way to cut into the problem, and, I don't believe it is in the severity of a sentence.

Sure, there may be some individual cases where the fellow says, "I won't take the gun because if I kill someone I will be executed or I will get a life sentence," but one thing I have learned and I am quite certain of, to move this system into the 20th century, you don't do it by making the sentence tougher and tougher because our volume doesn't decrease.

There is one way you must do it. From the moment of arraignment to the moment of disposition we have to make that period shorter, shorter, shorter, and shorter. The magic words in the trial part, are "Gentlemen, select the jury." You get more requests from the defendant for a conference with the district attorney and the judge, for the purpose of disposing of the matter by other than trial, by plea bargaining, if you will, when you say, "Gentlemen, select the jury."

Those are the magic words, the moment of truth. The smart district attorney then says, "Counsel, we will pick a jury; my offer is withdrawn."

If there is some conversation, we may not know about it. You may have offered them a reduced charge which may have been fair; I don't know. But once you say, "Gentlemen, select the jury," and when you get to that point, you have to cut the period down, you have to reduce the adjournments. You have to make people ready. Under my sanction, if the district attorney isn't ready at the exact time and doesn't have an adequate, acceptable excuse, I will dismiss his case. I get no kickbacks because when he goes back to his bureau chief, or the district attorney, and he says, "Ross just threw my case out." The district attorney will invariably respond to his assistant: "Good; next time be ready."

Chairman Pepper. May I interrupt?

Judge Ross. Surely.

Chairman Pepper. How do your courts select the jury? Do they do what they do in some cases, they take a month or two to select a jury?

Judge Ross. Senator, one of the biggest problems I have in the supreme court—I don't have that in the criminal court—is the voir dire of the jury. I have been pleading with the State legislature to turn the voir dire over to the court.

Now, we recently finished a case that made all of the newspapers up in New York County, in which it took 7 weeks to select the jury and 5 weeks for the trial. My experience as a trial justice before I left the trial bench is that in homicide cases, for example, or major felonies, robberies, if the fellow has a bad record and a conviction going back 20 years, perhaps more, he may be a consistent felony and offender facing a life sentence. If it is a month's trial, you can be sure 2 weeks was spent voir-diring the jury.

We have a multitude of judges in New York who can voir dire a jury in 1 day flat and get you a totally honest and honorable and impartial jury. But lawyers—and I love them, I am a lawyer—do not question jurors for the purpose of obtaining an unbiased juror. Both sides hope to find someone partial toward their own side.

The district attorney wants a real strong "law-and-order" man; the defense counsel wants a socially minded person who may weep, "Yes, he did it, but he is a kid; he is only 39 years old," you know. I don't hate lawyers for it, believe me. I have done it thousands of times in my life. But it has gotten to the point where I could increase my actual trial time by about 30 to 35 percent if they would let us voir dire the jury.

The objections to the voir dire I think, are incorrect. I think they are based upon an absence of facts. But most lawyers, and God knows I love them, they think they win their case after the selection of the jury. I don't think it is true.

The Governor, I understand, has introduced a bill this year, but he did last year, too, and it didn't prevail. That was in the criminal procedure law as amended in the State of New York, but before it became effective, the legislature deleted it and turned it back to counsel. I could increase bench time, trial time, on the important felonies by about a third without adding a single soul, because it would be the same court, same judge, and same court personnel and we wouldn't have that inordinate delay that takes place in the selection of the jury.

This is something that the States will have to address themselves to. You can't do it at the Federal level and it has got to come from the State legislatures, as far as my court is concerned. I don't have high hopes for it.

Chairman Pepper. Judge, you have indicated an opinion that Justice Tom Clark imparts to me, which I think he has publicly expressed on many occasions, that in order to expedite the disposition of cases you get better results by having effective administration, such as you have exhibited, than you do by just adding on more judges.

Judge Ross. That is one of the mistakes many people are making in the criminal justice system. That includes some of my brethern on the bench. There are areas in which I could use a couple of judges, but more and more trial judges is not the solution; and let me tell you why in simple arithmetic.

In the area where I serve, Manhattan and Bronx, where I have the supreme court criminal branch, we have a backlog of about 8,000 felony cases. That is too much, much too much. If I were to add one trial part, we can average, with the average trial justice, about 20 trials a year.

Chairman Pepper. How many?

Judge Ross. About 20. Selection of jury, et cetera, et cetera, et cetera. A real speed demon will get 30. So I put a speed demon in there, I put

five in there. That is 150 more trials. That doesn't even put a scratch on the 8,000. What has got to be done is that the courts have got to come into the 20th century on administration. What has got to be done is that the executive branch and legislative branch have got to give us the capacity.

Now, what I am talking about in capacity, I learned in high school there are three equal branches of Government. That is really not so. That is nonsense. I speak as a man who spent most of his adult life in legislative chambers as a legislator. The executive and the legislative branch control the budget; therefore, they are a little bit more equal than the courts. Don't misunderstand me. I don't want to control budgets, I have had enough of that for one lifetime.

But I can't go hat-in-hand every year pleading for the right to pay my men 1 hour overtime, because they won't give it to me. The fallacy is when they add up that overtime for the policemen and other uniform forces of the city—corrections officers and probation officers—then give me the capacity to work that man that extra hour. My judges don't get overtime. This came to a head when one of my judges gets a whole influx of new cases at 1 a.m. A big raid somewhere kept his court going until 4 a.m. I was ready to give him a medal. My employees were ready to go on strike. Give me the capacity to have a courtroom with a holding pen. I can increase that calendar by a third because once that court officer takes the prisoner out, nothing can take place in that courtroom until he comes back with the next. I have no security.

This is without any great expenditure of funds.

But there is one thing the Federal Government can do, and one thing I would most respectfully request this committee to consider. With the LEAA, which has been great as far as I am concerned, I have asked for very little and when they could help, they did. But in the area of capital improvements, we then get involved in the formula, the locality has to submit 50 percent. It was 50 percent.

I think they have changed it but I am not sure. If I can get the 50 percent from the city and State, I could probably get the whole thing from the city and State. I can't get that first 50 percent to build myself a holding pen. That is a capital improvement. And it is not for me, it is for the department of corrections which is an ancillary service.

The second thing I would like this committee to please consider with LEAA, and I don't know whether this is a problem universally in the country but it is a problem in the State of New York, is I decided that sentencing was a problem. I listened to your previous speaker. There is a disparity among judges. So I wanted my judge to meet for 2 days away from the courtrooms, at a seminar in which I would bring other judges in from around the country and have a real exchange of what is and what is not an appropriate sentence. I had that seminar funded by LEAA. They were most gracious.

But for me to apply to the LEAA, I must first apply to the city agency. If they approve it, it goes to the State agency. If they approve it, it goes to the LEAA.

I can't do business that way. I have been in public office too long for that. I first go to LEAA and find if they can approve it for me. Now, I hand carry it. Now, I am in a brawl with the city fathers and the State fathers. Although the "Feds" have already approved my request the city and State want it done another way. I say, forget it, give me my application, tear it up, and go back to work.

What I would like the Federal Government to consider—and this is going to bring a scream from the State government—whatever percentage they will allocate for the court system, that they consider that that percentage, whether it be on the State basis or district basis, got to, be administered by the chief judge in the State. I would much rather do business with Stanley Field, who is the chief judge of the State of New York, as to getting a couple of dollars to build a holding pen than go into this fantastic bureaucracy before I can reach LEAA. They can't give me a direct grant so I have to ask the city for it, with all kinds of brawls and disagreements.

Chairman PEPPER. You mean, the LEAA in the dispensation of funds should allow the disposition of those funds by the chief legal authority that is responsible for the trial system?

Judge Ross. Yes, sir. I am not naive. I don't expect them to accept my application directly. Someone should be in control. But if I can't sell the chief judge in my State on what is a worthy improvement, then it is not much of a worthy improvement. But when I get involved in the city and State agency they may agree, but have different priorities.

This year their accent is on police or something else, and I go to the State agency and get into a brawl with them because they decided, after Attica—a State prison uprising—that all of the money has to go into prisons. And yet we say down here, our Congressmen say, x percent of this money must be allocated to the courts, because if you don't we are not going to get an equitable share.

We are judges. We don't know how to fight.

Chairman PEPPER. Is LEAA giving you any support?

Judge Ross. Oh, yes. My experience with LEAA has been magnificent. My complaint is not with the LEAA. It is with that built-in layer of bureaucracy at the city and State level.

Chairman PEPPER. I am concerned about how extensively over the country LEAA is funding just such programs as you are administering at home.

Judge Ross. I wouldn't know. My experiences with LEAA, Mr. Nardozza in the New York regional office and Henry Dolgen and his staff, have been great. But you have to put it through the city and State.

Chairman PEPPER. Have you other recommendations to us?

Judge Ross. If I could get these two, it would be a tremendous improvement. One is, if LEAA would be permitted to make some substantial investment in the capital improvement, provided that capital improvement is in the best interest of good court administration. I don't mean build a new courthouse. That is not what I am talking about.

Second, if we could avoid the built-in layer of bureaucracy that exists in my State at the State and city level. I don't expect the money to come to each court administrator directly. But there is a chief judge in the State.

Chairman PEPPER. Mr. Justice, I could listen to you for hours, and I am sure my distinguished colleagues could, also, because you are exactly the epitome of what many of us have been hoping we would see all over the country. In Miami, in Dade County, we have given one of our presiding judges administrative authority to assign judges to do all sorts of things, and we have obtained marvelous results since we have done that.

Heretofore, judges were autonomous: they were independent and didn't let anybody tell them what to do. We have coordinated our whole system in our largest county, Dade County. It is similar to what you have been so well telling us about here today.

Mr. Rangel?

Mr. RANGEL. I just want to thank you, Judge. And I think we should not be that optimistic because of the caliber of Justice Ross. It is rare to get someone with the unique background and assets that he has.

I was wondering whether or not there was any lobbying restriction on you as an administrative judge. It is so easy for politicians to join in with the newspapers and attack the police and attack the courts, or attack whatever has been attacked. But, really, there are so many things we don't know that are going on, and it just seems to me that you know better than anyone else that this type of information should be in the hands of those people that can be persuasive on the local level.

Judge Ross. Congressman, if you recall, back in my State legislative days and city hall days, I wasn't exactly bashful when it came to the press. In fact, I probably was a bore to many people.

The point I am getting at is when I mounted the bench in January of 1969, I spoke to Judge Stevens, who was my presiding justice and your presiding justice. I pointed out to him, I forget what rank it is in the U.S. Supreme Court, but either second or third or fourth clerk is a public information officer. You mention the words "press relations." It became a dirty word.

I said, "For God's sake, Harold, the first judicial department, the most important department of the whole State of New York, and we don't have an information officer." I said, "We have got so many good accomplishments here, it's a darned good department," and you know it, Congressman, but it is a secret. If you are not in it, you don't know it. And if we get criticized—and I mean an improper criticism, not a legitimate one—and they are right, we make corrections. But if you get criticized and the criticism is inaccurate or based upon statistics 3 years old—that happened a month ago.

Their statistics were 3 years old. I don't know where they picked that one up. There is no one to reply because you don't get involved in public controversy. We don't get involved in debates. This is right, it should be that way, but someone should be designated.

Mr. RANGEL. Has that been done?

Judge Ross. I do as much as I can.

Mr. RANGEL. I don't mean you.

Judge Ross. It has only been 4½ years. You have got to be fair. We made the suggestion 4½ years ago. The answer is no.

Mr. RANGEL. Are there any restrictions in terms of the example you cited? There has been Federal approval of a proposal, and you know you can't personally call up people, but isn't there some vehicle available wherein the legislators can be told of the priorities? The legislators from time to time have to support the mayor and have to support the Governor on certain issues, but in most cases they would benefit from your views.

Judge Ross. Yes, Congressman. This bureaucracy was mandated by the Federal statute. In other words, they are not permitted to accept an application directly from me.

Mr. RANGEL. I understand what you are saying, Judge. My point is this: If you were not a judge and you merely had a proposal, it makes good sense to me, whether or not when it is finally in Washington, it will be approved. I think you are saying once you find that out, you have to start all over from the beginning.

Judge ROSS. That is right.

Mr. RANGEL. If you were not a judge, there is no question in my mind you could reach certain city councilmen, you could reach certain State legislators that could put the necessary pressure on the city and State to move that application, to get it to Washington.

Judge ROSS. Well, the truth of the matter is, in my individual instance, I hand-carry them. I don't give them to councilmen because the criminal justice coordinating council in New York is an agency reportable to the mayor. Incidentally, I am a member of the executive board. So for the first time, they now get a negative vote once in a while.

As far as Arch Murray is concerned—and you know the commissioner as well as I do—I have no problems with Commissioner Murray. But it is another 2 or 3 months of delay. So by the time it comes through the crisis may be gone. The body may be cold.

Mr. RANGEL. You don't have a problem getting your affirmative vote on the proposal; it is only the time factor involved?

Judge ROSS. Because they may decide they have different priorities. After the Attica situation; the State of New York decided to put all of the LEAA funds they could get their hands on into the prisons.

Mr. RANGEL. You know as well as I do that legislators respond to whatever public opinion is at the time, and if there were some way—because you talk about the judiciary not being as equal as the other branches—and on the national level I think there has come to be only one supreme branch of government, and we in the Congresss are worried about that now. But if there were some way to have conferences on the local level so that the elected officials could better understand what the problems are you are facing so as to be able to respond and give you the tools to work with——

Judge ROSS. I will tell you this, Congressman, I wouldn't hesitate to walk over to city hall, the building I spent a good part of my adult life at. I speak to them and don't hesitate to go to Albany. I spent time in Albany on the voir dire bill and I pushed for the introduction of it on the floor to bring it to a vote in the Senate. The same day I pushed for its introduction out of committee in the assembly. Where it is going to go from there I don't know.

Mr. RANGEL. I don't mean to be continually complimenting Judge Ross, but I think one of the problems we have in the Nation is that most administrators in the courts come from private life to the courts without having the background and resources and information that the judge has.

One question, and I know you have to leave. I have never been able to get an answer to this question from any judge. Why is it that the judge must ask the defendant whether or not anything has been promised to him as a result of him pleading guilty, and why must the defendant say "No; nobody has promised me anything"?

Judge ROSS. It isn't true. I don't mean what you are saying isn't true. That isn't necessary. That is nonsense, Congressman.

Look, let me correct that. I am not saying what you are saying is not true. What you are saying is true. I have watched that play act take place too many times when I was sitting as trial justice and saying, "Wait a minute, I just said to that man, you are pleading to a D felony. You are facing zero to 7 years. The best you can hope from me, I won't give you the maximum, which means I give myself a leeway of zero to 6, if your probation report indicates what your counsel tells me. If it doesn't, fellow, I indicate a zero to 7 or withdraw your plea of guilty."

I think that is something, Congressman, that is lost in antiquity. They were doing that when I was admitted to the bar in 1942. It wasn't taught in law school.

Mr. RANGEL. The defendants have so little respect for the process, whether they are innocent or guilty, and when defense counsel is forced to advise his client to answer in the negative, or when the district attorney has to tell the defense how—especially new lawyers—to handle the plea bargaining, when the defendant expects a better deal, and he should get one if he pled guilty rather than going through the expensive and involved process of a trial, I just don't see why we can't deal with it.

Judge Ross. Congressman, I don't see that as a problem. I agree with you completely. I think you see less and less of that in the criminal courts of New York because I keep urging my justices, if you think a year is a proper sentence, or probation, or unconditional discharge, et cetera, et cetera, you say that. It is your responsibility. It is as simple as that.

I have no difficulty, of course, as you know. I am not sitting in the trial part now, but I have no difficulty saying to the defendant, "If you understand that your plea of guilty as I accept it makes you liable to zero to 15 years and I told your counsel it is my inclination to think in terms of 12½ to 15." You put it right on the record.

Mr. RANGEL. That is no bargain.

Judge Ross. Maybe to this man it was a bargain.

Mr. RANGEL. Twelve and one-half years instead of 15?

Judge Ross. No. He is pleading to a possible maximum of 15. The bargain he already received is getting the reduced plea. Not in every instance. The sentence has to fit the crime, to paraphrase a great operetta. But as far as this crime, "Have you made any promises," really what is involved there—and I think the genesis of it is the Constitution guarantees that a defendant has—we don't bludgeon him, whether it be the policeman extracting a confession or an overreaching court compelling a plea. That is just as wrong.

But I tell my judges, "Put it right on the record, by all means." By all means.

Mr. RANGEL. I hope that some of these reports you have could be made available to us, Judge. I don't know how much expense would be involved to get them at least to the New York City congressional delegation.

Judge Ross. We will get them out.

Mr. RANGEL. I think it will be a great help to us, and we could ask you to meet with the delegation from time to time.

Judge Ross. One of your Congressmen doesn't want to meet with me because he had an incident in the streets and the fellow jumped bail.

So he is mad at me. But the fact of the matter is, in that instance when they wanted to book the fellow on assault, he became very social minded and got him for public intoxication. I can't get excited about a fellow arrested for public intoxication, I am sorry.

Chairman PEPPER. Judge, as you heard us say, we are seeking in these hearings the most innovative programs and procedures we can find in the country that will be an example of an inspiration to other authorities to do a more effective job in the administration of justice. I think you have given us the further hope there will be more judicial administrators like you. That would be the most innovative thing that possibly could be done in all of the courts of this country.

I don't include the Supreme Court or appellate courts, but all of the trial courts that seem to be so badly in need of this sort of experience, confidence, drive, and dedication to the job that you have manifested in your excellent testimony here today.

We want to thank you.

Mr. RANGEL. Mr. Chairman, I would like to state for the record, the effect of this judicial spirit on the community. Recently, when we had elections, Judge Dudley, outside of the judicial responsibility of the court, assigned judges to various polling places to make certain that the election and the registration processes would be effective. I think this is something that makes people proud of public service.

Judge Ross. Thank you very much.

Chairman PEPPER. We will recess until 2 o'clock.

[Whereupon, at 1:30 p.m., the committee recessed, to reconvene at 2 p.m., this same day.]

[The following material was received for the record:]

[Excerpt from the "Nine-Month Report of the Criminal Court of the City of New York," January–September 1972]

CRIMINAL COURT OF THE CITY OF NEW YORK,
New York, N.Y., January 9, 1973.

LETTER OF TRANSMITTAL

To: Presiding Justice Harold A. Stevens; Presiding Justice Samuel Rabin.
From: Mr. Justice David Ross.
Re: Report for First Nine Months of 1972.

Pursuant to a policy of submitting quarterly reports on the progress of the Criminal Court, I am forwarding this Nine Month Report.

Because an Annual Report is due to be prepared soon, this report, unlike the previous ones does not include details of operations but is limited to statistical data.

Again I am very pleased to inform you that the Criminal Court's record of performance has continued to show improvement during the first nine months of 1972. When compared to the first nine months of 1971, the current period registered the following significant achievements:

Pending cases down 40% from 28,068 to 16,695,
Cases awaiting sentence down 7% from 3077 to 2852,
Defendants in detention awaiting court action down 37% from 2831 to 1797,
Average duration of cases down 44% from 6.29 weeks to 3.51 weeks,
Average length of adjournment down 47% from 2.75 weeks to 1.45 weeks,
Warrants issued down 31%,
Hearings conducted up 27% from 16,620 to 21,179,
Filings down 9% from 180,737 to 164,208.

[Excerpt from "Analysis of the Night and Weekend Arraignment Parts in the Bronx and Queens Criminal Courts," February 1973, prepared by the New York City RAND Institute]

SUMMARY

With the aid of a grant from the State Office of Planning Services, Division of criminal Justice, the New York City Criminal Court opened night, weekend, and holiday arraignment courts, or "parts," in its Bronx and Queens branches on September 27 and October 4, 1971, respectively. Prior to this time, these branches operated only during regular daytime hours; defendants to be arraigned at night or on weekends or holidays were transported to either Manhattan or Brooklyn.

The problems encountered under this system included: especially heavy burdens in the Manhattan and Brooklyn night parts, few dispositions at arraignment in Bronx and Queens cases taken to the other counties, and high police transportation costs. In addition, the transfer of cases between counties caused delay, confusion, wasted effort, and less effective defense representation.

The added cost of operating the new parts has been about $1.2 million per year. However, our analysis shows that, in addition to solving the above problems, the new parts have produced substantial additional benefits: estimated direct savings to criminal justice agencies in excess of $1.3 million per year; reduced defendant time in detention by an estimated 82 man-years (an average of about 5.5 days for each of 5500 defendants) annually; reduced cost and inconvenience to witnesses, police officers, and defendants through the elimination of some 30,000 unnecessary court appearances each year; improved quality of judicial decisions.

Among our recommendations are the following:

The new parts should be continued in operation, since they are yielding substantial net benefits.

The excess capacity in the new parts, particularly at night, should be utilized by (1) scheduling additional post-arraignment appearances in these parts, and (2) shifting the night hours of operation later. In the Bronx we suggest exploring the possibility of holding night court in the Supreme Court building, which is in a better location than that of the Criminal Court building.

The use of Civil Court judges on weekends and holidays should be discontinued, since the indirect costs are more than the saving.

The practice of rotating inexperienced personnel through the weekend parts should be carefully reviewed.

Means of smoothing the delivery of defendants to the arraignment parts by the police should be developed.

Legal Aid Society representation at arrangement should be extended to all defendants.

[Excerpt from "Annual Report of the Criminal Court of the City of New York," 1971]

CRIMINAL COURT OF THE CITY OF NEW YORK,
New York, N.Y.

LETTER OF TRANSMITTAL

To: Presiding Justice Harold A. Stevens; Presiding Justice Samuel Rabin.
From: Mr. Justice David Ross.

The Annual Report of the Criminal Court of the City of New York is submitted herewith.

This is the first annual report of its kind to be submitted by this court. Heretofore the court's annual report contained mostly a statistical summary of court business and contained no information concerning the court's administrative programs.

Although the court plans at a later date to prepare and distribute a more detailed statistical report similar to the previous annual reports, I believe this new type of report will be more informative and representative of the activities of the court in the year 1971. Also, the previous report required a great deal of time to prepare due to the detailed statistical work involved and thus was often not available until a year or so after the close of the year being reported. I hope that we can reduce that delay with the assistance of the New York City Judicial Data Processing Office, upon whom we are placing complete reliance for the production of that report. In the meantime we have developed a new statistical

program that is intended to be a more useful management tool and provide data on a more current basis than was available in the past.

That new statistical system, and the other programs reported on herein reflect the work of the court in 1971.

INTRODUCTION

The Criminal Court of the City of New York is part of the Unified Court System of the State of New York. As such it is subject to administrative supervision by the Administrative Board of the Judicial Conference of the State of New York and the Appellate Divisions of the First and Second Judicial Departments. Funds for the operation of the court are supplied by the City of New York. The court's current budget for fiscal year 1971 1972 amounts to $14,125,789; this is only 3% more than the previous fiscal year when the budget was $13,655,027.

The Appellate Divisions, by a joint order designate the Administrative Judge who is responsible for the administration of the court. His management policy is implemented by the court's Executive Officer. Effective January 1, 1971, Mr. Justice David Ross was designated as Administrative Judge succeeding Mr. Justice Edward Dudley who had served as Administrative Judge since January 1, 1967. The position of Assistant Administrative Judge was eliminated. Judge Vincent Massi, Assistant Administrative Judge since 1967 was returned to judicial duties and assigned to sit as an acting Supreme Court Justice. On February 5, 1971 Mr. Justice David Ross named Lester C. Goodchild, former Administrator of the court, to fill the newly created position of Executive Officer.

Due to administrative reorganization, lines of authority have been tightened. Supervising judges designated for each county are responsible for the more effective utilization of judicial personnel assigned to the various court parts. Assistant Chief Clerks in each borough, responsible to the Deputy Executive Officer in charge of operations have achieved tighter controls over the non-judicial personnel operations in the courts. Deputy Executive Officers in charge of administrative operations, planning, and court operations have been given complete control in their areas. However, the court is handicapped by not acquiring an adequate in-house analysis capability and is compelled to rely almost entirely upon voluntary and makeshift substitutes for a much needed "research, planning and implementation staff." The Executive Officer, as second in command directs all line and staff administrative functions of the court. To assist him a new position of Executive Assistant to the Executive Officer has been created.

The court is authorized to have 98 judges. Judicial positions were kept filled during 1970 and 1971 with but one (1) vacancy existing at the end of 1971 and two (2) at the end of 1970. The names of judges of the court who served during 1971 are listed in Exhibit I. Judges are appointed by the Mayor, and serve 10 year terms and receive a salary of $30,750 per year.

The court has jurisdiction over felonies, misdemeanors, violations and traffic infractions committed within New York, Kings, Queens, Bronx and Richmond Counties; the five counties which comprise the City of New York.

During the calendar 1971 the court's intake amounted to 236,600 arrest cases plus 378,000 summons or appearance ticket cases. The number of arrest cases disposed of amounted to 256,122. Summons case disposition figures are not available at this time. Arrest cases pending disposition as of the end of 1971 amounted to 18,875 cases and there were 2,852 cases awaiting sentence. More detailed statistical reports appear in Exhibit II and in the appended Progress Reports.

The court's judicial operations are carried out in some 66 parts which handle arrest cases and 8–9 parts which handle summons cases all of which are housed in 13 court houses. Exhibit III contains a list of the courthouses in use during 1971.

The court has 1092 authorized non-judicial employees all of whom are civil service employees. A list of the number of positions and the respective civil service titles appear in Exhibit IV.

The 1092 figure represents a reduction from 1111 authorized positions for 1970 and 1122 authorized in 1969.

While authorized positions have decreased 3% since 1969, non-judicial position vacancies have increased by 12% rising from 127 vacancies in 1969, to 135 in 1970 and reaching a high of 143 vacant positions in 1971. Thus the court operated in 1971 with 13% of its authorized positions unfilled.

SUMMARY—"HOW THE COURT WAS TURNED AROUND"

No one factor can be pointed to, which stands alone as the reason for the Criminal Court reaching its present capability of managing its caseload in contrast to the many other criminal courts in the state and country which are reported to be continuing to build backlogs and increase delay in bringing cases to trial. The fact remains however, that the Criminal Court of the City of New York "turned around" in 1971 and efforts ought to be invested in the conduct of an in-depth evaluative study of changes and programs instituted in 1971. This report is not of that nature. Such an undertaking by this court is not presently feasible because:

Many of the programs are still in the experimental or implementation stage.

Full and complete statistical data has not been collected.

Most innovative programs were not initially designed as controlled experiments.

The court lacks sufficient time and manpower to conduct and employ evaluative study techniques.

The purpose of this report then is to list change-oriented programs conducted in 1971 which were adopted and implemented because the court managers firmly believed change was needed and, if undertaken, would offer reasonable alternatives to previous practices and procedures.

In the first few months of 1971 the new administration spent a great deal of time gathering and sifting through the many suggestions, comments, criticisms, reports and studies that abounded concerning the court and its status and role in the criminal justice system. One of the most important of these studies is the Organization Study by the Economic Development Council Task Force. See Exhibit V. That Study made it abundantly clear that new managerial leadership could not be effective without giving adequate and sufficient attention to the:

Establishment of a management team capable of assisting the new Administrative Judge in carrying out his role as "change agent".

Fostering a cooperative atmosphere among all the members of the criminal justice system to make changes and improvements possible.

Statement of goals to be attained.

Giving management a means of measurement of goals reached.

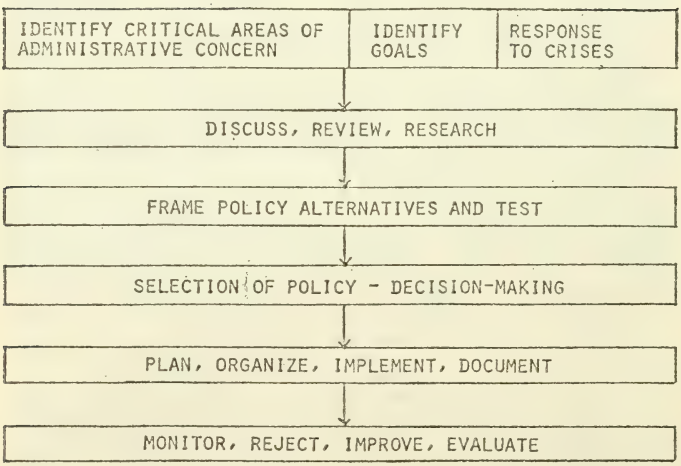
Design of an information system to monitor performance and productivity.

Improvement of communication between court management, judges and non-judicial personnel.

Promotion of a sense of accomplishment, reward and achievement among the court personnel.

Armed with the knowledge of the changes that were being recommended from many quarters, the court could then employ the above management techniques to select and introduce those changes which possessed the greatest potential for "turning the court around". Change-oriented programs were selected by the Administrative Judge and implemented and that process is continuing. The following chart, although oversimplified presents a summary of the entire process:

COURT MANAGEMENT FLOW CHART



The major programs undertaken by the court in 1971 are described in a series of progress reports which have been submitted to the Appellate Division on a near quarterly basis. Those programs were selected for implementation early in 1971 with the hope that if implemented, the Criminal Court might improve its ability to cope with the administrative and case processing problems that were confronting and nearly overwhelming the court. The results achieved following the implementation and continuation of those programs were beyond expectation.

A smooth-working and effective management team has been put together.

The calendars of the Criminal Court of the City of New York are now current.

Judicial "bench time" now averages 5.25 hours—more than double reported figures for previous years.

There are fewer defendants in detention awaiting court action than at any time since 1967.

Cases pending disposition have been reduced so that they now are about the same as the monthly intake.

Delay in case processing has been controlled so that on the average, cases are now being disposed of within 4½ weeks.

The number of appearances and length of adjournments have been reduced.

The size of the calendars is now under control and manageable.

The innovative programs that were reported on in the progress reports (pp. PR1–156) although implemented under crisis conditions have crystallized as a total system with the primary orientation toward change of court operations. There has been a total acceptance, at every level of court management, of the need for change.

The purpose of this summary is to relate the individual programs to the results sought to be achieved. To accomplish this the programs will be grouped for discussion purposes under the following headings, each of which points to a goal selected, a crisis responded to or an identified area of critical administrative concern:

Administrative.
Case Processing.
Resource Allocation and Utilization.
Coordination.
Performance Monitoring.
Improvement of Judicial Performance.
Physical Plant.
Service to Defendants and Public.
Improvement of Non-Judicial Performance.
Records Management.

1. Administrative

Grouped under this heading are such programs as appointment of supervising judges; appointment of executive staff; reorganization of all administrative operations of the court; regular meetings and discussions with administrative staff, judges and supervising judges; reorganization of court bulletin and administrative issuance procedures (See Exhibit VI for index to 1971 administrative issuances); consolidation and relocation of all Executive Office staff to the third floor at 100 Centre Street; redesign of statistical reporting system to make it more current and to include all necessary data to prepare the newly designed monthly Comparative Statistical Profile (CSP) reports which are discussed more fully in the Progress Reports (p. PR–141) and in Exhibit II; continued planning sessions with the New York City Judicial Data Processing Office to complete programming of computer support to statistical and management report system; coordination and review of work of the Economic Development Council Task Force in its documentation and analysis of Queens County operations, work flow, procedures and work measurement studies.

Each of the programs were aimed at improving the court's ability to make administrative decisions, solve problems and operate the judicial machinery. However, it had to be coupled with the indispensable element of Leadership. That Leadership in full measure was provided at every level of management.

2. Case processing

Included under this heading are such projects as establishment of city-wide all purpose parts (which are divisions of the court into which a mix of cases are sent for action after arraignment to remain there before the same judge, defense counsel, etc. until final disposition), creation of additional arraignment parts

throughout the city to include hearings, trials and motions; continuation of the federally funded Master All-Purpose Part experiment designed to test improved case readiness procedures whereby cases are fed to the judge only when judicial action is required; reduction of case flow to courtrooms by dismissal at intake (in complaint room) of cases the District Attorney deems not prosecutable; special calendar call of "old cases" with purpose of disposing of them; completion of youthful offender eligibility examinations on same day requested by judge instead of adjournment to future date; requirement that a prisoner against whom a new arrest warrant has been lodged (where a peace officer is the complainant) be arraigned immediately so that the case can proceed; exchange of Criminal court rooms in Brooklyn court house which lack access to detention facilities for Civil court rooms which have such access so that more Criminal Court parts can process jail cases; establishment of night and weekend courts in Bronx and Queens to reduce burden in Kings and Manhattan resulting from handling Queens and Bronx arraignments as well as their own. (See Exhibit VII which is a full report on these newly created courts); prescription of penalties for unreasonable adjournment and delay in order to reduce adjournments and speed dispositions; bail review every two weeks for defendants detained over 30 days waiting disposition.

These programs were intended to improve movement and flow of cases through the judicial process with reasonable speed and opportunity for judicial action.

3. Resource allocation and utilization

Projects which fall under this heading include consolidation of three separate summons parts in each borough into a single summons part conserving personnel, court rooms and judges and improving productivity; assignment of judges and non-judicial personnel to boroughs based on relative workloads; creation of a central records unit to be responsible for city-wide operations of fingerprinting, microfilm storage, and disposition reporting to Judicial Conference in order to achieve standardization, control and improved utilization of employees; establishment of Executive Cabinet of key administrators to review personnel assignments, promotions and policies; documentation of special needs to overcome "job freeze" and vacancy controls.

Good management calls for careful utilization and conservation of resources so that productivity is kept high and the workload and resources are evenly matched. Limited local government funds have imposed an additional burden on court managers by forcing managers to "ration" resources and give careful attention to setting of priorities. The above programs are an attempt to meet this situation.

4. Coordination

Grouped under this heading are the various efforts made to improve court operations by giving adequate attention to outside agencies and institutions which can impact court operations. Thus the court prepared legislative reports to enable it to keep abreast of new laws being proposed and make known its position regarding their effect on the court. Frequent conferences are held by administrative staff with outside agencies such as Department of Correction, Police Department, Legal Aid Society representatives and District Attorney to discuss changes and problems. Continuous discussions are held with planning and other officials of Judicial Conference concerning improvement of Disposition reporting procedures. This had led to cooperative efforts to obtain federal funds for the hiring of personnel to eliminate the 160,000 backlog of disposition reports. There has been constant interchange of information and options between the court and the Criminal Justice Coordinating Council so that the court both contributes and receives data and planning considerations concerning all units of the Criminal Justice System. Special attention was given to the problems posed as a result of legislative changes in the arrest record procedure giving the task to the New York State Identification and Intelligence System in Albany. These problems included design of arrest record report, delay in receipt of report, lost and misdirected inquiries, poor quality of report and incomplete records. Although some of these problems continue, some improvement appears likely due to coordinated efforts between court, NYSIIS, Police, CJCC and others.

The following is a partial list of the units and agencies with whom the Court has had frequent communication and exchange of information concerning problems of more than a routine nature:

Police Department
NYSIIS
Public Works
District Attorney from five counties
Department of Correction
Department of Motor Vehicles
Office of the Mayor
Appellate Divisions, First and Second Department
Judicial Conference
Legal Aid Society
Criminal Justice Coordinating Council
Parking Violations Bureau
Bureau of the Budget
Comptroller's Office
Secretary of State—Albany
City Department of Law
State Police
Department of Purchase
Narcotics Addiction Control Commission
Office of Probation
Bellevue Hospital
Kings County Hospital
State Department of Correction
City Department of Personnel
Office of Deputy Mayor
City Council
State Investigation Commission
Supreme Court
Civil Court
New York City Judicial Data Processing Office
Office of State Crime Control Planning
Temporary Commission on Courts
Office of the Governor
State and City Department of Mental Health
Vera Institute of Justice

Even this list is not complete but it clearly points to the importance of attending to the coordination aspect of court administration.

In the case of the new night and weekend courts and the new procedures for determination of fitness to stand trial (CPL article 730 effective July 1, 1971) neither program could have achieved the success indicated without extensive attention to multi-agency coordinating efforts.

5. Performance monitoring

Included in this category are such projects as day by day reports on prisoner arrival time, design of new statistical system (CSP Report), report of opening and closing of court, reports on absence or lateness of police officers for court appearance; time record sheet on police officer arrival at each stage of case processing, special daily reports on night court and weekend court funded by federal grant; weekly report on the number of cases dismissed in complaint room by District Attorney, revised report on cases reviewed at special bi-weekly bail reviews, report on time delay in furnishing NYSIIS criminal history sheet from fingerprint record.

The year 1971 saw a substantial increase in the number and kinds of reports kept to inform management of the effectiveness of measures taken, and to direct attention to problem areas that it must know and deal with in order to set and achieve standards of performance. However, each report has a specific purpose and was usually in response to a problem or crisis situation which faced the court in the early months of 1971. Attention was given at the same time to developing timely standardized monitoring methods. The basis for this

will be Comparative Statistical Profile (CSP) report which is designed to rank and compare monthly performance of each borough in selected areas, record cumulative data and establish judicial man day measurements enabling evaluation of per part day performance. Continued development in this area is vital and will aid in resource allocation.

These reports have been utilized by the supervising judges and assistant chief clerks to give them a basis for measuring their performance vis-a-vis the total city system and other boroughs.

Because the data for the new CSP system is available on a more timely basis (usually by the 15th of the month following the reporting period), management's evaluation of the information and response to problems can be more effective.

6. Improvement of judicial performance

Underlying all the efforts and projects in this area is the tenet laid down by the administrative judge that the first priority of court management is to service the judicial officers in their task of processing the caseload of the court to the end that prompt and effective justice is administered.

Thus, such projects as reassigning the clerk to each courtroom; reducing judges' workload through establishment of additional day, night and weekend arraignment parts and District Attorney termination of cases in the complaint room; providing law student interns to work with judges and providing them with legal assistance; establishing a judges' prison visitation committee to see at first hand and report on prison conditions; instituting improved "calendar tickler" so that daily calendars are evened out and reduced to a more manageable number; transferring responsibility for prompt competency determination to mental health agency thus relieving judge of the burden of selecting appropriate hospital or clinic; completing youthful offender procedures at initial appearance so that adjournment is not required; providing judge with continuity of control over his cases by converting to All Purpose Parts and establishing long term assignments to those parts; improving judge's control over calendar by giving him new means of enforcing compliance with speedy trial and reducing delay and continuances through the use of sanctions and adjournment guidelines; establishing an orientation program for new judges (See Exhibit VIII for the content of the most recent of these programs); encouraging prompt filling of judicial vacancies so that a full complement of judicial officers is available for equitable distribution of workload; designing improved "record of court action" form to improve case history records for judge; holding regular meetings with judges and their respective supervising judge and in banc meetings with Administrative Judge to discuss problems and introduce and explain new administrative and procedural policies; holding seminar on new Criminal Procedure Law and distributing materials concerning CPL changes and new procedures.

Judicial morale has greatly increased as a result of this program and the efforts in 1971 to reduce backlog, even out workload, establish more manageable daily calendars, improve case flow (so that judges spend less time waiting for cases to be ready for judicial action) and provide judges with more "judicial muscle" to eliminate delay, continuances and procrastination by parties to a case.

7. Physical plant

Procedural changes have put added burdens on the already inadequate courthouse facilities. Programs had to be planned which could quickly adjust existing plant to new procedures such as all purpose parts, new arraignment parts, etc. One such program was the design and construction of benches and jury boxes that were both collapsible and portable so that as new parts were opened or moved, they could be set up for judicial proceedings without usual construction delays; 15 such portable benches and 15 portable jury boxes were built and are now available for use. Courtrooms can now be converted into jury parts almost instantly and vacant rooms can become courtrooms overnight. As previously mentioned exchange and sharing of courtrooms has been undertaken between the Criminal Court, Supreme Court and Civil Court.

Long range planning for space utilization is continuing with construction already begun for a new building for the Bronx, and master planning is almost complete for Manhattan. See Exhibit IX for summary of this plan which is being prepared under a Safe Streets Grant by Dr. Michael Wong, a court space consultant and architect.

A great deal of time and attention has been given to the space problem by the court and the Department of Public Works.

Programs were completed to consolidate all summons parts into a single part and under one roof. Thus the courthouse at 52 Chambers Street which housed summons parts is no longer used (except for record storage) as a result of the consolidation of the Manhattan summons parts at 346 Broadway.

8. Service to defendants and public

Included under this heading are such projects as posting calendars for all parts on two new bulletin boards on the main floor lobby; preparing and posting new signs for all parts; arranging for defendants appearing on station house summons to report to a central location maintained by the issuing agency—from there to be taken to court by the issuing agency representative (rather than going directly to the courtroom and waiting around for a case to be called about which the court had no case papers on file); giving defendants notice in English and Spanish of their rights, bail conditions, trial date, adjourned part and location; continuing bi-monthly bail review of defendants detained over 30 days permitting judicial review as to possible release, reduction of bail or accelerating trial date; endorsing commitment order (of defendants ordered remanded to Correction) with notice of need for possible medical attention for defendants suspected of being sick, addicted or otherwise disturbed; requiring defendants that they be produced in court for arraignment within 24 hours to encourage immediate arraignment and possibly reduce abridgment of prisoner's privileges automatically invoked where warrant is lodged; reducing overnight holdovers of defendants by providing night and weekend courts in Queens and Bronx thus enabling speedier release of defendants whom court ROR's, releases on bail, or discharges at arraignment.

9. Improvement of non judicial personnel performance

A concerted effort was made to inaugurate programs to improve the performance and morale of non-judicial personnel. Included under that program were such projects as obtaining from the City, permission to make promotions over and above those permitted under the job freeze—some 94 employees were rewarded for performance through promotion from the civil service list of eligibles; inauguration of an employee newsletter in 1971 which provides an informal in-house information medium operated by the employees with particular attention to bringing the far-flung court locations into closer contact through the monthly publication; preparation and issuance of certificates of promotion to employees to provide a remembrance and honor them upon their achievement; design and planning was completed for establishment of a court employees training program starting with a program for Uniformed Court Officers, the most important entrance level position in the court. Director and Assistant Director of training positions were established and filled to operate the program and funds were received from the Administrative Board of the Judicial Conference to purchase training materials; inauguration of a series of administrative bulletins and directives to keep the employees informed of operational, administrative and personnel policies.

Successful completion of restructuring the parts and reducing calendars and backlogs could not have been possible without the loyal and dedicated non-judicial employees' contribution; success in those areas served to improve employee morale.

10. Records management

Although some limited efforts were undertaken in this area a great deal remains to be done. However, most records management problems will eventually be approached through a complete revision of the manual procedures replacing them with automated records management systems. Following the completion of the procedural revisions and successful introduction of calendar control, attention can now be turned to introduction of electronic data processing changes. Design of a total record management system has already been undertaken. Preliminary work and testing was undertaken in 1971 in conjunction with the New York City Judicial Data Processing Office (JDPO) but further development had to be delayed until 1972 due to JDPO's shortage of system design personnel. See Exhibit X for a draft proposal concerning that system.

Study is continuing in the microfilm area and several systems approaches have been studied.

Installation was completed for storage on microfilm of original stenographic notes. That system, perhaps the first of its kind in the country, involves immediate filing of original stenographic tapes (similar to adding machine tape) to be

retained as the court's permanent and central record of the original minutes of all court proceedings. The original tapes are returned to the court stenographer for his later use in transcribing work. This system protects against a repeat of the loss and destruction of these important original records that occurred in 1969 as a result of a bomb explosion at 100 Centre Street when 90 days of trial and arraignment minutes were totally or partially destroyed.

Projects were also completed in the design of new and simplified court records including docket books, summonses and appearance tickets, fines receipt and register procedures, case backs, etc. Lack of trained forms-design personnel greatly hinders the work of the court in this important area.

Perhaps the most important change (that offers to pay future dividends) was the creation of a Central Records Bureau and the appointment of a Director to assume overall responsibility for citywide records management problems and programs.

As previously mentioned, a special federally funded project was undertaken to obtain funds to pay clerical help to complete the backlog of some 160,000 disposition records for the Judicial Conference. Responsibility for direction and management of that project was placed in the Central Records Bureau which greatly contributed to its success.

[Press release dated Apr. 22, 1973]

Presiding Justices Harold A. Stevens and Samuel Rabin, Appellate Divisions, First and Second Judicial Departments, released a report prepared by the well-known Certified Public Accounting firm, Peat, Marwick, Mitchell & Co. measuring the financial impact of administrative improvements instituted by Administrative Judge David Ross in the New York City Criminal Court from January, 1971, through June 30, 1972. The Report and related study by this accounting firm was made at no cost to the courts or the City.

According to the findings and conclusions of the Peat, Marwick report:

The Criminal Court's administrative improvements over an eighteen-month period ending June 30, 1972, have produced an estimated net *annual* saving to the City of over $6.7 million.

Reduction in Criminal Court backlog of cases and of defendants in detention during the above-mentioned period resulted in an estimated *one-time* saving to the City of over $48.5 million.

Annual cost savings estimated to the City are summarized in the Report as follows:

	Estimated	
	Cost	Savings
Night and weekend courts	$1,750,374	
Police vehicle operation		$122,064
Additional criminal court parts		1,539,820
Additional supreme/civil parts		555,594
Controllable personal service cost		163,088
Police time during post arrest		144,089
Reduction of defendants in pretrial detention		6,000,000
Total	$1,750,374	8,524,655
Less cost		−1,750,374
Estimated excess of annual saving over cost		6,774,281

Concerning one-time savings, the largest item represented the projected cost of constructing a new detention institution which would have been needed to house at least 1,000 more defendants awaiting trial. A reduction in the average number of Criminal Court defendants in pre-trial detention by at least 1,000 eliminates the need to construct and operate such a new detention institution to comply with standards agreed to by the city.

* * * * * * *

The Peat, Marwick Report points out that there were many other areas of possible savings which could not be verified. Statistics or data needed were not kept or were unavailable. This was true, in particular, with respect to the absence of Police Department statistics concerning police time spent in making court appearances.

The Peat, Marwick analysis was based on a time period which began in January, 1971, and ended on June 30, 1972. The time period was chosen to determine the impact of the first eighteen months of an administrative reorganization of the Criminal Court carried out by Administrative Judge David Ross under the direction of the Appellate Divisions. Because Criminal Court dispositions exceeded new filings of cases in January 1971, for the first time in several years, a strict standard was adopted by using that month as a base point from which to estimate subsequent costs savings through June, 1972.

The Criminal Court backlog has continued to decline substantially since June, 1972. As observed in the Peat, Marwick Report, the average number of prisoners held in pre-trial detention has declined steadily to less than 1,200 in January, 1973.

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AFTERNOON SESSION

Chairman PEPPER. Judge, I am sorry we are a little late. We had to go and vote. But I don't want to keep you longer than we can possibly help. We are so grateful to you for coming.

Mr. Counsel, you may proceed.

Mr. NOLDE. Thank you, Mr. Chairman. Our next witness is Judge Lisa Richette, who has had a distinguished career and brings to the bench a unique blend of experience. A Phi Beta Kappa graduate of the University of Pennsylvania and a Yale Law School alumni, Judge Richette began her legal career as an assistant district attorney in Philadelphia, and in 2 years she was named chief of the family court division of that office.

After 10 years as a prosecutor, Judge Richette began teaching law at several universities and became an eminent defense attorney specializing in juvenile offenders. In 1971 she was appointed judge of the Philadelphia Court of Common Pleas, which is the State court of original jurisdiction for the county of Philadelphia; namely, the basic trial court for civil and criminal cases. Judge Richette has been commended by several Philadelphia organizations for her outstanding contributions to the community and to the bench.

We are delighted to have you here, Judge. We would be happy to have any opening remarks you care to make.

STATEMENT OF HON. LISA A. RICHETTE, JUDGE, COMMON PLEAS COURT, MAJOR CRIMES DIVISION, PHILADELPHIA, PA.

Judge RICHETTE. Thank you very much.

Chairman PEPPER. Judge, I share the fraternity of Phi Beta Kappa with you, but I had to go to Harvard to get it.

Judge RICHETTE. Let me say, first of all, Chairman Pepper, you were a great inspiration to me in my youth. You were one of my heroes. There are a great number of people in my generation for whom you were a very important symbol of courage. It is an honor to be in your presence.

Chairman PEPPER. Thank you.

Judge RICHETTE. I did apply to Harvard Law School, sir, but they turned me down on the basis of sex.

Chairman PEPPER. Another one of its mistakes.

Judge RICHETTE. They admitted women the next year.

Chairman PEPPER. I am glad they corrected that error.

Judge RICHETTE. I am very happy to be here because I think the whole problem of street crime is a very urgent one and it has been obscured by a great deal of rhetoric and a great deal of misinformation, which is helping to shape public misunderstanding about the nature and process of our judicial system, which I believe is very fundamental to the functioning of our whole democratic process.

And it is very interesting that today is Law Day because it seems to me that, in our terror and in our fear, a fear that is being consciously generated by certain political forces in our society, we are seeking what are basically antilegal and antidemocratic solutions to what has to be, in the last analysis, a human problem.

I have had a very long period in working with deviant people, people who are labeled by our society either "sick" or "criminal," depending very often on which socioeconomical state they occupy. This is especially true in the case of children. The children of the rich, middle-class children, who commit antisocial acts, are viewed in the majority as being emotionally ill and they end up in psychiatrists' offices, whereas the children of the poor who commit identical or parallel acts of behavior end up as human products in our juvenile justice system.

I want to say that while I was attending Yale Law School, which happily did admit women when I applied, I worked for 3 years around the clock as a cottage parent to a group of emotionally disturbed children who were committed by court order to an institution that was "therapeutic," called the Children's Center in Hamden, Conn.

While these children attended their classes, I went to my law classes. This was a very valuable and important experience because it gave me something that I think everyone who is involved in the criminal justice system, and particularly those who have to pass the sentences, should have and that is what I would call a longitudinal view of the offender and the causes of his behavior.

So spending 3 years with children gave me an opportunity to see antisocial behavior at close range or on a day-to-day basis. I came to have a feeling about what kind of people were caught up in compulsive, repetitive patterns and what kind of people could break out of these patterns.

I then had 10 years in the district attorney's office, and I can fairly say I watched a whole generation of Philadelphia ghetto children pass from childhood to maturity because, in those 10 years, we saw about 10,000 cases a year and since the recidivism rate in our juvenile court is somewhere close to 75 percent, I saw many of the same children, starting in at age 8, for breaking into car meters, and ending up at age 15 or 16 as gang members, charged with assault, and even homicides.

Because I was in that court day in and day out, I really got to know these children and almost on a first-name basis. When I was appointed to the bench, sir, I thought that probably I would not go to the juvenile court—there is a reverse application to the Peter principle that operates in human affairs—so I got assigned to adult trials, the major trial division, and there I saw these very children whom I called the "throw-away children" grown up. And that was literally true in many cases.

People would come into my court and they would tell their attorneys that I had been the assistant district attorney in a case involving them,

and in several cases I had defended these children and they knew who I was.

So the population represents a continuum in the criminal justice system and it starts in the juvenile justice system and—well, I think you cannot deal with the phenomenon of street crime and ignore the realities of the juvenile justice system.

Very recently I was on a panel with our police commissioner, Joseph M. O'Neil, and he gave the audience some statistics, just a week ago, that were the most recent ones he had culled. I thought perhaps you would be interested in knowing that in Philadelphia, 25 percent of all the murders are committed by juveniles, 40 percent of all of the robberies are committed by juveniles.

Chairman PEPPER. Twenty-five percent of the murders?

Judge RICHETTE. And 40 percent of the robberies and 39 percent of the burglaries.

Chairman PEPPER. You are describing juveniles of what age?

Judge RICHETTE. Under 18 under our law.

Despite these percentages, only 16.8 of all LEAA funds last year, nationally, went to juvenile programs; and in Philadelphia the percentage is even smaller; it is closer to 14 percent.

So that I feel we ought to look at the system, or nonsystems, if you please, this criminal justice system, which I truly believe is a nonsystem, as a continuous nonsystem. I urge that in all recommendations that this committee will make that it will bear in mind that the seeds of antisocial conduct are planted in early youth.

Chairman PEPPER. If I may interrupt you, you heard the buzz. I have to go over and vote. This is the last vote so we won't be interrupted any more. We are so much interested in what you are saying. We will return in a few minutes.

[A brief recess was taken.]

Chairman PEPPER. The committee will come to order, please.

Judge, we again want to apologize to you for our delay. We won't be interrupted any more so we are looking forward to the pleasure of hearing you.

One of my distinguished colleagues just arrived. Would you repeat those figures about youth crime in Philadelphia?

Judge RICHETTE. Mr. Mann, the official figures of the Philadelphia Police Department, given to me by Commissioner O'Neil, are that last year 25 percent of all of the murders, 40 percent of all of the robberies, armed robberies, aggravated robberies, and 39 percent of all of the burglaries were committed by juveniles in Philadelphia.

Chairman PEPPER. What year was that?

Judge RICHETTE. That was 1972, sir.

Mr. MANN. Meaning 18 years or younger?

Judge RICHETTE. Yes; 18 years or younger. And I was saying that despite these percentages, 16.8 percent of the LEAA funds last year, nationally, went to juvenile programs, and ever a smaller percent in Philadelphia were used for juvenile programs.

We had a recent thing occur in Philadelphia in which a 72-year-old woman was raped and the police finally apprehended the culprits. They turned out to be two 12-year-old boys. Under our law, 12-year-olds cannot be institutionalized so the court had no alternative but to place them on probation.

Two nurses at the university, two students at the University of Pennsylvania, were brutally raped on the street. They were pulled out as they were walking along the campus lane and were raped, and their assailants were 14- and 15-year-olds, three of them.

So that street crime is largely the province of the young. I have been sitting in the major felonies, as I said to Chairman Pepper earlier, and I would say most of the defendants I have seen in the 16 months in which I have been in this court are men and women between the ages of roughly 19 and 23. The median age would be about 21. All of them, except for those who are addicted as a result of Vietnam experiences, have juvenile records.

Chairman PEPPER. Judge, I saw some figures, if I remember them correctly, in a report of the conference called the "Dean Pound Conference."

Judge RICHETTE. Right.

Chairman PEPPER. If I remember correctly, the figures were that 25 percent of the serious crimes, index crimes, were committed by people under 18 years of age; about 40 percent by people under 21; 51 percent by people under 25. Then I have seen at another place, they figured about two-thirds of all crime is committed by people under 28. Do those figures seem about right to you?

Judge RICHETTE. Yes, they do. Absolutely. They coincide completely with my own experience.

I also want to point out to you, Mr. Pepper, I wrote a book about the way in which our juvenile justice system largely sweeps these problems out of sight, and these people, of course, grow and then they become statistics in the criminal justice system. That book is called "The Throwaway Children."

I will be very happy to send you a copy of it. In it I culled many, many more statistics that illustrate this point.

Chairman PEPPER. Thank you.

Judge RICHETTE. Going back to what I was saying, the criminal justice system has to be viewed as a continuum that takes into account the juvenile justice system. I was also saying that it is largely a nonsystem, in that the component parts of the system are mainly operating autonomously, are not in communication with each other, and the most important component of the system, which I believe to be the judiciary, is absolutely out of control with what happens before the case gets to the courtroom and what happens after it leaves the courtroom.

Now I understand this morning you had some recommendation that the judge also not be in control of the very important part of what goes on in his courtroom; namely, sentencing.

So that there has been a loss of control, a dispersion of control in the system away from the judiciary. Why do I think it ought to stay with the judiciary? Because I think that it is the judiciary that has the complete picture of the whole process. It is the judiciary that has the duty to uphold community values, community security, and all of the rest, balancing them with individual due process values and also, I would submit to you, that I think if there is one group in this society that has the duty to take the long view, the overview, it is the judiciary, that we cannot succumb to simplistic solutions.

I would say warehousing of people is such a simplistic solution.

The judges ought to be doing two things. They ought to be making sure that people get full due process rights in the criminal system.

If you had the opportunity to read Richard Harris' theories in "The New Yorker," 2 weeks ago, he has done a series on the way that criminal justice operates in Massachusetts. The first article deals with experiences in one court, where due process just absolutely goes out the window. That article ends up with the quotation of one judge who threatened to hold a lawyer in contempt of court if he mentioned the Supreme Court of the United States once more.

Fascinating articles, Mr. Harris, of course, is a very astute commentator on the legal scene. But the judges must uphold these due process rights because if people do not get justice in our courts, the whole system is a system of criminal injustice.

The second thing is that I really believe the judiciary has the duty to bring about all the substantive reforms that are necessary in our correctional and therapeutic systems.

Chairman PEPPER. My understanding is that the two things that Hitler first abolished as he was establishing his dictatorship were the courts, the right of access to the courts, and the labor unions.

Judge RICHETTE. Right. That is it exactly. And the press right behind the courts and the labor unions.

So that it seems to me the most sensitive and difficult part of a judge's work is, first of all, not to be pressured by the numbers of people who are before him, by the backlog, by the inexorable conveyor belt that faces him every day, to take any shortcuts at all, that the fair trial is a crucial thing, and to be sure people are properly represented.

I just want to give you a short thing that happened to me yesterday morning as I was parking my car. A young black man came running up and said, "You are Judge Richette?" And I said, "Yes." He said, "I really want to thank you because you helped me." And I said, "How did I help you?"

He said, "I came in and I was going to plead guilty on a rape case and when you were talking to me, I told you that I didn't think I had really done it and you said, 'Then you ought to go and get a jury trial.'"

And he said, "And I got a jury trial and I was acquitted." He said, "I just want you to know I was an innocent man."

It would have been very simple to take a mechanistic view and say, "All right, his lawyer says he is going to plead guilty, the district attorney is going to be agreeable to it," but you have to take the time to know that individual knows exactly what he is doing. That is what I do and I think a great number of judges do, and for this we are frequently, you know, pilloried. But it is very crucial and essential.

The sentencing process is a very important one and I take the position that the judge has to become the interpreter for the community of its sense of law and order, and he or she has to supply the omissions and correct the uncertainties and harmonize those results with justice. So that is the most difficult problem that a judge faces, given the youthfulness of these offenders, which is an absolute fact, and given the reality that much of street crime is drug related—I would say 65 percent of the cases that come before me of aggravated robberies, assaults, et cetera, all involve people with serious drug habits.

It is not unusual for a defendant to say during the sentencing process that he is on 15 bags of heroin a day. And I have had defendants who have been on 30 bags of heroin a day. One defendant whose arms were

so infected from his puncture marks they were swollen out like balloons, and he had already had surgery that rendered his fingers numb and lifeless to prevent the spread of this kind of infection. This was a young man who was 21.

So that to ignore this reality is, I think, to not only blindfold justice, but to also put strong hearing plugs in the ears of justice.

Chairman PEPPER. Judge, would you kindly express an opinion as to the adequacy of the treatment and rehabilitational facilities in the Philadelphia area for drug addicts?

Judge RICHETTE. I can tell you that I think they are totally inadequate, Mr. Pepper. In our whole State correctional system there is no coherent treatment program per se, so that when the district attorney comes in and demands penitentiary sentences in the State correctional system for drug addicts, what really occurs is that this person will be in a state of enforced detoxification which holds no promise at all that the moment he is released he will not return to crime.

I would like to just interject at this point another experience that I had in which a man had served a full 20-year sentence for an armed robbery. A full 20 years. It was one of the most serious armed robberies that ever occurred. Less than 3 months after he was released from prison, he was back on heroin and he masterminded a $125,000 Brink's robbery at our Philadelphia General Hospital, a payroll robbery, in which the money was taken. It was a carefully planned scheme. They wore hospital uniforms, et cetera.

This man confessed while the police gave him methadone, and in return for a guilty plea he was given a sentence of 2 to 4 years in our State penitentiary.

Now, this is the kind of disfunctional addicts for whom absolutely no treatment has been provided during the 20 years he was in. When he got out, he immediately engaged in this kind of crime. And when people talk about tough sentences or tough crimes, they have omitted the most important component of all; namely, the character of the defendant and his motivation for committing the crime.

I don't think any justice system can operate effectively if it overlooks the individual, human defendant who is before that judge. Because we do not service to society to warehouse these people for short or long periods of time and we have done nothing to turn them around in any way to cure them of whatever has compelled them to commit these crimes.

We don't have any drug program and the sentencing alternative I face and the other judges face, when we deal with someone who has a serious felony crime and no prior record, and we know that person is an addict, and our psychiatrist says he is a suitable candidate for a treatment program, is either to send him into the State system or put him into a community-based treatment program, or a hospital facility in which there is absolutely no security.

The only thing that the court can do, if it really wants to set up a therapeutic program for this individual, is to go about and hope that somewhere in that community an in-patient treatment program can be found. But then you run into this problem, the people who are running the drug programs are, I submit, quite unrealistic, too, because they insist on a humanistic, open approach and they abhor anything that resembled locked doors and security measures because they feel they are antitherapeutic.

This is one of the great problems we have, that the psychiatrists and the lawyers and the judges cannot synthesize their goals into something where each gives up a bit for the well-being of the whole system.

I have had to work out an elaborate program and send people to a hospital that is excellently run, called Eagleville, but where the situation is totally open and a person can leave. Several of the addicts I have put in there have just walked out and bench warrants have had to be issued for them. They had to be brought back in.

In the last analysis, a person who really cannot cope with an open treatment situation is signing his own court order to jail, because we have nothing in between. What I think we need desperately in our State system is an intermediate facility which is not a jail, but is something more than an open therapeutic community. There is Federal legislation to create this kind of intermediate facility in the federal system, but people are not urging this because, as I said at the outset, the entire emphasis to the public is that judges are being lenient when they send these people to treatment facilities, instead of pointing out that the judge has only this as a rational sentencing alternative.

Chairman PEPPER. If a person is not rich and has an addiction to heroin, costing—in testimony from various witnesses—up to $200 a day, it is inevitable that individual has to go out and commit crime to sustain the addiction.

Judge RICHETTE. No question about it.

Chairman PEPPER. So it seems to me that if we can develop an adequate system of dealing with the addiction—that is, a medical program for dealing with it—I wouldn't have the slightest hesitation about voting for legislation that would authorize the involuntary incarceration or involuntary taking into custody and control of that individual.

But the only thing that puzzles me is methadone, which is about the best thing we now have. Although some of these programs do give a good bit of relief, sometimes adequate relief, methadone is a narcotic and it is addictive. We have been told by experts that only about 35 percent of the addicts really should take methadone, and they should be carefully examined before they are exposed to it.

But even that, to protect society from the inevitable crime that those people are going to commit, I think we ought to have legislation. When there is a proper adjudication; I would think there ought to be a fair trial. The criminal denies he is an addict when the question of being taken into custody is involved. That person should be entitled to a trial to determine whether or not he or she is an addict, a confirmed addict, which means heavy monetary demands to provide for the addiction.

Judge RICHETTE. I would submit the best way to identify this population is by looking through your arrest reports.

Chairman PEPPER. That is what I said.

Judge RICHETTE. They identify themselves by the crimes they commit. But all of the programs that exist in Philadelphia for a more enlightened medical treatment of these people, exclude anyone who has been convicted of so-called violent crime.

Chairman PEPPER. That is self-defeating.

Judge RICHETTE. Absolutely. That is my argument. And I am saying that where there is an overriding medical factor, then the solution ought to be a medical one, but it ought to be an involuntary kind of

commitment, and we ought to have that kind of intermediate facility that would be like a mental hospital.

Chairman PEPPER. That would reduce the amount of street-crime considerably, wouldn't it?

Judge RICHETTE. I am sure of it.

Chairman PEPPER. If we could get some legislation.

Judge RICHETTE. I also think the so-called pushers who are arrested in the main are pusher-addicts, and any legislation that is going to have mandatory prison sentence for pushers, should distinguish between nonaddict and addict pushers. Many of the people who commit these crimes that I have seen, who are pushers, do it in order to finance their own habit.

I just want to talk briefly about a few other things, because I know my time is limited. I want to talk, first of all, about plea bargaining, because I wanted to address myself to some of the anti-plea-bargaining statements that have been made to you earlier.

As a judge, I think that plea bargaining is an honorable and legitimate tool of the justice system. And when it is engaged in fairly and openly, giving always the judge the discretion to reject the plea, this is absolutely a traditional part of our procession which ought not to be eliminated.

Now, when the judge feels that for any reason it is an inappropriate recommendation or that something involuntary has occurred, the judge can reject it, just as I did in the case of that rape case I talked earlier about. And I have had cases where the district attorney of Philadelphia, who was so opposed to plea bargaining, has come into my court and has recommended probation in one case, a young man named Nathaniel Berry, who held a gun to a clerk in a supermarket—he had no addiction, no overriding medical factor—just because he would turn State's evidence and identify the other two defendants, he was going to be given probation, and the others, I am sure, were going to get long jail recommendations.

I think one of the things a judge always ought to find out is what is going to be the sentencing recommendation for the codefendants. Because nothing is more destructive than for men to go to jail and to know that one of them is serving one-third the length of sentence for precisely the same crime, simply because he played ball with the district attorney.

So I think we have to leave the plea-bargaining situation where it is. And for heaven's sake, let's return to some faith in the rationality and intelligence and sensitivity of judges and stop sniping away and trying to usurp their functions.

Also, I feel very strongly that there is nothing wrong with leaving the sentencing process exactly where it is, and giving the judge that authority which he now has under the law, of imposing sentence. I think if you set up panels, such as you have with courts en banc, one of two things will happen.

The other two men or women, as the case will be, will defer to the judge who actually heard the case because there is no substitute for hearing that case yourself, evaluating the quality of the testimony, watching the defendant's reaction through the case, et cetera. So the other two judges will either defer to the superior knowledge of the case that judge has, or they will veto out of their own prejudice any-

thing that that judge has to offer. In any event, it is not going to be a fruitful procedure.

If a judge wants to get assistance now on sentencing, he can do that, and I do that frequently. I call up my colleagues and say, "What would you do in this kind of a situation, given this kind of psychiatric report?"

Chairman PEPPER. Excuse me. Do you believe it is desirable for the judge to fix the maximum sentence rather than to leave the total sentence to a panel?

Judge RICHETTE. Oh, yes. I am coming to that, because I think what happened, the judges have been absolutely eliminated from the process. I think when parole considerations arise, virtually no attention is paid to any of the judge's recommendations. I write letters all of the time recommending people for parole, or against parole, and my recommendations are totally ignored. I would very much like to have review provisions so that these cases could be brought back in the case of probation as well in penitentiary sentences for periodic reviews. I think that sentences could be modified and could be revised, and this ought not to be left up to a group of citizens who very often know nothing about the case, who do not have the benefit of any representation by counsel, and who were thoroughly unfamiliar.

This man is just another number as far as they are concerned, but not so with the trial judge and the sentencing judge. Believe me, those people make an impact on you, and you remember them very vividly.

Chairman PEPPER. I heard at a conference I just attended, somebody knowledgeable about the Federal system, said that there was some 16,000 cases which had to be considered by the Federal parole board, and each case was given 10 minutes.

Judge RICHETTE. Oh, yes, that is right.

Chairman PEPPER. The applicant for parole, or his representatives, were given 10 minutes to make their presentation.

Judge RICHETTE. It is just absurd; absolutely. And unless the judge is put back into the situation, which is a very important component of the justice system—I am very much for having judges responsible for the administration of prisons and for the institution of programs in prisons—I think that putting them in another bureaucracy ties our hands and also diminishes the kind of impact we can make.

What good is it to send a man to prison knowing what he needs, if you in some way cannot say to him, "I am going to make sure you get this"? We are all liars and hypocrites because we tell people we are sending them to institutions where they are going to be rehabilitated, and when they write back to us, as these prisoners frequently do—I have long files from prisoners and we answer our prison mail constantly, and they complain they can't get into this program, it doesn't exist, and that they were doing very well in a vocational kind of program and then suddenly they were removed from it.

Our hands are tied. There is nothing we can do except make a phone call and beg whoever is running that prison to give some consideration.

I really think we belong in every level of the system and instead of pushing us out of it, we ought to be built back into it. Because, as I said at the outset, I think that judges are the forces of society, that is the balancing force, that will balance individual rights plus community values. And these two things are very important. My fear is

that the rights of the individual and the value and dignity of the individual human being are just being sacrificed under the banner of "law and order."

You can't have that without justice and justice is the key thing.

Finally, I just wanted to say that I am very concerned with the way in which rape cases are prosecuted. I do believe that rape is a serious aspect of street crime. If you are going to come before a committee and talk about terrified citizens, may I tell you that the largest group of terrified citizens in our major cities are women. You can't get women to come out to a meeting at night. You can't get women involved in any program that involves night travel. We have been setting up a "hot line" for child abuse programs in Philadelphia and our big problem in getting volunteers is women will not come out at night to go to the hospital because the hospital is in a high-crime area.

These are well-motivated, wonderful people. So rape is a very serious problem for women. It is estimated in Philadelphia that only 1 out of every 10 rapes is reported. The reason for this is because of the incredible gauntlet that the rape victim has to run, which is unlike any other experience that any other victim of street crime has to undergo. This all stems from the fact, I submit to you, Senator, that our rape law is founded on propositions which have no place in the 20th century society.

Women are not property, women are not sexually aggressive; men are not sexually irresistible. The victim has to prove her innocence as much as the defendant is protected by the presumption of innocence.

I presided over about 50 rape cases in the last 16 months, and I have come to the conclusion that the defense of consent is absolutely unnecessary, that we ought to think about rape in terms of situational force, a situation in which force is used to achieve a sexual result, and that a woman's past sexual history has no bearing on her credibility, that whether or not embarrassing questions are to be put to her for the purpose of discrediting her, that that is an issue that absolutely ought to be resolved in favor of the victim.

Now, we just have had a new crime code passed in Pennsylvania, and we were appalled to discover that slipped into this code was the provision the judge must charge the jury to receive the testimony of the rape with special scrutiny because of the highly emotional nature of her testimony. We thought that this was reflecting a typically male attitude, that I would say is a sexist attitude, in which there is great suspicion surrounding even the possibility of rape.

I have heard fellow lawyers say they didn't really believe anybody could be raped. So that we have a growing feeling in our society that women are easy prey, that rape is a crime that largely goes unpunished, because it will go unreported. I know of an Evening Bulletin newspaper reporter who was brutally raped in her house, and one of my neighbors who was raped in the very public garage where I parked my car. Neither one of these women would report the crime because they did not want to go through the police process.

This is a very, very common phenomenon.

Chairman Pepper. It seems to me that the circumstances under which is a contact occurred would be very, very influential. I realize that there are unscrupulous women——

Judge RICHETTE. Oh, sure.

Chairman PEPPER [continuing]. As well as unscrupulous men. And you can't allow ordinarily the word of a woman to send a man to a long term in prison, but it is another thing where you have a boy and girl in social contact with consent between them in places where they might have had intimacy, in a case like that.

I remember there was a case in one of the British courts where the girl consented to go with a fellow into a remote area and the court said she practically indicated her consent by consenting to go into a situation like that.

But where a person is walking along the street peacefully, in her own hometown or some other sanctuary, suddenly to be attacked by such person with whom she would never have any social contact in most cases, and eventually assaulted, threatened with a weapon, and the like, I know all of the questions that the defense lawyers ask in these cases, but it would seem to me under those circumstances that it would be almost absurd to believe there was consent under that. You don't approach a person.

Judge RICHETTE. Correct. I would also say to you, that the presence or absence of a weapon is not so crucial because, very often, a women is so intimidated by the entire situation of the strange man making this demand on her that that situation in and of itself renders her agreement, if you please, an involuntary one.

I think we have to take account of the fact that women are not trained by our society to fight their way out of such a situation. And to expect a woman to put up physical resistance or to interpret the lack of physical resistance as consent, which is what happens in our courts, "Did you fight, did you kick, did your scream?" is an unrealistic demand to make and gives the men in that situation an absolutely exploitative advantage.

The other thing about rape is that it is a repetitive, compulsive crime, that sheer incarceration in and of itself for a limited term of time will not change that behavior, and the worst repeaters that we have in our courts are the rapists.

So I think we do need a different kind of sentencing practice with respect to rape.

Chairman PEPPER. What age groups are the ones who are the most numerous in the rape cases?

Judge RICHETTE. Eighteen or younger. Twelve—I will start with 12: we have the 12-year-old boys—I would say it starts at 12. I discussed it with one of our psychiatrists and he said at about age 50 the drive diminishes.

But the important thing is, it isn't the sexual gratification that the rapist is seeking, but the thrill and the excitement of that moment of complete control over the woman. Woman after woman has testified in my court. I had one woman who was absolutely lucid because she was a physician and she was raped by a mental patient, and while this rape was going on she had sufficient mental discipline that she could think and record mentally everything that was happening to her.

She noted physiological things that were going on and the man was almost totally impotent, which is generally true. Contrary to the public's stereotype that it is highly sexed people who do this, this is

not true. It is insecure people with terrific hangups who get their gratification in this way, by that kind of control.

That has to be understood. I don't think we really have done enough research.

Finally, I just want to say what I think New York City is doing—and I understand you had that lieutenant here before you—is just excellent. And we have urged our Philadelphia police commissioner to institute that kind of practice. He is not very receptive to it because he says it would inject a sexual bias in the proceedings.

I pointed out to him we already have a sexual bias in that the investigators are of the same sex as the defendants. So if you are going to have a bias, why not have it in favor of the victim?

I feel strongly about that because I think that rape is very important.

I have very little else to say except that I would sincerely hope we remember always that the process of justice is just never finished and that it reproduces itself generation after generation, in changing forms, and I think I would agree with Roscoe Pound, whom I am quoting from now, when he says, "Today, as in the past, it calls for the bravest and best people to be in that justice system."

I would like very much to speak here in defense of the judiciary. I think that the judges who are being attacked today are not softheaded people; they are hardheaded people who believe in due process rights and who still believe that rehabilitation is a legitimate goal of the criminal justice system.

Thank you very much for allowing me to come.

Chairman Pepper. Well, it is exciting to hear you, Judge Richette. We are most grateful to you for coming.

Mr. Mann?

Mr. Mann. On the rape question, what specific recommendation do you have for change in the law? Most of the matters we are talking about are evidentiary in nature.

Judge Richette. I didn't hear you.

Mr. Mann. Most of the angles we talked about on rape were somewhat evidentiary in nature. But, specifically legal changes, I gather one would be to make it inadmissible to attack a woman's reputation, except upon specific violations of the law involving moral turpitude.

Judge Richette. As in any other case. A victim being cross-examined on an aggravated robbery is never asked about his past criminal record.

Mr. Mann. So you would have an evidentiary rule which would prevent attacks of her character. What else? The same law as in rules of evidence?

Judge Richette. I think the definition of force ought to be a definition that includes constructive force as well as actual force, which is a legal distinction, but that also the doctrine of constructive force should be extended so that the force is inherent in the situation.

I have in mind a situation that I tried where a young nurse was taken by four men to a roominghouse in a different ethnic area than she was familiar with. It was an all-male roominghouse. They raped her, they sodomized her for about 4 hours. Then the man who owned the room came upon the scene after they had left and she was pulling herself together.

He walked into the room and he said—by his own testimony—he took the stand and said she was as frightened as a leaf, shaking, and he said to her, "What is your problem?" And she said, "I would like to get home." She was dressing at that point and he said, "If you are nice to me, I will help you get home." Whereupon, she stopped dressing, undressed and had relations with him. And his defense, of course, was "consent."

And I said there was no consent in that situation whatever, that it was a situational force that had been used. And I would make it a case-to-case thing, as the chairman was suggesting. You have to look at the situation and that is all that the jury should consider, whether or not there was actual or constructive or inherent force in that situation.

On the issue of whether she said yes or nothing—because to say nothing is to consent, unless there is an active rebuffing or denial—the jury is charged on those lines of consent. And very often a rapist is let go free.

Mr. MANN. Well, I know we are talking about 50 different definitions in different States as to what constitutes force. Frankly, the definition in my State would certainly cover constructive force. I am not sure there is a Federal solution to the definition of rape.

The question of the judge's duty to be more active in bringing about reform. Why aren't they?

Judge RICHETTE. Because I think many of them, Mr. Mann, have come from a background that is not activist in orientation. Let's be very candid. Judges are politically appointed and it is not the wavemakers and the dissidents who are in line to get these appointments. My own background is an activist, intellectual one. I have been a writer, a teacher, and have been intimately involved in legal reforms. There are a number of people who are serving on the bench who are of a similar background, but they are in the minority, and most of the judges feel this is outside their province.

What I think is needed is a vast and enormous program of judicial education and I, for one, am very pleased that Chief Justice Burger takes this position that our penitentiary system and criminal justice system is totally a national disgrace and judges need to hear it, and need to hear it from people of that caliber.

I think you have a new breed of judges coming in who really don't accept the fact that all they have to do is wear black robes and look dignified and utter the right legal phrases at the right legal moments so they won't get reversed. Our obligation is much more.

Mr. MANN. I certainly agree they left a tremendous vacuum. Reform usually awaits the election of some progressive lawyer to the legislature who then promotes some needed reforms. There is no other organized group; the organized bar is not criminally oriented.

Judge RICHETTE. That is correct.

Mr. MANN. Judges don't meet and discuss anything but their own salaries, usually.

Judge RICHETTE. You are right.

Mr. MANN. All right. I quite agree with your assessment of the process of plea bargaining. I see nothing wrong with a prosecutor, in his wisdom and discretion and experience, making a calculated judgment as to the nature of the case and the nature of his proof and other things——

Judge RICHETTE. Exactly.

Mr. MANN [continuing]. And presenting it to the defense counsel and to the judge.

I propounded the question to Mr. Specter. He and I don't have the same definition of plea bargaining. He, frankly, did offer sentence bargaining—but it wouldn't shut off, apparently.

I don't believe I have any specific questions.

Chairman PEPPER. Counsel, do you have any questions?

Mr. NOLDE. Thank you, Mr. Chairman. Judge, how does the failure of our correctional system affect your determination as to the type of sentence to impose?

Judge RICHETTE. Well, it causes me great personal anguish, but there are situations, of course, where there is no alternative but to send that man or woman to the penitentiary. I sent 76 people last year to jail for long sentences, just had to. They were repeaters, they were compulsive, antisocial types, who were just continually reeking destruction on the community and there was no other alternative for it.

But I look back at their criminal records and when the probation department does its presentence report, I always make sure they have got the juvenile record in. And you would see when this boy was 14, a psychiatrist or psychologist said he must be taken out of his environment, he must be given "X Y Z," and none of it was done.

Chairman PEPPER. You believe, then, that if we can do something effective for the juveniles we would reduce the volume of crime enormously?

Judge RICHETTE. Absolutely.

Chairman PEPPER. Most of the people who are repeaters as adults had juvenile criminal records?

Judge RICHETTE. No question of it. And when we send these people to jail, they usually have sired offspring and because they are not there and because the family is without a father, we are just creating new problems for another generation.

Chairman PEPPER. Mr. Mann.

Mr. MANN. The continuum to which you referred, I think that is a good point and an interesting one. But taking the necessity of the continuum and applying the recommendations you have about the judge maintaining a continuing interest in a specific case being perhaps more desirable than the parole board, the necessity of picking up this juvenile, following him on through his career, seems to me to indicate the necessity of some other agency, other than the court, other than the prosecutor's office, but a continuing agency which I think we generally put in the category of probation, parole, pardon, supervision.

Now, such an agency could provide the continuum over a period of years that a judge could not.

Further—and I haven't formulated any details—I question your suggestion that a judge might be better equipped to follow the defendant to the conclusion of his sentence, because of the general problems in this country, the tremendous volume of cases that exist and the necessity of making the most efficient use of the judge's time, and being able to give each case the individual attention you would like to.

Of course, in other jurisdictions, the lack of even presentence investigation, the lack of any real information on the part of the judge, the judge sits there and by the seat of his pants makes a quick judgment without even an adequate record being prepared by the local prosecutor, in that type of situation.

I would say that type of situation is in the majority in this country.

Judge RICHETTE. Yes, it is.

Mr. MANN. Rather than presentence psychiatric report.

So, given those circumstances, I am wondering if we don't need a more sophisticated agency to follow that thing once he comes in the criminal justice system.

Judge RICHETTE. Well, if we do have such an agency, I was suggesting the judge be a very important part of that agency and not be co-opted out of it, which is what happens now. We have absolutely no role to play.

The other thing, Mr. Mann, judges waste an enormous amount of time, and I can tell you that. We have the most confused calendar system you can imagine in Philadelphia. I am strongly in favor of individual calendars and I am strongly in favor of each of the judges having an assigned quantity of work that must be done.

I sit in court waiting for hours for cases to be sent down to me and then they arrive and either the district attorney is not prepared or the defense counsel hasn't had time to interview his clients. Some consideration occurs that makes you absolutely required to continue this case and nothing fills that vacuum. It costs us $1,000 each day just to keep our courtrooms open. We waste a lot of time.

Once again, because the hardware people have persuaded the courts that efficient court administration is a function of computers, and all we have done is computerized chaos. We have millions of dollars' worth of computers spewing out printouts in Philadelphia, and we have a huge backlog and we have judges who sit by waiting for work.

So I think we have to put, you know, human intelligence back into this thing and we have to get the judges working to set up their own calendars.

Chairman PEPPER. Judge Richette, you didn't hear Justice Ross?

Judge RICHETTE. No, I missed him.

Chairman PEPPER. He was very good, because he has been designated as the court administrator of the New York court system.

Judge RICHETTE. Wonderful.

Chairman PEPPER. And lately of the criminal division of the Supreme Court. He was talking about some of those very things you are talking about. You start to get the prisoners down on time from the jails, and so on. He has been able to reduce the backlog in the New York court system an enormous amount within 2 years by virtue of getting all of these component parts to work together, to fall into place.

Justice Clark has taken the position it is better to have a good administrator for a judge than it is to appoint a new judge. He says in the Federal system it costs about $125,000 a year to sustain a new judge. You get a very good administrator for much less than that. And he said he can do a better job of expediting the disposition of cases.

So you might consider and inquire about what Judge Ross has been doing in New York in some appropriate way.

Judge RICHETTE. I read about him in the New York Times but I have never heard him in depths, and I understand he was excellent here this morning.

Mr. NOLDE. In that connection, it appears the impression is created that Justice Ross' success is due not to computers or hardware but the personal equation to which you referred.

Judge RICHETTE. Of course.

Mr. NOLDE. With his own personal dynamism he was able to direct that system in the right direction.

Judge RICHETTE. But he can train other people and that is what we need. We need a Judge Ross institute to train other judges to do this.

Chairman PEPPER. Do you think that might be a proper subject for funding by LEAA?

Judge RICHETTE. Absolutely; you see, judges are put on the bench and they have no background for what they are to do. They come from the practice of law and they are untrained. And going out to Nevada and taking this great crash course which is like a crash course for the bar, doesn't really help you run a system.

We walk into a system that is vast and incoherent and no one seems to make it work. I say, if we have in this country men and women judges who have achieved successes, they ought to train and teach others.

Chairman PEPPER. Speaking about having to wait in your office or the courtroom for cases to be brought to your attention, I remember that we were holding a hearing in the ceremonial courtroom in the Federal Building in San Francisco, I believe it was in 1969, and one of the judges told us that one morning when he went down to the courtroom and opened court. He was supposed to try a criminal case and, lo, and behold, he couldn't find the defendant.

Consequently, he had no other cases that could be set then.

Judge RICHETTE. That is right.

Chairman PEPPER. And he lost that whole day, simply because the defendant wasn't there. If he had had a good administrator he would have found out where that defendant was and he would be there at the right time the next day.

Judge RICHETTE. We sometimes have defendants with fairly common names like Johnson or Smith, and they send the wrong man down. That's the end of that. Because it takes a full day to transport a prisoner back and forth through our machinery.

Mr. NOLDE. Judge, in the cause of violent offenders, what alternatives do you consider in sentencing? What alternatives are available to you as a judge?

Judge RICHETTE. Mr. Nolde, if there is some strong medical underlying reason for the violence, hopefully, one could find a hospital facility. But that is very rare because our mental hospitals will not take people who are not, frankly, psychotic. These men and women fall into a no-man's land. They are not psychotic. There have been all kinds of names assigned to them, psychopaths, and so forth. So that that possibility is not often fruitful. So there is only, really, one alternative and that is incarceration for a long term.

Mr. NOLDE. In the cases of drug offenders?

Judge RICHETTE. The same. The same, because as I said, the community-based facilities often do not provide the proper security measures.

Mr. NOLDE. What is your opinion of the diversion programs in Philadelphia that divert offenders out of the system into treatment alternatives?

Judge RICHETTE. They are very inadequate at the moment and their administration is abysmally bad. A person is put on ARD, but there is never a followup report, nobody checks on whether or not he went into that treatment program. And when he is rearrested for a subsequent crime, there is no way to know whether or not he had ever been in a treatment program and what his success or failure rate was in that program, because there are just no records kept.

So to me ARD is worthless. All you have done is have a nice friendly conference with somebody and you said, "We are going to give you a chance to go get help." But nobody knows what has to be done with these people, which is that they have to be supervised in the help, they need a great deal of human intervention. Just to say to somebody, "You are going to go to a clinic," isn't enough, not with these multiproblem people we have. We have people who are born losers, people who just have no faith in themselves or the people around them. They need a lot of human support. The programs at the moment are just not well implemented. They are paper programs and all you see are paper results.

Mr. NOLDE. What about the eligibility requirements?

Judge RICHETTE. I think the eligibility requirements are unrealistic. The people who need those programs most are excluded from them. You are dealing with a peripheral group of people who are potentially harmful because they can get more deeply involved in antisocial behavior and when they do get more deeply involved, you know nothing more about them from their having been in that program.

I think a program that doesn't have internal controls, that can't measure its own results, is not a serious program. They have no way to evaluate how effective they are.

Mr. NOLDE. Judge Richette, I understand you put 89 defendants on probation last year.

Judge RICHETTE. Yes, I did.

Mr. NOLDE. Only 14 were subsequently rearrested. How do you account for such an outstanding success rate?

Judge RICHETTE. Well, they are still alive and at large, and it may not be such a great figure.

No; I think what I was saying at the beginning is important. I think if you have had a vast longitudinal experience with people, and you have read a lot of reports and you have interacted on a 1-to-1 basis with a lot of people as a lawyer, you get to have a kind of intuitive feel, which I submit to you is part of the art of judging. There is an art of judging which I am slowly learning. But this quality is completely devalued by the vilification, I think, and the pillorying of judges.

You do, after all, have a group of people in a society who do develop a kind of expertness and the expertness is something that is intangible. But whenever I put anybody on probation, I think it through very, very carefully, because I have only dealt with serious crimes and I

know that the prosecutor will run to the press and will have a front page story on the fact I put this man on probation. This can be an intimidating force and be a negative one or it can be a positive one and make you really think through what you have done and force you to have a valid rationale in each case, and I have had that.

I bring everybody in. I make them come in with their families, with community people. If there is a plan for probation, I want the person who is administering that plan in front of me. I want to hear exactly what is going on and I really think that face-to-face human contact is very important. People feel they are accountable to you.

Mr. Nolde. Judge, one final question. What is your reaction to the statement we heard earlier this morning: tougher sentences for tougher criminals?

Judge Richette. It wasn't for tougher criminals. It was for tougher crimes, which is very important, because in our jurisdiction we have a way of overindicting people. The Philadelphia Inquirer did a complete survey on this. You overindict so you have a huge kind of criminal statistics built up.

I feel that we ought to look at the human being first and foremost. If this human being who is in front of us is not amenable to any of the limited treatment facilities we have available, then we have no alternative but to send that person to jail. But I think we should be very sanguine about the fact all we are doing is postponing the day of reckoning with that person.

We have protected the community for a limited number of years, and what is going to happen when that person returns?

Mr. Nolde. Thank you, Judge Richette. I have no further questions, Mr. Chairman.

Chairman Pepper. Judge, we are certainly indebted to you for this very stimulating and, may I add, inspiring presentation you made to us.

Judge Richette. Thank you.

Chairman Pepper. It is very gratifying to know there are people like you on the bench and I am sure there are many others and a growing number. I hope you will see your tribe will rapidly increase.

Judge Richette. Thank you.

Chairman Pepper. Again, I want to express my regret that Harvard didn't change its position.

Judge Richette. Thank you very much. I was sitting here thinking this is a great dream come true, that I would be in front of you some day.

Chairman Pepper. Thank you so much. It has been an honor to have you.

We will now call on the Honorable Don Riegle from the Seventh Congressional District of the State of Michigan to present the next witness.

Don, we welcome any statement you care to make and invite you to sit with the committee for the remainder of the day.

STATEMENT OF HON. DONALD W. RIEGLE, JR., A U.S. REPRESENTATIVE FROM THE STATE OF MICHIGAN

Mr. RIEGLE. Thank you, Mr. Chairman. I am away from another subcommittee that is in session right now.

I appreciate the honor of sitting with the committee here, and I want to say at the outset how much I appreciate your work and your leadership in this area for such a long period of time. You have friends all across the country, across party lines, for the good work you have done.

I just want to add my brief words of appreciation to so many others I am sure you hear.

Chairman PEPPER. Thank you very much.

Mr. RIEGLE. It is an honor for me to introduce Robert F. Leonard, who is the prosecuting attorney for Genesee County, Mich. This county is contained within my congressional district and I had the opportunity to witness Mr. Leonard in action for many years. He has compiled an outstanding record of service which people of our district very favorably responded to in terms of reelecting him in successive elections.

Among his achievements has been expediting the disposition of criminal justice cases and that is what he is here to speak about today. I think you will find him a very knowledgeable and useful witness to the committee.

There are many in my State who feel that he may someday be attorney general of Michigan. So at some future date you may have him back in another capacity. It is a pleasure for me to introduce to the committee Prosecuting Attorney Robert Leonard.

Chairman PEPPER. Thank you very much, Mr. Riegle. We appreciate your coming to be with us today and the support this committee has had in its efforts to try to do something about the crime situation. We are very grateful to you.

Mr. Leonard, we are very well pleased to have you. Again, I want to apologize to you for the delay. You saw the circumstances here and you have been most patient and I hope we have not inconvenienced you too much.

STATEMENT OF ROBERT F. LEONARD, PROSECUTING ATTORNEY, GENESEE COUNTY, MICH.

Mr. LEONARD. Not at all. I certainly want to express my appreciation for being asked here and say to Congressman Riegle that I appreciate his introduction. He is a friend of mine for many years.

Chairman PEPPER. A distinguished Representative.

Mr. LEONARD. Absolutely, I might say, I know this is not a political meeting, but I am a staunch Democrat and, Don Riegle, I voted for Don Riegle when he was a Republican, too. That is how much I thought of him.

Chairman PEPPER. We are very glad to have him on our side now.

Mr. LEONARD. Thank you.

I do appreciate the opportunity to appear here and I am honored. I have heard of you for many, many years, Mr. Pepper. and, as I say, I am honored to be here. I heard of the work of this committee, doing an outstanding job. I had the pleasure of talking to Mr. Nolde and some of the other members, and Tom O'Halloran, who came up a week or two ago to see us. We are very pleased to see him. It is nice to be visiting in Washington.

I have a prepared statement that I won't burden you with reading.

Chairman PEPPER. Without objection, we will insert your prepared statement in full in the record, Mr. Leonard, and you may summarize it.

[Mr. Leonard's prepared statement appears at the end of his testimony.]

Mr. LEONARD. Thank you very much.

I do want to just say how much I enjoyed Judge Richette's remarks. She obviously is an outstanding jurist and outstanding woman. Many of the things that she said, I was going to say, too, so I will try to quickly pass over those areas and just give you some of my ideas, which will very much parallel her thinking.

I see the major problems in our criminal justice system which, as you know, is under heavy attack throughout the United States today by many people, some knowledgeable, some not so knowledgeable, but all coming to the same conclusion—that there is something wrong with the system.

In considering these attacks and trying to understand what is wrong with the system, I came to a couple of conclusions and I would just like to kind of touch on these areas, if I may, and what solutions I might have for them.

I think one of the major problems, of course, is the prohibitive delay between the time of arrest and time of actual trial or disposition of the case. That will kill the system if we don't correct it.

Another problem is the lack of finality, the lack of judgment. You never have a final judgment in any kind of a criminal case these days. Not every case, but a great number of them. In our jurisdiction, for example, the judge, when he sentences anyone to jail almost encourages, by virtue of the rules of the Supreme Court, a person to appeal.

Now, I see nothing wrong with appeals and I have no objection to them, but it is an example of what encourages this lack of finality.

Chairman PEPPER. Excuse me. I just returned from a conference in England and discovered there that immediately after the sentence is passed they go to prison. They are sent to prison and they are in prison while the appeal is pending. Here, of course, people don't go.

Mr. LEONARD. In most cases, they don't. That is right.

The third area, as I was mentioning, is the problem of diminishing credibility in our criminal justice system.

I would like to maybe take them in reverse order, if I may.

Today, constantly you are hearing great discussions about the problem of street crime. We identify street crime in most cases as violent crime or burglaries of considerable nature. And right now these are concerns of ours and concerns of the public and they have to be dealt with. We have to continue to deal with them.

But one of the problems with the thrust and the emphasis in this area on street crime is the failure to look at other types of crime, and that is the crime of public corruption, the white-collar crime, and organized crime.

When you consider where the emphasis is today, it is on what we call visible crime, crimes that people see and respond to and want something done about, speak out against. As a result, we respond to that. We respond in law enforcement, we respond in the legislatures, and we respond in the executive, to do something about this. The result is that our primary efforts and direction against crime are in this area and very little is done in the other areas.

The result of this is, when you consider who the people are that we are focusing our efforts in crime against, invariably it is the poor, minorities, usually black when we talk about minority people.

Now, there is no group that is more indignant about the commission of crimes in their community than the blacks. But they are also recognizing a very important factor, and that is that the laws are now geared to, in effect—and I think unintentionally—discriminate in the enforcement of the law. Because if you look at history, it is replete with discussions about the poor, low-income people, who are involved in the commission of the types of crimes that we are talking about here: the Irish when they started, the Jews, Italians, blacks, Puerto Ricans; you name it, as they came up the economic scale.

What is happening is that these individuals against whom the thrust of our law enforcement is directed are beginning to recognize they are not the only ones committing crimes. They are just committing a different type of crime. When I say "they," I don't mean the entire community. I am talking about those individuals in that community that commit crime. And there is a large area, as I suggested to you, that is not being policed, and those are the three areas I mentioned—public corruption, organized crime, and white-collar crime.

The people who are involved in these areas and who commit these crimes are very rarely blacks, low-income, or from minority groups. Generally, it is the establishment or white people who control the laws or the enactment of laws which would be able to ferret out or zero-in on this type of crime.

What I am saying to you is that it becomes more difficult every day for us in law enforcement to effectively prosecute street crime because of the diminishing credibility that we have in the community, particularly in relation to these individuals in these groups, low-income, minority groups, because they are our witnesses. They are our jurors in street crimes as well as other types of crimes. And unless we have credibility, unless we can convince them we are just as concerned about the white, high-income, affluent people committing crimes, they will have no faith, no confidence in the system, and fewer will want to become witnesses—because we are having trouble today bringing them in—fewer will want to sit as jurors, or when they sit on juries they will reflect their attitudes in the disposition of the cases.

Now, there are books, I am sure, that have been written and will be written on this subject. I know I am just touching very lightly in the area, but as it relates to the area of street crime. I know I am talking about crimes that may not be classified as street crimes, but will, if

looked at as I suggest, have an impact on street crime in the way that we enforce the laws and how effective we are.

The issue of finality in judgment is a very difficult area for us to consider but it is killing us in law enforcement. Cases are being appealed and they go on and on and on, and people are out on the streets committing other crimes and, as they commit other crimes, they are arrested and begin the process all over again. Where they go through the State system and all of a sudden we find them in the Federal system—more years waiting.

And the prosecutors, they are human beings, they lose interest, because we have a more important case that has come up and we are utilizing our resources in that area and giving less attention to this case that is now 2 to 3 years old.

Let me give you an example of what I mean. About a month ago a young man in our jurisdiction during the commission of a robbery killed a young girl. Two men held up a store, a music store in Flint. They walked in, and one went to the back of the store. A young girl was in the back at the safe, either kneeling down, or he had her kneel down. Without any rhyme or reason he shot and killed her.

In our opinion and the police opinion, he was involved in drugs at the time and was high on drugs. That is another problem I will talk to you about in just a moment. As it turned out, this individual had about a year prior to that time been arrested for armed robbery, had gone to court, had pleaded guilty, and had been advised by the trial court that he had a right to a jury trial.

He was sentenced to, as I recall, 7 to 20 years for the armed robbery. He appealed after going to prison, on the grounds that he was not advised of all of his rights when he pleaded guilty. The appellate court reversed, saying he was correct. He not only should have been formally advised that he had a right to trial, but that he had a right to cross-examine witnesses and he had a right to refrain from taking the stand if he were tried.

In my wildest dreams, I can't imagine that individual, that defendand, ever deciding not to plead guilty if these other two items had been told him. He would have still pled guilty.

Now, because of this technicality, he was released from prison and this young girl is dead today.

Chairman Pepper. Excuse me. Would it be considered double jeopardy to try him again?

Mr. Leonard. No. He pled guilty. He wasn't jury convicted. He went and said, "I am guilty of the armed robbery." That is what makes it so flagrant. If he had been convicted by a jury, you might say there was error. But this fellow said, "I am guilty of it" and he should have been in jail. He was sentenced to 7, 15, 20 years. He would have been in jail if the court had not reversed on that technicality.

I am a lawyer; I recognize the importance of technicalities in some situations, and I recognize the importance of a man's right to appeal and to have a higher court make a determination of the guilt or innocence of somebody, or the issue of his constitutional rights. But I am inclined to think it is going to just stifle the entire system unless we somehow develop rules and procedures whereby—and maybe the case must be this, a man has one appeal, and it goes to one court and some-

how set up a system so that the appellate court hears that matter within 2 or 3 months—and there is no reason why it can't—and have that matter disposed of then and there, and that is it.

No going through the Federal system, or no going through the Maritime system, or whatever the system is. I am just surprised that some of them haven't figured out the Maritime system because they may have a way of going through that system, too.

But the point simply is we have to have the finality in the system in getting those people committing violent crime that cannot be treated by community forces off the street and serving their sentences. Not only is it going to have an impact on that individual but those individuals out in the street, considering what to do, whether they should commit other crimes.

Finally, the issue of the prohibitive delay in the time period between arrest and trial. You know, we have heard many suggestions, such as more judges, more prosecutors, and more police. If anybody would sit down and project what we are talking about, more judges, police, and prosecutors, I think they would rethink it, because we are talking about an increase in the expenditures in the criminal justice system of probably three or four times.

That means when you go back to the public: "I am going to increase your taxes x number of millions on your property or income tax, or what-have-you."

When you start talking dollars and cents to people, to the public, to the constituents, they are going to respond a little bit differently. They are going to ask what are the alternatives? I suggest to you there are all kinds of alternatives that the criminal justice system has never used, primarily because its members, had their own little ball game. They operate in a vacuum and they think they know everything about the criminal justice system ,where police, prosecutors, and judges say, "You stay back where you are and take care of your own discipline over here and your own sciences over there, and we know how better to take care of the system," and we won't let you in.

I say that is one of the reasons we are in trouble today. There are all kinds of agencies, institutions, public and private, sciences, that are available to us that could help us, particularly in communities, because I think that is where the help has to come from.

When a man goes to prison, or a woman goes to prison, 90 percent of them come back to the community that sentenced them, at least in our area. That is our problem. That individual is a creature or a product of our society, not of his home alone, but of our society, which is the schools, the neighborhoods, the churches, all of the discriminatory acts we may have committed against the individual for whatever reason. He is our responsibility.

We have got resources in our community that we should be using. All kinds of resources that we should attempt to use to help rehabilitate those people in our community, rather than sending them 400 and 500 miles away, where they have impossible problems in those prisons today trying to solve the problems. It is our problem, our community.

Now, I am not suggesting to you that prisons aren't needed, but I think we overuse prisons. I think that there are certain individuals that should be imprisoned and if we send them to prison it is clear

they are going to do nothing but create problems when they come out. I suggest to you whatever they are charged with, turn the key and throw it away and leave them there. There are people like that in our community and we have to do it.

But I suggest to you also that there are people in the prisons today who shouldn't be there, whom we could better handle in our own community. As a reflection of that kind of an attitude, we developed 8 years ago what we called the "citizen probation authority program", which is a diversion program. I agree with the judge, it is absolutely essential if you have a diversion program that you have followup and you have people working with these individuals.

Ours is a felony program. We take people, primarily young people, who have committed nonviolent acts—burglary, car theft, larceny—who have no previous record, who we know that 9 chances out of 10, maybe even better than that, we show it about 9½ out of 10, will probably never commit another crime. But we are trying to protect them from criminal records, because I think we all know the inhibiting impact of the criminal record.

I know Congressman Mann was a former prosecutor and he understands that tremendous impact that it has, as we all can.

But that is one aspect of it. We also recognize how much more effective diversion is than probation, 6, 8, 10 months later. We take him in our program if the individual fits the qualifications and the criteria, which is very definitely spelled out, so there is no unfairness in the treatment of any individual.

The day after he is arrested, if he falls into this classification, he is diverted. He goes to a professional staff of people who deal with these people, former probation officers, who now in fact are the front of the system, and they begin working with him and do the research on him and the background check and make the determination whether or not he should be accepted for the program. But he starts on the program in anticipation that he will be accepted.

We accept about 60 percent; 40 percent are rejected and sent back for prosecution because they don't fit the criteria, maybe on account of previous offenses or because they want no part of the program.

The practice there is from 6 months to 1 year that individual works with his assigned officer and he develops programs. Those programs are directly involved with our community. We find, for example, that many of these people have alcoholic problems. We have alcoholic clinics in our community that we utilize. If he has a drug problem, he goes to the drug clinic. If he has a particular problem with reading or writing, we teach him reading and writing. If he has a problem with a skill, or he has no skill, we work with him in that relation. We train him.

Now, the recidivism rate, the rate of repeating, of committing more crimes, is about 3 percent.

Chairman Pepper. In that classification?

Mr. Leonard. In that classification. I might say to you I have these statistics. We have done a study on it. The LEAA arm in Michigan, which is the State planning agency, has done a year-long study and comes to these conclusions. I have it available.

The National District Attorneys Association has adopted it as its model program for diversion.

Chairman PEPPER. We would like very much to have it.

Mr. LEONARD. I have one here. I have also the St. Paul-Minneapolis program, which is called the "de novo program," and the Hawaii program.

Chairman PEPPER. Would you leave it with us? If they are not bulky, we would like to put them in the record.

Mr. LEONARD. They are lengthy. Ours is about a 200-page report.

Chairman PEPPER. We will put it among the documents of the record.

Mr. LEONARD. Fine.

[The documents referred to above will be found in the files of the committee.]

Mr. LEONARD. We have, as I say, a very low recidivism rate. Frankly, we take the "cream of the crop" away from the criminal justice system, and we utilize all of these community resources that are available. What I am saying to you is that all of these resources were not available originally. We created some of them. I think prosecutors, and as Judge Richette has said, judges and police, should be in the system, should be out in the community, creating the resources they need to help the criminal justice system.

It opens up the criminal justice system to those individuals committing those kinds of crimes you are interested in, and I am interested in, in this committee hearing. Violent crime, street crime. The people committing the armed robberies, the assaults, the rapes, the murders. I think the proof is in the pudding.

Our time delay between arrest and trial is about 3½ to 4 months on the average case. It is the most current docket in the State of Michigan. In all fairness, much of the credit has to go to our judges. We do have six hard-working judges. Certainly, they recognize and they support the diversion program I am talking to you about, because they know they can better do their job and they don't have the long delays or large backlog of cases.

Chairman PEPPER. Does that program apply only to adults or adults and juveniles?

Mr. LEONARD. My jurisdiction is primarily adults, from 17 on. The great majority of these types of offenses, as you know, are committed by young people. Then when you talk about young people in the category that I look upon, about 17 and above, generally about 75, 80 percent of our cases are 24 years and under.

I have jurisdiction in probate court, but only as an advocate. I don't charge, I don't make the charges. That is done by the court itself. So they have a similar type program they are working on in Flint now called the "Youth Assistance Program." That is fashioned after ours and has been quite a success also.

I have a second diversion program that is about a year and a half old. I can't tell you how successful that is going to be because it is going to take some years, like this one has, to prove it sufficiently, and that is a drug narcotic program. I happen to be of the belief, after 16 years in the prosecutor's office, that prosecuting drug addicts and hopheads, who have some psychological hangups, is not really the answer. I know nothing about the treatment of drug addicts. I know the judges don't, and the correctional system has also proven the same pretty well.

So, what we do in our county, in these cases where an individual is arrested for possession of heroin, or possession of pills or drugs of any kind, is we divert. Again, to outside agencies that we have created or assisted in creating.

We have a drug commission which is the umbrella agency for funding all of these other agencies, and also the clearinghouse for our diverted individuals. These individuals are diverted into the drug commission, which has the experts, the people who deal in human behavior, who understand the drug problem, what motivates these individuals, what kind of drug problem they have, whether it is serious addiction, whether it is heroin, what-have-you, and they themselves then direct that individual to a particular agency or modality, keeping in mind all of the time that these programs—they are diversion programs of "Deferred Prosecution." And the deferred prosecution is what we call the "hammer."

The individual must abide by the rules or he or she will be prosecuted. When the person goes to the modality, we have a contract, a written contract with the modality, that requires it to give us monthly reports on the progress of that individual. One of my assistants is assigned for the purpose of reviewing those reports to make sure everything is going all right.

We have a resident modality which has been organized and is run by the Odyssey House out of New York, which does a very good job. Dr. Denison Gerber is in charge of that, a tremendous individual.

We have an outpatient center called SODAT, similar to the one in Pennsylvania. We have three units now operating in our area. We have a methadone maintenance modality and then we have one we have organized, which we are really quite excited about, and that is our crisis centers in the high schools and communities throughout the area.

We have about 500,000 people in our jurisdiction and what we have done is establish these crisis centers to handle the less complicated drug cases with young people themselves. In other words, we have trained 20 to 25 young people in the area of empathy training, and what have you. They receive about 60 hours' training from professional psychiatrists, psychologists, others, sociologists, and they are then put into these drop-in centers.

In those areas where young people are arrested for pills or marihuana violation, we defer the probation and send them to the drop-in centers in these high schools. We have 27 high schools, about 13 crisis centers now in the high schools, and 4 or 5 in the analogous community.

What is exciting about it is—and we are satisfied that if you are really going to have impact with young people, you have to do it with their peers—the kids themselves work with these individuals to try to correct whatever problem may have caused them to get involved in drugs. Keep in mind, some of these young people have no problem at all. They just happened to be arrested when they had some marihuana in their possession. The reason they have been charged with a crime is because of the possession, not because they have the particular problem, but because they were doing something that may have been illegal, because of peer pressure.

I am not playing that down, but it happens to be a fact. When these young people work with these persons, and we have contracts with these drop-in centers, they then make recommendations back to us. When their monthly report comes in, they indicate the progress of the individual and the recommendation as to whether or not the person needs more treatment or they are satisfied he has successfully completed the program.

What is exciting is we have young people themselves participating in the system in a meaningful way—not just window dressing. They are actually making recommendations and have impact on other young people's lives.

We think it has been successful. It has been taken up by many other schools in our area and it has now been introduced in the master plan. I understand it is for the State board of education to be encouraged and other jurisdictions around the State. The point simply is that we, I think, recognize we don't know the answers to the drug problem, we in the criminal justice system, and there are many people that we can utilize who can assist us, who want to assist us.

Chairman PEPPER. Excuse me, Mr. Leonard. This committee held hearings in six major cities—New York, Miami, Chicago, San Francisco, Kansas City, Kans., and Los Angeles—on the subject of drugs in the schools, and we have felt all along that much could be done in the schools to deal with this problem. We are delighted to hear your personal experience in what you have been able to accomplish in that area.

Mr. LEONARD. Thank you, Mr. Pepper. I really believe the availability of young people, the desire on their part to become involved and to do this is a tremendous resource that we have never used. I am confident in a couple of years I can return and talk to you again and tell you how successful it has been. I am hoping it will be. I don't know, I can't tell you it will be. All I know is there are many young people who have been sent to these schools, who have now gone into the centers themselves and are counselors, they are so excited about the program.

We have some statistical information in the report here, in my prepared comments. But, I think that at the same time we feel very strongly about those people who are pushing drugs and we prosecute those individuals without any thought of giving any kind of consideration to plea bargaining there. We feel very strongly those individuals have to be prosecuted, those who are profiting for that purpose. You have to distinguish between those individuals and the junkie out in the street selling because he has a habit. I am more inclined to think we could do something for him instead of sending him off to prison if his problem is an addiction as such.

But the dealers who are dealing for profit, who do it knowingly, know what it is all about, deserve to be prosecuted and to be prosecuted to the full extent of the law.

Let me conclude by saying I feel that we have many resources in all of the communities throughout this country that are not being used by the criminal justice system. Until we begin using them, either the system is going to fail or we are going to have to build so many courthouses and add so many prosecutors, police, and judges, that the cost will be prohibitive. We just can't do it.

There are all kinds of people in our communities throughout this country that want to help if we just let them come in and practice what they know and assist us and make this a better community to live in.

I would be happy to answer any questions you might have.

Chairman PEPPER. Mr. Mann?

Mr. MANN. Thank you, Mr. Chairman.

Mr. Leonard, I saw from some preliminary notes that you were a critic of the part-time prosecuting system. In South Carolina, we still have part-time prosecution across the board. State prosecutors as well as lower jurisdictions. And the problem that you mention about having triple property taxes to achieve an adequate system, I think probably holds true there. It is a State system and the prosecutors there could be converted to full-time prosecutor without any impact on the local property taxes.

It certainly should be done. It is a disgustingly inadequate system.

When you compound the inadequacy of the law enforcement agencies themselves, and inadequate prosecutor's office, no presentence investigation for the benefit of the judges, then you really have a tough situation. It wouldn't take any more people, really. Just a few little changes in the system. We are making progress on the training of law enforcement officers now, but the prosecuting offices are not geared up to it.

No diversion systems. In my experience, I certainly saw the need for them. It used to disturb me very greatly to have these teenagers up for grand larceny when it was using some automobile without the owner's consent, and the first thing they know, they have a record that follows them for the rest of their lives and disqualifies them as citizens, and so on.

I recently—well, not recently, about 2 or 3 years ago—jawboned the LEAA because they weren't putting out the word on successful programs. They have now started doing better. But I am disturbed about the lack of some central—I notice you are an officer in the prosecutor's association?

Mr. LEONARD. National District Attorneys, yes.

Mr. MANN. I commented earlier about the failure of the judges to properly organize and give the public information. I don't know what the coordinating agency might be to get the message out. This committee has done a great job in that connection, your prosecutors association, national judges groups, and others. But as you indicate, there are resources available and techniques available, but the word is just not getting out.

I hope the result will be to put out a lot of innovative systems. I know there are seminars and national training meetings from time to time. Are you getting support from the local jurisdictions to pay the expenses for the prosecutor's attendance there?

Mr. LEONARD. Many jurisdictions, Congressman Mann, do provide funds, but there are many that do not. The district attorneys have a hard time convincing their local boards of supervisors or commissions that they should be going to these conferences, which are absolutely essential to a continuing educational program of a prosecutor. As a result, the District Attorneys Association, as well as the National College of District Attorneys—I don't know whether you are aware we have a national college at the University of Houston Law School that

trains district attorneys all year 'round—have been going out to local jurisdictions, like, say, Atlanta, Ga., and trying to get the States in from there.

Up in Philadelphia, Chicago, they have been moving the conferences around to try and bring the information to the district attorneys, as well as providing State programs for various State organizations that want one.

One of the big advancements, I think, that district attorneys have made now, which has come from LEAA, much of it, is what we call State directors, or coordinators, a hired prosecutor or former prosecutor who works full time for the State organization and works as a lobbyist in regard to legislation, keeps them informed of what is going on, sets up training seminars, and things like that. So we are making progress.

I am very pleased to hear your concern about it because that is exactly the problem, making the local legislative bodies understand that these people should be receiving training.

Mr. MANN. Which brings up another problem. It seems the attorneys general across this country seem to be involved in civil matters rather than assisting the criminal courts, although they have authority over solicitors and act as prosecutors and can assign them around, when a problem occurs with reference to a special prosecution. But the attorneys general aren't doing much in the area of training prosecutors. That is an area that perhaps should be explored.

Thank you very much.

Chairman PEPPER. Mr. Nolde.

Mr. NOLDE. Mr. Leonard, your citizens probation program has achieved a remarkable success. As I understand, only 3 percent recidivism. Would you tell the committee the fantastically low cost involved in that program?

Mr. LEONARD. I think what is really important about this is that the cost per person on the program per year is $65 a year. That is the cost. We have over 1,000 individuals on the program right now, and it continues to go up. The cost per probationer in our county is about $360 per year.

Now, there is one aspect of it that we have introduced because of financial problems and things like that, and our desire to continue the program, and that is we require every probationer who can afford it to pay $100 for the program. In other words, for the services the program provides. We don't think that is an unusual expenditure or demand.

If a person is indigent and can't pay, he is allowed on the program without paying. About 70 percent of them pay the $100.

It is not a blackmail thing in any way. If they can't afford it, they don't pay it. But it keeps the program going, reduces the cost to our county, which funds most of the bill for this thing, because they recognize the tremendous saving in taxpayers' money in not having these people go through the criminal justice system, judges' time, prosecutors' time, police time, probation time.

We have diverted them out.

Mr. NOLDE. But this only costs the county prosecutor $65 per person per year?

Mr. LEONARD. The county. What I have done, so there isn't any question of political hanky-panky or unevenness in treatment, I have

divorced the citizens probation authority from my office. So it is an independent agency, although as a prosecutor they are helping me exercise my discretion and I have to make the decision whether I am going to prosecute or not. But their recommendations are given great weight and I don't know in the 8 years it has been operating, that we have ever rejected their recommendation.

Mr. MANN. What is the nature of that decisionmaking body of theirs?

Mr. LEONARD. You mean the citizen's probation authority?

Mr. MANN. Yes.

Mr. LEONARD. It originally got its name because it was citizens who did it. We started out with lawyers in the office who advised the committee and we used again community resources, psychologists, psychiatrists, ministers, priests, social workers, teachers, people who deal in human behavior, who sat in teams and would take these individuals that worked with them. It got so big it couldn't be followed up like it was suggested by Judge Richette in the Philadelphia situation.

We established a professional staff and that staff is made up primarily of people who were former probation officers who came to us and began working with us. They know how to deal with the people. They examined them and set up programs for them. They find out what their problems are, whether they need therapy, whether they need training for a skill, whether they need training in reading, or whatever it is, and they begin to work on it.

We have a program, any young person who goes into the program, who can be admitted into college, we will see to it, if they can't afford it, they will receive a scholarship.

Mr. MANN. Is there a citizens advisory board?

Mr. LEONARD. Yes, the citizens advisory board meets about once every 6 months, twice a year, to discuss policy matters with us. That is a very important aspect of the program, to keep the citizens of the community involved in it and make sure you have public support for it. And in all of the 8 years we have been operating, we have processed now around 3,800 young people through the program, people who could have been charged with felonies, who are now out on the street without criminal records, not committing any more crime, either in college, business, or what have you. We have never received any criticism. I don't think it hurts anything to have publishers and managers of television stations on the committee.

But I think, if the program were bad, these fellows would have said so. They were very helpful in developing the program, keeping it on the straight and narrow, and have been a tremendous asset to our program.

Chairman PEPPER. Where do you get the money, Mr. Leonard, to teach anyone a skill?

Mr. LEONARD. We are very fortunate that in our community our high school has a big skill center that has night classes and the Mott Foundation in our community is one of the originators in keeping the high schools open at night. We have all kinds of programs going on in every single high school in our community at night. We can plug them into all kinds of different programs.

We give them testing to find out where their interests are, where their skills are, and we plug them into those various programs throughout the community.

It is a very simple project. It just takes someone to put them together. Once it is put together, it is not that much more expensive. We have all of those resources available.

Chairman PEPPER. How much of an administrative staff do you have to supervise the operation?

Mr. LEONARD. The citizens probation authority now has 10 people. So they are supervising approximately 100 people each month. Keep in mind, they are supervising people who are not likely to commit other crimes, who have a real interest to stay in the program, because if they don't, they will be prosecuted.

Chairman PEPPER. Suppose a young person, 18 years old, is arrested, from then on what happens?

Mr. LEONARD. The police officers, as you know, usually the police agencies, might be reluctant to participate in a program, but they have no choice. In our State, the prosecutor requires all of the warrants and they must come through us. But now they are very cooperative with the program. They come in, if they know this person fits a certain classification he possibly will go to the program.

They make out a form which tells all of the information and they have a recommendation. We allow them to make recommendations. We don't always follow it if we don't think it is a legitimate recommendation. For example, if they caught a young kid burglarizing something and they are satisfied this is a kid they were trying to get for a long time, he and 50 others, they make note of it, and the citizens probation authority, which is the independent agency with the 10 workers, will then be assigned.

He will be told to report to their office on the next day and he will come through the office. He first comes into our office where he is screened and interviewed and then he is told to do certain things in the process of the investigation. It takes between 10 days and 2 weeks to finish.

Then the recommendation and the process of investigation is done by one of the probation people in our citizens probation authority program. The recommendation comes back to us whether he is accepted or rejected. If he is accepted, they immediately begin whatever workup on the program they feel they need.

If he has a reading problem, any kind of problem, if he has been to college and is dropping out and needs some help there, we get him this. If he needs job skills and wants to go into auto repairs, we begin working with him in that area. After 6 months or up to a year, they will work with him. If they feel during that time period he has sufficiently completed the program, they set up for him, they recommend the prosecution be dropped.

If he were fingerprinted, mugged, they will all be returned by the police agency bureau order. We try to avoid him even being processed in that way if we can, because we know if a person is mugged and fingerprinted and it comes to Washington, we don't know if we can ever get it back. We have no control over that. As a result, we try to stop it and the police agencies have been very cooperative now and very helpful.

But there are reports constantly coming to us on whether or not the person is sufficiently fulfilling his program. He must report. If he has problems, they work with him.

Chairman Pepper. If there are problems in the family——

Mr. Leonard. Yes, sir. That is very important in our program. Absolutely essential when we started out was the fact that the family be brought in immediately and even if his family were a broken family, the mother and the father are brought in and they sit down with the young boy or girl and we begin working on the problem with them.

We used to have a great deal more power in Michigan in that respect until they dropped the age of majority down to 18, and we don't have the control. But we still get a lot of cooperation from families where we think it is necessary. It is very much a part of the program.

Mr. Nolde. Mr. Leonard, I would like to ask you about the use of the grand jury. As I understand it, in Michigan, you do not use the grand jury to routinely initiate charges, relying instead upon the issuance of a criminal complaint.

What is your opinion about the use of grand juries?

Mr. Leonard. Well, I think the grand jury is a necessary evil.

Mr. Nolde. It is an evil?

Mr. Leonard. I think it is an evil. It is a necessary evil because prosecutors have no way of investigating that area of crime I am suggesting to you is going uninvestigated. That is, public corruption, white-collar crime, and other organized crime.

The prosecutor has to have some subpena power to force these people in because we are invariably talking about books and records in many of these cases and we can't get at books and records until we start the case. Unless we have the books and records, we can't start the case, so it is kind of a vicious circle.

Mr. Nolde. But for other types of crimes, isn't it a tremendous waste of time in the routine criminal case?

Mr. Leonard. Yes, because generally you are talking about an individual who is caught in the act, or he is identified in the lineup, so we never use the grand jury in that type of crime. Based on identification and lineup, fingerprints and what have you, we issue the complaint and the warrant goes out and the process comes through. The grand jury——

Mr. Nolde. It is, in effect, a rubber stamp?

Mr. Leonard. Right. We use the grand jury only in the cases I described to you, pretty much. Very rarely we might subpena a witness in who refuses to come in, refuses to say anything in a violent crime case. We may have to call him in. But that has been done out of all the cases we have had in the last 2 or 3 years in Michigan—it is rather recent in Michigan—then only two or three cases. Right now, we use the grand jury primarily for investigative purposes, just to investigate crime.

Then we go to the complaint and warrant rather than indictment. I have always said, and we have tried to convince our legislature that it is an awful waste of money to have 17 people, why not give the subpena power to the prosecutor and let him do the same thing anyway, and the defense attorney can come in to the prosecutor's office and sit down. I am of the belief that grand jury laws should permit the defense attorneys to sit in with their clients when they are testifying before the grand jury.

It is really a game we are playing. Technically, they could sit out by the grand jury room and the witnesses don't have to answer questions until they have the right to consult with their attorneys. So why waste time? Have them sit there and you eliminate a lot of the criticism that they can't have their attorneys or consult with their attorneys.

I think if prosecutors had subpena power, where they could subpena records and books and things in their investigation, they would be much better off. Subpena power with the approval of the judge. In other words, if you are going to investigate a case, you have to petition, like for a search warrant, an affidavit, what have you, asking the judge to give you permission to subpena. And you have that protection in that way.

But until we have that, we have no choice, we have to use the grand jury in those areas other than street crime I talked about.

Mr. NOLDE. Before I close, Mr. Chairman, I would like the record to reflect some of the outstanding achievements Mr. Leonard has accomplished over the years. He was twice chosen as outstanding prosecutor in the State of Michigan, and recently chosen by a national magazine as one of the 10 most admired men in the country for, in part, having donated his salary increase to the county drug program.

In addition to that, he recently returned from Russia on a fact-finding tour in which he investigated charges of persecution of Soviet Jews, having to enter the country posing as a tourist because they would not permit any official outside investigation.

So he has achieved many things in addition to the outstanding work we have heard he has done in the prosecutor's office in Flint, Mich.

Chairman PEPPER. Mr. Leonard, you are obviously one of the innovative leaders in the whole criminal justice system. We are so pleased you could cooperate with us in these hearings. What we are trying to do, as you know, is put into the record and make available to prosecutors and other law enforcement people all over the country the most innovative programs that will be examples and, we hope, an inspiration for many in helping combat street crime.

Before we conclude—you are so knowledgeable in and have such a feel for this whole program—what would you say we should do about our correctional system and what can we do?

Mr. LEONARD. I am of the belief the correctional system, the centralization of the correctional system, is a real serious error. For example, in Michigan, we have what we call 19 major metropolitan areas, which are fairly large cities. I believe we ought to have more minimum security institutions whereby, again, if we have the minimum security institutions in our major cities, we can begin utilizing those community resources that are there and ready, willing, and able to help us.

We are attempting to do that now in Michigan. We have, I think, a very progressive sheriff, just recently elected, a young fellow who is finishing law school in the next year or so, and he is willing and desirous of doing these things.

So we are very hopeful we will be able to do that in Michigan.

But I think it is going to need some help from Congress at least in direction and encouragement. Probably some of them will be coming in asking for some financial support. But I think you are giving it in LEAA. I think the money is there. I think all we have to do is set some priorities.

I think if we could establish the minimum security prison, where we had open visitation rights, where we try to keep families together instead of destroying them when a person goes off to prison, where we even have conjugal visiting rights as far as I am concerned, where wives and children can go and be with their husbands and their fathers on weekends, or whatever it may be, to try and keep that family together, and also work-release programs and things like that, which we can do in these various communities.

I just think we have to decentralize our prison system.

Chairman PEPPER. I am very pleased to hear you say that. I think it is one of the critical weaknesses of our criminal justice system today. I don't know to what extent the LEAA is now financing the experiment establishing that kind of institution. I know the Federal Prison System has stopped building big, centralized institutions and are trying to get them on a smaller scale and embody more of those principles.

But even more than that, I would like to see the Federal Government put up 50 percent of the money with the States in establishing institutions, such as you were describing, in the urban areas where, generally speaking, the inmate in the institution would be close to his family, close to his own environment.

Mr. LEONARD. Absolutely.

Chairman PEPPER. And helping the State get started with those systems and then, I am told, probably once they got them established and in operation the States could pay for the operation of them, because it would not be a continuing Federal responsibility.

But I feel if the Federal Government wants to do something, and certainly it does, I believe we could reduce crime a great deal if we could establish that new kind of correctional institution and operate it from a new point of view, with a new purpose; primarily to protect the people against the repetition of the kind of crimes the inmates in there have committed.

What hope is there for an institution like Attica or Raiford in Florida, where they are overcrowded, they don't have any adequate programs of any sort, built out in rural areas where there are no job opportunities, no visitation opportunities available, and the like.

Mr. Leonard, we are most grateful to you. We just hope you will continue your great work in whatever office will allow you to do the most good in this area.

Mr. LEONARD. Thank you for having me, Mr. Pepper, Mr. Mann.

[Mr. Leonard's prepared statement follows:]

PREPARED STATEMENT OF ROBERT LEONARD, PROSECUTING ATTORNEY, GENESEE COUNTY, FLINT, MICH.

Mr. Chairman and members of the committee, in the present decade, the traditional American System of Criminal Justice has come under close scrutiny and has received much deserved criticism. Legal scholars, legislators, judges, and prosecutors are all too well aware of the patent, major defects and deficiencies which exist in the present operation of the Criminal Justice System in the United States. The proliferation of crime in the streets in our country is certainly related to the basic inadequacy in our Criminal Justice System in failing to curb the frightening upward trend.

Some of the more obvious and significant problems and defects we have observed are:

1. The "assembly line" processing of accused persons in our criminal courts, in the vain attempt to ameliorate their hopelessly clogged criminal dockets, through such measures as forced plea bargaining.

2. The commingling in our jails and prisons of truly hardened and incorrigible violent criminal sociopaths with non-violent and misguided offenders the latter who, but for their often inexorable entry into prison, might have been able to avoid stepping onto the "treadmill" of criminal recidivism.

3. The lengthy delays at every stage between the time when an offender first commits a criminal act and the ultimate time when his price to society therefor is finalized, which delays insure that the offender will learn no beneficial or rehabilitative lesson at all from his ultimate punishment because he has long since forgotten or rationalized away the significance of his prior conduct.

4. The indelible and permanent labelling of many such non-serious and non-violent "law-breakers" as "criminals" and "ex-cons" who will retain such a stereotyped designation for the rest of their lives, along with the concomitant social stigma, ostracism, disgrace and loss of status as full-fledged citizens.

5. The exorbitant expense and cost of funding programs of post-conviction probation and parole which fail to adequately supervise or rehabilitate the probationers or parolees.

6. The loss of credibility in our very Criminal Justice System itself which the public has manifested and which has resulted to a great extent from the fact that our justice system has traditionally focused its resources on the poor and minority groups while at the same time failing to deal with the crimes of the more affluent or the "Establishment" which often have a lesser degree of visibility but to which we must and should devote more attention in the future.

There has indeed been much proper and warranted criticism of all of the above-described ills present in our standard and traditional system of criminal justice—a system which has been crying out for reexamination and change, for innovative, positive and thoughtful approaches and solutions to all of the above serious concerns.

It cannot be gainsaid that we do need more judges, courtrooms, police and prosecutors to operate our system as it exists, but not only must we be concerned with the prohibitive costs of such additions, we should also recognize that such additions alone, even if they were financially feasible, would not solve the present inadequacies we have seen.

What is necessary beyond the bare multiplication of the participants in the system is a basic revision in thought and in philosophy on the part of police, prosecutors and our criminal courts. What we need to stem the proliferation of crime is a proliferation of the viable alternatives available to our presently beleaguered Criminal Justice System. We must recognize that our treatment of offenders should be made more flexible and more variable, and that per se uniformity and rigidity in treatment has not proven to be an effective answer to the crisis in crime. The police, prosecutors and courts—the introductory channels of the system—can no longer afford to operate in an isolated vacuum. The successful diversion of selected offenders from the system is predicated on the need to remove this vacuum and to integrate the operation of the police, prosecutors and courts with the community at large—with the co-participation of all of the communitywide agencies which can and should effectively work together with the basic criminal agencies in the mutual effort to stem the ever-increasing rise of crime. Such an alternative and option is the concept of diversion, that is, diversion of selected offenders from the system by the prosecutor, the pivotal chief law enforcement agent, who is responsible under our law for making the fundamental decision whether to prosecute or not to prosecute any offender under the traditional warrant process.

The supporting basic need for the concept of diversion is that we must manifest more concern for finding the most appropriate ways of dealing individually with individuals, or recognizing each offender as being a peculiar human being with a corresponding unique background and complex of personality traits.

We must remember that each and every offender is a member of a community and whether he goes to prison or not, he will one day return to that community. It therefore seems both logical and necessary to bring these offenders into early and initial contact with any and all community-based agencies which are currently in a position to isolate, define and evaluate the various needs and deficiencies of the individual, which are treatable and curable by them and not by the police, prosecutors and courts per se.

The breakdown in our Criminal Justice System which we have seen is perhaps most directly a result of the overburdening of it; that is, the input into the system is so high that the ideal operation of it cannot possibly be achieved. The use of diversionary programs would certainly help to reduce this excessive in-

put by selectively diverting certain nonviolent and nonserious offenders to voluntary programs of preprosecution probation before any formal criminal warrant is issued, or any formal criminal charges are lodged against them.

Many of these accused persons, who would otherwise fall into the "assembly line" system in the courts, are effectively kept out; this way the more serious and often much-neglected crimes can be more effectively dealt with, such as crimes of violence, organized crime, public corruption, and crimes against the consumer.

Second, by diverting such selected offenders at this initial stage under the discretionary power of the prosecutor, they are effectively kept out of the prison environment and thus removed from the influence and example of those incorrigibly hardened violent and sociopathic criminals.

Third, there is a distinct advantage to being able to deal with the offender at the moment when the magnitude of his offense as an anti-social act is still uppermost in his mind and before he's had an opportunity to spend months making excuses for himself or learning from jailhouse lawyers how to beat the rap or not get caught the next time.

Fourth, by so diverting offenders, they would avoid the indelible stigma of "criminal" or "ex-con" which would not only operate to penalize them in many collateral social contexts throughout their future lives, but which, moreover, would stand in their minds as a self-fulfilling and internalized perception, which might further encourage them to act out their social roles as "criminals" and effectively discourage them from rehabilitating themselves in the future.

Fifth, by so diverting such offenders from programs of post-conviction probation or parole into such diversionary programs of preprosecution probation, the presently overburdened caseloads and costly expense of often ineffective post-conviction probation and parole can be significantly reduced while at the same time society loses nothing in the way of protection by the mere per se shift of selected offenders from one form of supervision (i.e., post-conviction) to another form of the same (i.e., preprosecution).

Sixth, by so diverting such offenders from the Criminal Justice System, and thereby reducing the overwhelming caseloads of our criminal courts, all of the remaining more serious cases which are formally prosecuted will thus be freed from the real pressures and deficiencies of too scarce manpower, time and resources which currently exist and which also currently compel the oft-criticized practice of "plea-bargaining" on the part of prosecuting attorneys. Moreover, by so freeing such scarce resources, and by, at the same time, adding to them, we can insure that the areas of criminal conduct which have too long been ignored and which are ever-increasing in our complicated and technical society will be more fully dealt with and prosecuted. Such areas include white collar crime, organized crime, public corruption and the area of consumer fraud. It is important that we bring the resources of the justice system to bear upon these serious areas of criminal conduct which, even though they are perhaps less visible and less frightful than violent and assaultive street-type crimes, are nevertheless, if unchecked, extremely destructive of the very fabric of our society.

White collar crime and crimes directly perpetrated upon consumers affect a far greater number of people than do street-type crimes of an assaultive nature. The collective consequences to the public from the former are extremely dangerous in the sense that many people come to doubt the worth of our society itself—a society in which criminal behavior is not confined to merely a sub-set of robbers and murderers, but in fact cuts across every social stratum. If we do not prosecute in these too long ignored areas, we are further engendering the general public's lack of trust and confidence in the ability, or even desire, of government to protect the public good. In addition, we will further encourage many more of our citizens to lapse into the attitude that criminal behavior is "normal" human behavior, to become indifferent to it, and indeed to adopt it as a good way to get ahead in life. Although we must continue to vigorously prosecute those who engage in assaultive street-type crime—whether these offenders are poor or from minority groups or not—we must make sure that the poor, members of minority groups, and, indeed, the public at large do not lose a basic confidence in the credibility and even-handedness of the operation of our Criminal Justice System. We cannot allow the poor or the blacks or other minorities to continue to believe that crimes committed by those with power, wealth or social status, either as individuals or as members of a corporation, will go unpunished and ignored. We cannot allow the disadvantaged and underprivileged to continue to refuse to testify as witnesses and to sit on juries and refuse to convict those

who commit violent street-type crimes because they believe that it is not fair to convict these criminals while, at the same time, the government hypocritically "exonerates" the advantaged members of the more privileged classes whose criminal conduct certainly has a more widespread effect and which certainly touches a much greater percentage of our population, even if not in a more brutal or blood-spilling manner.

Seventh, by diverting selected offenders from the Criminal Justice System, we can effectively cure the lack of finality in the disposition of offenders which exists in the system. Under the traditional system, the wheels of justice once set in motion often never cease—even after a formal conviction is obtained the process of appeal, re-appeal, rehearing, habeas corpus petition and so on commences and continues in an unending cycle at not only an extremely high financial expense to society, but with the further consequences of engendering a lack of trust or belief in the finality of justice. By taking people out of this perpetual cycle initially, we will certainly insure that one of our primary concerns—the finality of justice—will be better achieved.

Through the implementation of diversionary programs we can more effectively treat selected offenders through the mode of preventive rehabilitation, as contrasted to the traditional Criminal Justice System's wholly post facto and proven ineffective attempts to rehabilitate offenders. As stated before, we must also foster the broadest possible community involvement in the solution of the problem of crime through dynamic, active, and innovative agency co-participation. We must have and promote diversified and viable alternative community-based methods of analysis, treatment and support for the offender, such as development of reading and writing skills, vocational training and education, job placement, financial aid, learning disability tutoring, psychological and medical care, marriage and family counseling, peer group therapy and counseling, and so on. For example, in Genesee County, Michigan, certain selected youthful drug offenders are diverted from formal criminal prosecution by my Office, and, in lieu thereof, voluntarily attend community-based drug problem treatment centers and so-called "drop-in" centers, where they are counseled by and relate to previously trained members of their own more influential peer group in relation to solving their own drug problems. This kind of integrated communitywide involvement and support is essential to the success of such diversionary programs.

We must deal with all offenders at the time when they will still feel the full impact of the consequences of their actions. We know that the success of behavioral modification attempts is directly correlated to the time span between the implementation of such attempts and the commission of the initial unlawful conduct by the offender. The failure of our penal institutions is perhaps traceable to the fact that the extreme delays which take place at every stage of the criminal justice process insure that a great deal of time will pass before any offender is even given any supervision for a long-past-committed action. The expeditious diversion of offenders and their immediate treatment in a plan of preprosecution probation will most certainly shorten this critical time span and will promote the societal goal of rehabilitating offenders much better than do our present penal institutions.

Our diversionary program in Genesee County, Michigan, has two distinct segments. The first segment is called the Citizens Probation Authority. Citizens Probation Authority does not handle drug-related cases which are handled in the other segment of deferred prosecution. The accused is asked if he would like to freely volunteer for the program. If he chooses not to, he is placed in the regular criminal justice channels. If he freely chooses the Citizens Probation Authority, an investigation of his entire background takes place and a "treatment program" is established. It should be pointed out that, as soon as the accused volunteers for the program, all activities, interviews, investigation and counseling are handled completely by the Citizens Probation Authority—separate and distinct from the Criminal Justice System.

The Citizens Probation Authority has its own professional staff and the individual treatment programs involve either paid or volunteer social workers, therapists, counselors or concerned citizens with an appropriate background. Treatment programs last no longer than one year. The Citizens Probation Authority derives its financial support from LEAA local trust funds, the Emergency Employment Act, and the Genesee County Board of Commissioners. Our office actively seeks funding sources for the Citizens Probation Authority.

The second segment of deferred prosecution is another type of diversionary preprosecution probation plan. It is an excellent example of the justice system working in conjunction with community agencies. This segment involves persons

of any age arrested for possession of drugs and narcotics. Again, individuals are eligible who have been arrested for the first time or who have no established record of antisocial behavior. Accused persons involved in a drug-possession case can volunteer to be referred to the Genesee County Regional Drug Abuse Commission. The GCRDAC is the coordinating agent for all drug education, treatment, and rehabilitation units in the county.

My office refers an accused person to the justice system liaison officer at the Commission. The Commission staff then conducts appropirate interviews and counseling sessions to determine what counseling or treatment program would be the most appropriate. Legal contracts are entered into by my Office and the modalities offering, among other things, monthly reports on the rehabilitation progress of the individual. Also, the Commission reports back to the Prosecutor's Office when the individual treatment program has been terminated, either successfully or unsuccessfully. Unsuccessful terminations result in a return to the regular criminal justice channels. The treatment or counseling is done at a Commission-affiliated agency.

Have these diversionary programs worked? In the past seven years, the number of cases placed on adult probation through the Genesee County Circuit Court has continued to steadily decline proportionately while the number of cases placed with the Citizens Probation Authority has continued to steadily increase. The probation violation rate for clients of the Citizens Probation Authority has averaged under 5%, with many of those being only technical violators rather than actual recidivating offenders. The program is currently supervising over 1,000 offenders a year.

From January 1972, to April 29, 1973, the drug diversionary segment processed 310 cases. Sixty-five offenders have graduated from programs. Ninety-one have been rejected or have requested prosecution rather than treatment, and the remaining 164 are still in treatment. Only four of 305 cases were arrested again during the year. Roughly speaking, over 70% of the clients referred to the program are still involved or have graduated.

Many programs sound good on paper. Why is deferred prosecution working in Genesee County? There are several important reasons. The nature of the relationship between the agencies and the Prosecutor's Office is crucial. Because the case can always be tried at a future date, the Prosecutor does not interfere in any way with the treatment process, thereby encouraging new and innovative approaches to treatment which are often discouraged by formal, rigid, statutory requirements, departmental regulations, and bureaucratic inhibitions. The attitude is one of letting those who know their job—do it.

The second reason for our success is the spirit and nature of the treatment agencies themselves. Because they are responsible only to their clients, they see themselves as helping, not punishing, and most clients see the process in the same light. Methods vary from individual counseling to group sessions, and in cases involving acute behavioral problems, therapy.

Another key to the success of Genesee County's deferred prosecution programs is our Office itself. We have actively sought diversionary approaches. My staff has continued to work for expansion of community resources, cooperation among agencies, and has successfully sought funding for Criminal Justice System programs and community resource support options. We have worked consistently to remain flexible and have constantly asked for evaluation from those in the programs themselves and also from outside agencies. Deferred prosecution hasn't solved all the problems of the Criminal Justice System in Genesee County, but it has brought confidence—a confidence from a Criminal Justice System that looks for realistic options, and more confidence in that system from those who work within it.

A client's participation in CPA takes place before he is actually charged with an offense, often even before formal arrest. Any offender who meets the preestablished certain criteria, for example, that his suspected offense be a nonviolent crime and not represent a continuing pattern of antisocial behavior, is referred by the Prosecutor's Office to CPA for an interview and investigation. If, on the basis of these preliminary contacts, CPA counselors determine that the program of preprosecution probation and counseling, as opposed to traditional criminal prosecution, would offer appropriate treatment, and, if the suspect voluntarily agrees, the Prosecutor will allow the offender to participate in the program for the customary probationary treatment period of up to one year under the supervision of CPA. Given satisfactory completion of such probation, which may include a requirement of restitution to the victims of a crime, prosecu-

tion is dismissed, and any police arrest or booking records are given to the probationer. CPA may, after careful analysis of both the individual's potential and the facts of the case, decide at the referral stage that voluntary probation would not be an appropriate treatment; if so, the case is then referred back to the Prosecutor's Office with a recommendation for further consideration and decision by that Office. Anyone referred to CPA has the right to withdraw from the program at any time, with the understanding that his case then becomes subject to prosecution. Additionally, probation may be revoked by the Prosecutor's Office, upon recommendation of CPA, if the client violates the terms of his probation.

To the extent that the above procedure demonstrates a mutual cooperation between the Prosecutor and CPA in the initial stages of the charging function, it would appear to be clearly consistent with the traditional legal basis of prosecutorial discretion. In fact, the impartiality of the Prosecutor in ultimately making his final charge decision is not in any way impaired, and ultimate control of the charge decision always resides in the Prosecutor. One legal basis of prosecutorial discretion is the traditional and well-founded jurisprudential concept that an elected and responsible public official is more capable of making impartial decisions concerning the advisability of bringing charges against an offender than is a private complainant—the person who in effect made the charge decision under the old English system of criminal justice. Permitting CPA contributions of information relevant to the desirable goal of insuring intelligent and enlightened charge decisions by the Prosecutor does not vitiate the impartiality of the Prosecutor or the prosecutorial process. A prosecutorial decision made in conjunction with the helpful and valid information supplied by a politically neutral CPA staff would clearly tend to be made in a more impartially informed manner than would the decision of the Prosecutor acting without any such assistance.

It might be argued that this very impartiality makes the CPA staff insensitive to public opinion regarding the types of persons who ought to participate. Judicial deference to the judgment of public Prosecutors has often been justified by the belief that the Prosecutor, especially an elected state Prosecutor, makes charge decisions that accurately reflect community values. But this objection has no force since: (1) the CPA worker is protected from improper pressures concerning individual cases; (2) the CPA program itself was established by the Prosecutor; and (3) the CPA program is always under the Prosecutor's ultimate control, and thus, through his elected office, provides for sensitivity to community values.

Thus, CPA operates merely as a supplement of the Prosecutor's Office. It impairs neither the legal justification of prosecutorial discretion nor the Prosecutor's final control over the charge/no charge decision. Rather CPA enhances the knowledge and expertise necessary for a just decisionmaking process.

The Prosecutor and CPA standardize the operation of prosecutorial discretion through the promulgation of rules and regulations to the end, not of expanding the scope of discretion, but of exercising that discretion more intelligently. The Prosecutor still makes an individualized, case-by-case determination of whether to prosecute.

Chairman Pepper. The committee will recess until 10 a.m. tomorrow here in this room.

[Whereupon, at 5:15 p.m., the committee adjourned, to reconvene at 10 a.m, Wednesday, May 2, 1973, in room 1302, Longworth House Office Building.]

STREET CRIME IN AMERICA

(Prosecution and Court Innovations)

WEDNESDAY, MAY 2, 1973

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON CRIME,
Washington, D.C.

The committee met, pursuant to notice, at 10:10 a.m., in room 1302, Longworth House Office Building, the Honorable Claude Pepper (chairman) presiding.

Present: Representatives Pepper, Mann, Murphy, Wiggins, Steiger, Winn, and Sandman.

Also present: Chris Nolde, chief counsel; Bob Trainor, assistant counsel; Thomas O'Halloran, assistant counsel; and Leroy Bedell, hearings officer.

Chairman PEPPER. The committee will come to order, please.

Mr. Counsel, will you proceed to call the first witness.

Mr. NOLDE. Mr. Chairman, we have two very distinguished witnesses here this morning, the district attorney from Houston, Mr. Carol Vance, and the district attorney from Los Angeles, Mr. Joseph Busch.

Chairman PEPPER. Excuse me, Counsel.

We will ask Miss Jordan if she wants to honor us by coming up and sitting with the committee.

Miss JORDAN. I will do that. I am going to have to leave shortly.

Chairman PEPPER. We are very pleased to have our distinguished colleague from Texas, a former distinguished State senator, Barbara Jordan, with us today.

I believe one of the witnesses is from your State, Miss Jordan, and we would be pleased to have you introduce him.

STATEMENT OF HON. BARBARA JORDAN, A U.S. REPRESENTATIVE FROM THE STATE OF TEXAS

Miss JORDAN. Thank you, Mr. Chairman, and fellow members of the committee.

I am most pleased to have the district attorney of Harris County here this morning, Mr. Carol Vance. I have known him for a long time. He is not only an outstanding district attorney, but he is a close personal friend of mine and supporter, if I could add that, which makes me just a little prejudiced on his behalf.

Mr. Vance is the president of the National District Attorneys Association. He holds high office in the Texas District Attorneys Association. He has done great work with the criminal justice council. This is

his third term as district attorney for Harris County. And for this third term, he was unopposed for reelection, which is testimony to the outstanding job he has done in Harris County.

I am very pleased that he is here. I am very pleased that you will hear him. He is a man of great competence in the area and I hope you will benefit from what he has to say.

Chairman PEPPER. We thank the gentlewoman very much for a most excellent introduction.

Mr. Vance, we are very much pleased to have you.

I now call on the distinguished ranking minority member of this committee, one who has made a very valuable contribution to the cause we are concerned with here, Mr. Charles Wiggins of California.

Mr. WIGGINS. Thank you, Mr. Chairman.

It is my pleasure to introduce a friend, a constituent, and a valuable public servant for the county of Los Angeles. The witness, Mr. Chairman, is the Honorable Joe Busch, the district attorney for the County of Los Angeles.

District Attorney Busch is the prosecutor for one of the largest counties in the world. Nearly 7 million people live within the jurisdiction of the Los Angeles County District Attorney's Office. He is the supervisor of one of the largest law firms in existence.

I believe, Joe, there are approximately 450 deputies under your command.

Let me say that enormous job, Mr. Chairman, is performed efficiently and well in the county of Los Angeles. Mr. Busch has the deserved reputation for being an honest and fair, fearless, and aggressive prosecutor for the county of Los Angeles. By reason of the enormity of his job, he is able to provide this committee with certain expert testimony on matters properly within our jurisdiction.

I am particularly interested, Mr. Busch, in your comments with respect to bringing matters to trial and their early disposition. The subject of speedy trial is one that is confronting this Congress and your contribution in that area in particular will be both welcome and valuable to the committee.

Mr. Chairman, I am honored to introduce to the members of the committee, the Honorable Joe Busch from Los Angeles.

Chairman PEPPER. Mr. Busch, we are very much pleased to have you.

We are fortunate this morning to have you two outstanding prosecuting attorneys to come and honor the committee with your presence and your presentation.

As you no doubt are already informed, these hearings that we are having relate first to the most innovative procedures in the police departments of this country. We had 13 of the outstanding police departments of the country make statements here of techniques and procedures, the most innovative procedures in the country. We found them most interesting and I hope they will be emulated by other police departments in the country.

Previous to the Easter recess, the subject of our hearings was juvenile crime and correctional institutions. Of course, as you know, the courts are very critical of the area of the whole judicial administrative process. There, again, we had innovative procedures disclosed to us by outstanding people in these two fields.

Now, this week is devoted to innovative procedures that have been developed by the outstanding prosecuting attorneys in the country. Also, innovative procedures and programs developed by trial and appellate courts, both State and Federal.

We are very much pleased to have you with us this morning.

And we want to thank you very much, Miss Jordan.

Miss JORDAN. Thank you, Mr. Chairman.

Chairman PEPPER. Mr. Counsel, would you inquire.

Mr. NOLDE. Thank you, Mr. Chairman.

Mr. Vance and Mr. Busch both have plane schedules to meet, so if it meets with your approval, Mr. Vance will open with his prepared remarks, followed by Mr. Busch, and then we will have questions from the members.

Chairman PEPPER. Excuse me just a minute.

We are delighted to have another distinguished representative of the great State of Texas, Robert Casey, one of our colleagues. We will be pleased to have him come and join us and sit in and inquire if he will.

Would you care to say anything, Mr. Casey?

STATEMENT OF HON. BOB CASEY, A U.S. REPRESENTATIVE FROM THE STATE OF TEXAS

Mr. CASEY. I tell you, Mr. Vance can speak for himself pretty well. He is one of the ablest, if not the most able, district attorney Harris County has ever had and people recognize that. He has no opposition I think he can have it as long as he wants and I hope he wants it a long time. Our community likes his diligence and his work.

Chairman PEPPER. Thank you very much.

Mr. Vance was just beginning with his statement.

STATEMENTS OF CAROL VANCE, DISTRICT ATTORNEY, HARRIS COUNTY, TEX., AND PRESIDENT, NATIONAL DISTRICT ATTORNEYS ASSOCIATION; AND JOSEPH BUSCH, DISTRICT ATTORNEY, LOS ANGELES COUNTY, CALIF.

Statement of Carol Vance

Mr. VANCE. Thank you, Mr. Chairman.

It is a real pleasure to be here and have the kind outstanding introduction from Congresswoman Jordan and Congressman Casey and particularly to be on the panel with my very dear friend, Joe Busch, who certainly runs the biggest district attorney's office in the country, an extremely outstanding prosecutor.

Joe and I both came up through the ranks, sort of the hard way, and both served as assistant district attorneys for more years than probably either one of us would like to remember.

I thought rather than reading my comments this morning, it might be a little more effective to just sort of go through some of the things we are trying to do.

Chairman PEPPER. Without objection, we will incorporate your entire statement in full in the record and you may proceed to summarize as you wish.

[The prepared statement of Mr. Vance, above referred to, will be found at the end of the testimony of this panel.]

Mr. VANCE. Thank you.

I do appreciate this opportunity to be here. I have a feeling that through the years the prosecutors have sort of been the neglected stepchild of the criminal justice system. I say this because many people that go into prosecutors' offices do this just as a steppingstone to further a political career or else to go with a private law firm, and this cannot really be said with regard to the other professions involved in the criminal justice system.

For example, a person who goes on the bench generally stays a judge for a long time; a person who goes into police work generally intends to make a career out of it. Of course, a lot do not, but they don't go there to just stay 1 year, 2 years, or 3 years, and then move on.

So I think that the prosecutor's office is the hub of the whole criminal justice system, and they are the ones that basically set the tone or determine which charges will get into the system to begin with. So we must have career prosecutors and upgrade the entire profession of the prosecutor.

Concerning plea bargaining, this is something that we nearly all have and must have. The cases simply cannot all be tried. The prosecutor has perhaps as much to do with the setting of punishment as any other person in the entire system. He works closely with the police officers, advising them. He is just in the middle and yet prosecution has been a neglected area.

We have been extremely fortunate in the State of Texas so far as the LEAA funds are concerned. We have probably spent more on courts and prosecution by far, from my study of the figures, than any other State. I think that I heard Jerry Leonard once say he felt Texas had the best balanced program, or as good a program as any State in the country.

I think one of the reasons he said this was because in 1973, approximately 20 percent of the funds in Texas are planned for courts and prosecution. Obviously this is an area in which we need reform. If we don't process criminal cases properly, then the entire system fails. We cannot put all of this money into hardware for corrections and neglect the court systems, prosecutors or probation officers.

I have served on the Texas Criminal Justice Council and we have tried to do things with this money in our courts and prosecution, that would make some impact upon crime. Of course, it is difficult to look at statistics and see what impact you have, because we have, like Los Angeles, a growing community, now close to 2 million persons in Harris County. Our chamber of commerce estimates our growth at 50,000 people a year. It is a community of all segments, of diverse occupations, of people moving there from all parts of the country. We have a vast seaport. We are a port of entry—the gateway to Mexico and South America. We have all of the reasons to have a high crime rate.

But I think that some of the programs that I will discuss this morning have helped level our incidents of crime—although I caution it is a little early and premature to judge the impact of them.

One day I was called by Joe Frazier Brown, who, until recently, was the distinguished executive director of the Texas Criminal Justice Council, and he said, "Carol, if you had a blank check in Harris

County today to do with these funds as you saw fit, what would you do?"

And I explained that I was appalled that cases are not coming to trial as rapidly as they should. They were coming to trial—at that time—that was about 2 years ago—after a considerable delay of 15 to 18 months.

I told Judge Brown, "This is deplorable. If we have punishment, if we are going to spend money on correctional facilities, if the accused is going to get probation, if he is in jail, if he is out on bond and likely to be committing other offenses, the most important thing we can do is try this person quickly."

I told him, "Our jail is getting overcrowded. We are going to have to build a new jail facility and I don't know that that is money well spent. Perhaps on some correctional facilities, yes, but a jail facility, a holding facility, no."

So I said, "I think we need some temporary courts."

So we examined the law and through a Texas Criminal Justice Council grant we obtained two additional courts. This grant works like this:

Visiting judges are sent in to man these courts. It took quite a bit of staff by way of clerks and support personnel. I guess the cost is about the same as it would be with any other two courts. But this has really helped. Instead of increasing our jail population because of a tremendous increase in the number of indictments in the last 2 years—they went from 12,000 to 18,000 in the last 2 years—the jail population has actually decreased. We did not have to build a new jail.

Also, we achieved a first trial setting in our courts within 3 or 4 months after the offense has been committed. They might not get to trial on that day, and we have some cases that are over a year old due to legislative continuances, or cases that have been set three or four times, lawyers in another trial, witnesses missing, and all kinds of legitimate reasons. Really, we have so many cases pending that it is difficult to give you an accurate figure of how long it takes to try cases. It depends on the nature of the case, it depends on whether the person is in jail or on bond. But the first trial settings in most of the courts are now coming after 4 months instead of approximately 15 months.

One of the reasons for this is the fact that our two courts under this grant concentrate on trying jail cases. Now, we have two more courts sitting over there. One of the dynamics of court management is when a person sees the State has announced ready, it is rather strange how they all want to plead guilty. If the defense counsel knows you cannot get to trial that day because another case is in trial, then he announces ready and knows that his case will be continued by operation of law.

Yet, if there are two other courts that cases can be transferred to, a tremendous number of pleas are entered.

Therefore, this has been a most helpful use of LEAA funding.

Also, judges, I guess, like prosecutors in some respects, are a funny breed. You can have a good prosecutor or good judge and yet they can be lousy administrators for keeping the case flow going. In reality, they ought to be in the process of judging. That is what they are

being paid for and not to be in the paper-shuffling business. But, the paper-shuffling business is a necessity to a successful court operation.

So, pursuant to this same LEAA grant we obtained a court administrator and a court coordinator for each court. This takes a lot of time off the judges. Coordinators can plan dockets well in advance. There is one coordinator for each judge.

Another advantage was to give control of dockets back to the courts. We used to set the cases, the district attorney's office did. I didn't have any real objection to it but this isn't our function. It is not the defense counsel's function to set the case. The judge ought to be setting these cases and they ought to be set in accordance with some sort of priority and planning. So the court administrators have helped.

We are now in the process, through more LEAA funding, of putting in a computer. My opinion is we wouldn't have gotten any of these things from the regular funding sources without LEAA money. This computer operation, when it gets installed, is going to prevent such things as a person getting lost in jail due to having, at times, five persons with the same name, and multiple situations as to why persons are in jail.

In our county, we have charges coming in from nine justices of the peace and 22 police departments. There are so many different agencies involved when you are handling approximately 50,000 serious criminal cases a year—counting the serious misdemeanors and juvenile cases—we need the kind of machinery that can help. The computer programing has been very important.

We have been about the last 18 months in planning the computer programs. We don't really know how they will work out, but they are now producing daily jail lists. Also, the people who do the work on the computers are persons in our department of corrections. This is a great use of labor to help the courts.

Another thing that has caused the jail population to go down is a pretrial release program that was instituted pursuant to an LEAA grant, and they have the usual point system and they are pretty careful as to who they release. They make some mistakes but their rate of persons coming into court is as good or better than bail bondsmen.

I doubt we would have had this program either without LEAA funding.

Let me talk about some prosecution programs we have instituted. The one of the highest priority and the one I am most proud of is what we call our "organized crime division." There are lots of organized crime divisions with district attorneys' offices and there are lots of task forces and joint task forces and Federal and State task forces. But ours is the only one anywhere in the country that has been completely funded by LEAA and is completely within the district attorney's office.

As matching funds, we used our special investigations bureau. The whole unit consists of seven lawyers and one investigator. The emphasis of these attorneys is what is so different. Altogether, we have 90 lawyers on our staff. This is a tremendous expense of the taxpayers' money—$2.4 million a year—and yet on a caseload basis, it is not adequate.

Most of our lawyers are assigned to courts. Prior to our special investigations bureau and organized crime division, the only things

we were investigating and prosecuting were the cases that just came to us by way of police officers making arrests through ordinary routine. Now we have seven lawyers and an investigator that concentrate, you might say, more on people rather than cases that happen to come our way. This group of lawyers zeros in on professional criminals.

For example, take a recent car theft ring. In this 86 million operation 20 of 22 persons involved were sent to the penitentiary as a result of a 1-year investigation. We have been in the narcotics area. The work is hard in this division. Two lawyers have been tied up for about the last 5 months on a matter involving public corruption in the fire department.

We have been involved in all kinds of organized crime activity including attempts of the LCN to gain a foothold in our county.

We have been fortunate. Federal agents and others in Washington tell me we probably have as clean a city as anywhere in the country as far as the Cosa Nostra is concerned. We don't have any members in Harris County. But we know that they would like to move in. And there are other organized crime groups and activities other than the LCN.

So we work on any group of people that get together and conspire and make their living off crime, whether in the narcotics area, automobile theft area, receiving of stolen property, or hired killings. Also, this manpower gives us a chance to look into many large crimes such as embezzlements that are difficult, if not impossible, for present local law enforcement agencies to investigate.

Last year, to give you some type of idea of how many cases were handled, there were 218 indictments that were returned by Harris County grand juries as the result of investigations by this particular division. I would match the work of this hard-working, dedicated group of lawyers, against any group of seven lawyers anywhere.

Our organized crime division provides a better relationship between all law enforcement agencies. Somehow it is a little easier for the district attorney to coordinate joint law enforcement efforts. Sometimes it goes a little smoother than when you have two other police departments or law enforcement agencies getting together. We work very closely with the State department of public safety and their intelligence agents, with the Houston Police Department, the sheriff's office, and also work very closely with many of the Federal agencies on matters of mutual interest, where it is easier to prosecute statewide or turn over information for Federal prosecution.

We have been sort of a clearinghouse for information on organized crime activity. Of course, when you get into this area, it depends upon the integrity and competence of the people on an individual basis.

There is no way I could have started such a division regardless of its high priority. It takes $200,000 a year to maintain this division. Yet, I think the impact is tremendous. When you get persons that can get involved in investigations and work on the big people rather than the ones that just happened to get caught in the stolen car or burglary, this is effective. We are very proud of this particular division and the impact that we believe it is making.

Now, one thing that is true in police departments is that there are few in this country that have gone out and hired lawyers and C.P.A.'s and accountants to do investigative work. Yet you go over in your

Federal agencies, the FBI or whatever, and you find many lawyers, accountants, and others that are qualified to look into very complicated business crime, to get the records, interpret them, make some sense out of them before taking a case to the U.S. district attorney's office.

This is not true on the local level except for a handful of departments around the country. It is not true in my county. We don't have a section in the Houston Police Department or sheriff's office where there are lawyers or accountants or persons with expertise going into business records, corporate swindling schemes, and this kind of thing. So our office must be involved, including major consumer frauds as pyramid clubs, etc.

I think this is real important.

Mr. Wiggins. May I interrupt at that point to inquire about that type of investigative capability. Should it exist within the police department or under the jurisdiction of the district attorney, in your opinion?

Mr. Vance. I think the guidelines that were written by the National Council on Criminal Justice in this area are pretty well set out. I think they are good. I think if it is a routine sort of an embezzlement kind of case, even though it may be complicated, I think it ought to be in the police department or the investigative agency. However, we don't have persons so qualified. They just say, "Go over and see the district attorney."

I think any investigation involving public corruption—such as, investigations of a police department or its officers, police brutality, public corruption cases, or extremely complex investigations, and the consumer fraud area, which requires so much legal knowledge to determine what cases ought to be filed—should be done by the district attorney.

I think it would be a mistake to oversimplify or generalize. It is restricting to overly categorize. Our best investigations and results have come from a joint effort and joint sharing of information and a team effort of police agencies and the prosecutor. Also, consider the waste of manhours if you get investigators on a highly complex case out of a local law enforcement agency that has spent thousands of man-hours and then a lot of this information is not usable because they didn't realize it would not be material or relevant and admissible in court.

So you have to use a commonsense approach to be effective.

Let me take up another project in Harris County. We are lucky to have three law schools there. We used funds—only $24,000 a year and one of the best expenditures of money I have seen—to hire six law students on our staff. They get paid for 20 hours work a week, but they really average about 30, according to the time records, and these people are a part of our office.

The last assistant district attorney I hired had been number one in his law school class. We are getting extremely qualified applicants. Our student assistants go back and spread the word and we get more applications and it generates a high quality of persons wanting to go into the prosecutor's office and also starts the seed of generating career motivation.

Chairman Pepper. Excuse me. You mean you employ them part time while in law school?

Mr. VANCE. Yes. We generally try to get them about anywhere from 12 to 18 months before they finish law school and they can practice on a limited basis, their senior year. And during their stay, we put them in about two departments. They do very menial tasks, but they will get to know the people, see the office organization, get a feel for it, and go into court some. So it will be like the equivalent of several months full-time experience as an assistant, so far as knowing certain things that are necessary. This has been real helpful.

But the main thing is generating interest.

Also, we invite persons to be student assistants from our law schools on a voluntary basis. We have about 40 or 45, I can't even keep up with it, students assigned to work with particular prosecutors. These students receive academic credits in most instances. They are not paid.

This program is with all of the three law schools we have in the city. This generates a lot of interest, too. So this has been a helpful program because the staff is no better than the quality of people we have. We have to get good people and keep them there. That is the important thing.

With regard to management, we received a grant about 2 years ago to do a 1-year management study. Pete, Marwick & Mitchell did it. The reason we asked them to do it was they had already studied the Texas prosecutor's system and were already familiar with certain basics. They had written a large book that could be available to this committee, if it would be of any interest, on the office of the prosecutor in Texas.

Chairman PEPPER. We would appreciate if you would make it available.

Mr. VANCE. Fine. I will make a note and send that. So they came in and they went through our office. Through the years, you had a lot of management experience in the police area because you had the International Association of Chiefs of Police with a very large staff. They have been in the management area a long time. Yet in the prosecution area, the National District Attorney's Association has just gotten in this the last 2 years, and we got into it in a fairly significant way.

Because of this study our office was reorganized. We were using a lot of procedures we did not need. We streamlined the flow of cases, the reporting, knew better who was doing what, this kind of thing. It was something you need in any organization, and I won't elaborate on it any more. When you spend a bunch of money, have a bunch of people, and many problems, it helps to have a systematic study. So I am real happy that the NDAA recently obtained an LEAA discretionary grant for the National Center for Prosecution Management. It has been helpful in serving the prosecutors' offices around the country and also writing certain guidelines and suggested procedures for small-, middle-, and large-size offices. This has been a neglected area up until recently.

We would not have been able to do that without LEAA funds. To illustrate, had I gone to the local unit of government and said, "I want a management study," they would have said, "Look, you are paid to run that office, you ought to know everything there is to know about it."

Because I spent 8 years as a trial lawyer, and 3 years prosecuting

murder cases, that doesn't make me an expert in paper flow. Every administration needs expertise in administration.

Another program, which is not original with us, is our screening grant. We were able, for the first time in our jurisdiction, to set up an office to screen charges prior to their being filed. We do this for all of the city of Houston. We hope to expand it soon for all of Harris County. When you screen a felony case—and perhaps this is the most important decision made in our whole process—you decide whether to put this case in the system with persons being arrested, charged with a felony, with all of its implications to society, with the cost of processing that case through court. Therefore, you ought to spend a few minutes prior to putting that case in the system to see if you have a case or not.

There are some situations where you don't have a case and will never have a case. There are others where you do. Others are borderline and make for tough decisions. But cases must be screened if we are to raise the level of justice and provide a greater confidence in judges and juries that ultimately must decide.

Another advantage is to specifically advise police if they did some more work and came up with this or that, the case could be successfully prosecuted. This allows the prosecutor to talk to the investigating officers at the very beginning and suggest certain things they can do before the case becomes stale and witnesses forget.

There used to be a saying, "you can beat the rap but not the ride." I don't really subscribe to that theory myself. It is perfectly acceptable for a police officer to go out and bring someone in for questioning without having a completed case. That is one thing. That is proper. But I don't think you ought to file an actual charge that is going to get into your system unless you do have sufficient evidence to warrant prosecution of that case.

One thing we have done under our screening grant is to keep the office open at nearly all hours. We are open to 2 a.m. every night and 3 a.m. on weekends. It is difficult to get the quality of prosecutor you need to work at midnight and strange hours, doing this type of work. It is not very desirable work from the average lawyer's standpoint. So what we did, pursuant to this grant, is to pay our most experienced prosecutors—already on the staff—to go over and man this important office, and get paid for it.

Our top lawyers rotate this duty. No. 1, they look forward to making the money, but the main thing is these prosecutors in court trying these cases have a better understanding of the problem than somebody that just sits there night after night and becomes institutionalized, bored, and hardened at this preculiarly undesirable assignment.

Chairman Pepper. Excuse me. We had a prosecuting attorney from Philadelphia here yesterday, Mr. Specter, and I believe he mentioned about making available legal service to the police department to help them more to know what they can find out.

Do I understand from what you said, you do discuss these things with the police, make legal advice available to them?

Mr. Vance. Yes, sir, we do. What we have, of course, during Monday through Friday, 8 to 5, there is no problem. We have various departments and they can call the particular department involved, but nights and weekends it is very important. The law has gotten complicated, as

I am sure everyone is aware. Drawing up a search warrant or a warrant of arrest that can stand up in court is highly complex and requires expert advice on the spot. Or else you could have a case thrown out that might involve $1 million worth of heroin.

In order to try to kill two birds with one stone and get our experienced people involved, we sent over the senior district attorney and he doesn't get paid a large amount. If he is at the very top of the staff, he gets $10 an hour, but he can go over and within 8 or 9 hours, earn $90. He gets about as much as a high-grade plumber would. This is money well spent for a very sensitive position.

Also, we send over a junior prosecutor and he can work on things like search warrants, warrants of arrest, or take routine cases. The night screening office is manned by a team of two, and they are the ones screening all of these cases and they provide legal services, mostly in person to the officers that come in, or by telephone, because we do have 22 separate police departments in our county. So we have this central office—it is like an extension of the district attorney's office—open at night and weekends.

Another thing in this area, we cut down the time—you know, you could get into all kinds of law reform with a committee like this, of what you should do to try to solve the crime-on-the-streets problem, and I guess you would start in each State, if you were going to do this, and say, we have a real efficient criminal justice system to begin with. We do not have efficient legal machinery in the State of Texas. In fact, we are archaic.

We have a new penal code that we hope will be passed this week by the legislature. Now ours is over 100 years old, our penal code. We have things in our constitution such as you must be indicted by grand jury before you can be tried.

Concerning the time to take a case from the charge being filed, and an examining trial set, and taking before a grand jury used to take about 90 days on the average. Well, we got another grant where we had five more lawyers assigned to our grand jury and examining trial division and even established regional offices that are there by day, Monday through Friday, to be a lot closer at hand with the other police departments in that area and some substantial sized communities are about 30 miles from the courthouse. Also, due to additional manpower, we got rid of our backlog and we now present all cases for indictment within 30 days and many are presented in about 15 or 20 days. This is just another step improvement.

The logical way for any criminal justice system—after the charge is filed—is to have your preliminary hearing within 2, 3, or 4 days. If a judge sees there is sufficient evidence, I should think that gives the accused more protection than grand juries. I like grand juries on investigations, but I don't like them on routine cases. After an examining trial let the district attorney file his information, which is like an indictment, and you have the case in the system and in the trial court in about 5 days, rather than going through these duplicitous steps. But we do have to do that.

Mr. Wiggins. May I interrupt at this point?

You indicated earlier in your testimony that you have about a 4-month wait for trial in your county. At what point do you start counting?

Mr. VANCE. I am talking about from the time the charge is filed.

Mr. WIGGINS. Is that after indictment?

Mr. VANCE. No; I am talking about the period in most of our courts. What would happen is you would be filed on, let's say, today, 10 days from then you would have an examining trial, about 10 or 15 days later your case would be presented to the grand jury for indictment. Let's say, roughly, 30 days go by there. Then the case would come up for arraignment in court, about maybe 10 days after that, making this around the 40th day in the actual court that has jurisdiction to try it.

In most courts after arraignment the trial setting is another 45 days. There are one or two courts further behind and it takes longer. So I am talking about the first trial setting generally comes around 4 months at the present time after the offense has been committed.

Mr. WIGGINS. Do your statistics include felony and misdemeanor cases, or only felony cases?

Mr. VANCE. I am talking about felonies. We are in a real dilemma with misdemeanors. We used to bring all of those to trial in about 45 days after the actual offense was committed. They were getting set at the 30th day and on the resetting it would be 2 weeks or maybe 4 weeks. I think we had the quickest trial of misdemeanors like drunk driving, carrying pistols, aggravated assaults, misdemeanor thefts, as anywhere.

But we haven't had a new county criminal court of law, that handled these cases, created since 1963, and we have gone from 9,000 cases to 26,000 since 1963. We have a bill that is on the floor of the Texas House today that would create three more county criminal courts of law, bringing us from four to seven, which I think would help alleviate this problem. I think this will pass.

Mr. WIGGINS. The average that you mentioned, does that include pleas as well? The 4-month average you mentioned, does that crank in pleas which are disposed of without trial, as well as the trial itself?

Mr. VANCE. Yes. Because the big problem there is that we have a tremendous number of announcements ready for trial. Like out of 18,000 cases disposed of last year, only 700 of those were tried before juries. I think we had around 11,000 or 12,000 pleas of guilty. On some of those pleas of guilty, once in a while somebody would come in and would want to plead guilty early and the matter is submitted to the court and the plea is taken very early.

But in most instances, whether defendants are in jail or out on bond, they ask for a trial and they wait until they see the witnesses there and the jury is about ready to come down before they enter the plea of guilty.

Mr. WIGGINS. I understand that. That is normal tactics. How long does it take to get to trial in your county in the case that actually goes to trial?

Mr. VANCE. Those that go to trial, around 4 months. In some cases, it varies. Anywhere from 4 months—I guess we have cases that are 18 months old. But I would say the average case probably goes to trial around the second setting and around 6 or 7 months would be an average. But if somebody writes us a letter and says, I want my constitutional right to a speedy trial, whether they are in jail or on bond, it can be set up within a couple of weeks for a person to have a trial, because we will transfer it to another court.

But we only get about 3 or 4 of those letters out of 18,000 a year. Nobody wants their constitutional right to speedy trial.

Mr. WIGGINS. What would be the impact in your county of a statutory provision for trial within a prescribed time—60 days, 90 days, whatever?

Mr. VANCE. I think something ought to be done along these lines. The only thing that scares me—and I testified 2 weeks ago before the Constitutional Rights Subcommittee, before Senator Ervin's committee, about the speedy trial provision—is the 60-day provision, with a mandatory dismissal date. I am scared to death of the mandatory dismissal date because I know everybody would then ask for a jury trial, knowing we can only try *x* number of jury cases, and the rest of the defendants would go free.

I think if we had that, we would have chaos. We would be encouraging everybody to ask for a jury trial. I would hate to see dismissals with prejudice, or even without prejudice, just simply because a court couldn't get to a case by a given day.

On any given date, Monday through Thursday, when we have the trial settings, there are approximately 4 or 5 cases in each of our 10 criminal district courts that are actually set for trial that day. This is defendants who have said they wanted a jury trial. So just by these percentages—it would be just so easy to frustrate the whole system by everybody really getting that jury trial. It would throw us into chaos and if they felt they could get past a certain line and their case would be dismissed, I think it would be the worst thing in the world.

Mr. WIGGINS. To what extent do the pretrial motions to suppress and the like, clog or delay speedy disposition of trials?

Mr. VANCE. A tremendous amount. A tremendous amount because somebody comes in, and they file a motion and we can spend up to 3 weeks hearing maybe one motion to suppress. I think the exclusionary rule is a ridiculous rule. I think we are going about it the wrong way. If a police officer makes an unreasonable search and seizure, the police officer ought to be dealt with. Don't punish the public by throwing out the case.

I think these motions to suppress, and most of them are there because of some of the Supreme Court opinions, like the *Miranda* case on confessions, or the cases on search and seizure with their motion to suppress, or what have you. Certain people believe if you can set all of these motions prior to trial and have particular days for courts to hear these motions, then you will solve a lot of the trial issues and speed up the dispositions. I just find it complicates the system and adds to the delay.

The more things you have to do in court and the more days you have to spend doing certain things before you finally get to the trial to discover whether the man is guilty or not guilty, I think the more you complicate the whole system of justice.

Mr. WIGGINS. In your system, do you have a requirement for consolidating trial motions for one setting? Can that be done at one time?

Mr. VANCE. It depends on the judge and they are working on some rules to try to get that done at a particular time. I think if you had the kind of caseload that your Federal courts have, you could do that and it would probably be a good thing. But where each of our district courts are averaging about 1,700 felonies per year, you hardly have time to take the pleas of guilty—which now take about 30 minutes to take a plea of guilty instead of 5 minutes like they used to because

of all of the material that must go in the record. Most of it is what I would call a sham, with all kinds of stipulations and paperwork and people signing things.

I really don't think all this really benefits the defendant or his lawyer who is sitting there to look after his interests, but we have to do it.

Mr. Wiggins. In your system, is a decision on a pretrial motion appealable at that time or is it appealable from judgment?

Mr. Vance. Texas is the only State in the Union, I am afraid, where the State has absolutely no right of appeal. So if the motion is not granted, then you would have the trial and they would probably bring up the motion again. Unlike the Federal rules, Texas rules say you relitigate the matter before the jury or the court in many instances In Federal court, if you don't bring certain of these things up, prior to trial, you waive your right to pursue them. But that is not true in State court. They bring them up again at the jury trial. And if the defense is ruled against, they can appeal that. We cannot appeal these interlocutory decisions.

Mr. Wiggins. Even by the defendant?

Mr. Vance. Even by the defendant. He must wait until after the trial, and if convicted, he can then appeal.

Mr. Wiggins. I have no further questions.

Chairman Pepper. You may proceed.

Mr. Vance. One last thing that I want to mention so far as the prosecutor's office goes, is something that is real important. This is the great need to fund an executive director for the prosecutors of each State. There are two lawyers on the staff for the Texas District Attorneys Association, and this was also done through LEAA funding.

The dues the prosecutors paid to the organization were just too low to afford this staff, but there are certain central services that are desperately needed. This person has the full confidence of the prosecutors because, the State prosecutors' association's board of directors decides who the executive director shall be.

Through our central offices we have accomplished certain projects. One year the State bar came up with a penal code that had many objectionable features in it. Even though it had a lot of good ideas, it never even came out of committee in the legislature.

But our District Attorneys Association spent a year studying and revising the State bar version. We have 11-man committees and they meet 2 days at a time about once or twice a month, and we came up with a good code. In fact, it was in such good shape, the State bar really liked this version and the State bar is now sponsoring it. They made a few little changes, but not very many and the code before the legislature is essentially the prosecutor's version—thanks to LEAA funding.

I think you need a basic kind of prosecutorial system in any State. We have a bad system in Texas. I am a district attorney and handle misdemeanors and felonies. But in a lot of the areas, the district attorney handles felonies and the county attorneys handle misdemeanors, and they have two completely different prosecutors in one place.

You have the same problem as far as judicial reform. You have a lot of specialized courts and if one judge gets through his docket he cannot take a case from another court.

I think the first place to start is some kind of judicial and prosecutorial reform. I hope we would get to the place where we would have our prosecutors well paid. They should not practice law, and they should be completely full time except in very sparsely populated areas. I think the same should be true with the judiciary. I think we are moving toward professionalization because of having a central office to serve prosecutors. And they provide for the rural prosecutors different training sessions each year and keep them apprised of the law. So many services are needed to keep a prosecutor up to date, particularly if he is in a small area.

This move has been very significant in raising the quality and professionalization of many of the prosecutors in Texas by having this central office.

As you can see, I am strong on these LEAA funds. I do think it is sort of sad that prosecutors' offices generally throughout the Nation, receive about 1 or 2 percent of the money. And I don't think the courts have fared as well as they should. I just think we have been fortunate in Texas.

I am opposed to complete revenue-sharing concepts where the moneys will go into roads and bridges, and I am opposed to another massive Washington bureaucracy to tell us how to run local law enforcement. So I like the LEAA approach as it is now, but I think it could be modified to call for more funds to go into prosecutors' and judicial offices because this is perhaps one of the weakest links in our system as it now stands.

Thank you so much.

Chairman PEPPER. Thank you, Mr. Vance.

We will hear now from Mr. Busch and then have an opportunity to ask questions of both of you.

Statement of Joseph Busch

Mr. BUSCH. Mr. Chairman, thank you very much.

It is a pleasure to be here and particularly a pleasure to have Chuck Wiggins, who is my Congressman——

Chairman PEPPER. A very good one.

Mr. BUSCH [continuing]. A very fine Congressman, to be a part of this committee.

I might do as Carol just asked, incorporate my prepared remarks into the record.

Chairman PEPPER. Without objection, your remarks will be incorporated in the record.

[The prepared statement of Mr. Busch appears at the end of the testimony of this panel.]

Mr. BUSCH. It is always difficult when the prosecutors from Los Angeles talk to any committee or appear with other prosecutors, to compare our functions with what occurs in other parts of the country. As it has been indicated, I have a staff of 450 assistants. I have eight different places, eight different branch offices, where felony prosecution occurs, and where they will be representing perhaps 7.5 million people.

I have 23 offices, area offices, that handle the consulting with police departments. We have 50 police departments in Los Angeles County.

Our largeness has worked against us in getting any type of grant funds because when Los Angeles County wants something, it looks like the State of Michigan walking in. We are about that size.

So when you talk about LEAA grants, and that type of thing, why you can do more for many smaller counties.

Chairman PEPPER. Michigan or Florida. We are a little over 7 million population.

Mr. BUSCH. That would be just about it. When you walk in and say, "We would like a grant," you are talking not Dade County, but you are talking the State of Florida. But I think they are very important.

I think it is important that Congress and State legislatures be interested in upgrading the administration of justice. This may be considered political folly, but I asked, after I was made district attorney in Los Angeles County, and permitted the Rand Corp. to come in and make a study of the adult felony prosecutions within our county and they just put out the report.

I would ask to leave a copy with the committee.

Chairman PEPPER. We thank you for doing so.

[The material referred to was retained in the committee files.]

Mr. BUSCH. This, of course, is systems analysis, data analysis, taking cold statistics, and they arrive at the conclusion we don't have equal justice in Los Angeles County. In the sense, not that there is injustice, but it may not be equal justice.

Now, as a result of that report, I was able to convince my board of supervisors, our county commissioner, so to speak, to underwrite the local contribution to a grant of $1 million. This was what—these are the type of things—a grant of $1 million for me to bring into Los Angeles County a systems study, management study, as Carol has talked about. It would be a little more sophisticated than that, perhaps involve programing and computerization.

They have a very fine one, incidentally, in the U.S. Attorney's Office in Washington, D.C. It is very important to do that. It is so important that in the county of Los Angeles, what happens in Pomona to a defendant is the same that will happen to a defendant in Santa Monica. In other words, I think it would be important in Florida, a man accused of a crime in Jacksonville get the same treatment as a man in Miami gets.

We really aren't sophisticated enough today in our criminal justice system to evaluate and know we are doing that. That is why it is important that there be a thrust from Congress, and through funding to have this come about. It is very important.

Independent of that concept, as Carol so eloquently talked about, there are other areas we should be concerned about and I think the Congress should be concerned about. I think that there should be more diversionary programs. And by "diversionary programs," I mean rehabilitative programs without giving somebody the stigma of conviction, for it is so apparent among minorities and economically depressed people, that they will have convictions, and it works against them for the rest of their lives.

And crime is a product of the young: 90 percent of all crimes occur between the ages of 15 and 29 years. It is a product of the young, and they gradually outgrow much of it and the stigma of arrest and conviction is something we should be concerned about. It is so hard to

erase a record. You see the records and the things they talk about in juvenile courts.

So I think the funding of diversionary programs is very important. In other words, you don't prosecute, you rehabilitate the first offender, whatever it may be—the most popular program is the drug programs—and see if they can't correct their wrongful attitudes without the stigma of arrest.

California has that type of legislation. We are probably a little bit behind in our diversionary programs, but I would say now that half of our narcotic first offenders are not being prosecuted, they are being diverted, and that is a very important thing.

Chairman PEPPER. About half, you say?

Mr. BUSCH. I would say about half, first offenders. That is very important.

In our office—and again, we are so large and I have programs that we institute on our own, particularly in the juvenile field—I have what we call "partners program." We encourage police departments, principals of schools, anybody that has contact with the young, who have had their first contact with the law and they are not a serious offender, rather than process them into the system and expose them, because I think there is a great area of reform in the juvenile procedures that should be considered, but at any rate, it is a one on one.

Volunteers, college students, people that want to be involved, and they take that youngster and they give him recreation, give him guidance, whatever they may be lacking in their environment. A very successful program, very important.

Another program, I have 24 youngsters through a Model Cities neighborhood program, in a grant, on my staff, from the Watts area, which is the highest crime incidence area we have in Los Angeles County. These 24 youngsters are from all of the various high schools and they create programs in the schools to respect law and order.

They have sympathy and respect for the law. If you don't have sympathy and respect for the law, you are going to have criminal activity, believe me. They have—gosh, they have programs bringing convicts from State prison to talk to people. I think it is the most successful young people's program that I have seen anywhere.

These are right from the ghetto area, right from the heart of it. It has taken about 2 years to lose the stigma that they are the "District Attorney's Youth Advisory Council," because it sort of puts you on the "establishment" side.

That is an effective program. I would encourage other district attorneys to be involved in that type of thing. I really feel the role of the district attorney should be not only concerned about prosecuting people, screening cases, but to be in criminal prevention and not let the police departments be the only public relations people as a buffer between the criminal justice system. It is pretty tough for a policeman who has to arrest somebody to also be the public relations person.

But these are important concepts and I think should be recognized by Congress and State legislatures. And as Carol said, there should be more concern by LEAA into funding moneys for the criminal justice system with the prosecutor rather than just police departments, or hardware for police departments.

One other thing I might say about California and one of your concerns is the right to speedy trial. We have a 60-day rule in California for felonies and also it applies to misdemeanors. From the filing of the information—that is the former pleading in the felony court—you must be brought to trial within 60 days if you demand it, or you get it. In our county you get a trial in 60 days if you demand it.

Now, a weapon of defense is delay, so there are many continuances at the request of the defendant. But over half of our cases are disposed of within 90 days of the filing of the information which we use, rather than the grand jury indictment. The one unique thing about our procedure in that area is that if there is a dismissal after 60 days, it is not jeopardy. So we can refile the case as a prosecutor.

But everybody recognizes it as a valid rule and we do have speedy trials and I think Mr. Wiggins would attest that we pride ourselves with the speed that we bring our cases to justice.

Chairman PEPPER. Mr. Busch, it is obvious you have been in your office there with meaningful programs for the public interest.

Mr. Counsel, do you have some special questions you would like to ask before we start inquiring?

Mr. NOLDE. Thank you, Mr. Chairman.

Perhaps I could just point out several things the members would like to get into.

One, Mr. Vance should address himself to the organized crime division he established in his office, as to the effect it would have on street crime. I think both gentlemen could deal with the issue of plea bargaining we heard about yesterday from the prosecutor from Philadelphia. He is against plea bargaining.

Both distinguished gentlemen have screening programs in their offices designed to screen out the minor cases in order that the prosecution and courts can concentrate their resources on the kinds of offenses that should be given attention. In addition the entire speedy trial issue should be addressed.

I think Mr. Busch has indicated that prosecutors in California are able to function effectively under their speedy trial statute, which has a 60-day limitation. I think Mr. Vance has indicated that a mandatory dismissal would pose great problems. Both gentlemen could discuss the issue of whether mandatory dismissal would be a good idea, and also if the defense were required to proceed within 60 days, whether that might alleviate some of the dismissal problems if a similar burden were imposed on the defense, requiring them to be ready for trial within the same time period. We are interested in whether that would be a good idea or not.

I now turn it over to you, Mr. Chairman and the members to ask the questions you wish and I can follow up at the conclusion.

Chairman PEPPER. Mr. Mann?

Mr. MANN. Mr. Vance, do you not have a 60-day statute?

Mr. VANCE. No, sir. We have no rule whatsoever. In fact, very few States, I think Florida and California are about the only two States that I know of, do have such a rule. There may be some more now. I think there is a lot of legislation pending.

Mr. BUSCH. Even if you have the legislation, the courts would not be bound by that in their opinions because it becomes a fundamental constitutional right. Any legislation is just a guideline.

Mr. VANCE. If it were congressional, like the bill that is before Congress now that provides a case will be dismissed if you cannot get it in within 60 days, it is more than a guideline. That is what I am scared of.

Mr. BUSCH. Of course, it would have a controlling factor but in certain instances they can declare failure to get trial in 30 days could be denial of a speedy trial. All you are giving is a guideline.

Mr. MANN. What you might get into is a form of jeopardy. Do any of them attempt to do that?

Mr. BUSCH. Some of them do make it jeopardy. California does not.

Mr. VANCE. I thought Florida nearly did in some respects.

Mr. BUSCH. A couple of States may have the jeopardy ruling, but it is not a 60-day rule. It is a 6-month rule. It is much longer. If you are concerned about getting a speedy trial, I say put the 60-day rule in there, but don't make it jeopardy. Delay is a weapon of the defense, not prosecutors. It is defense attorneys that delay cases, not prosecutors.

Mr. NOLDE. If I may, Mr. Mann, I just want to ask Mr. Busch, if you require the defense to be ready within 60 days, wouldn't that help that problem?

Mr. BUSCH. Oh, yes; certainly. But I wouldn't want to see the jeopardy attach.

Mr. MANN. Based on my experience—and this is somewhat facetious—the 60-day limitation would put a lot of paid defense lawyers out of business, because they don't get paid in 60 days.

Mr. BUSCH. That is right.

Mr. MANN. Unfortunately, the technique is for the defendant to go out and steal some more so he can pay the lawyer. So that part of it would be curtailed.

What is your practice, Mr. Vance, with reference to plea bargaining?

Mr. VANCE. We have plea bargaining and I think every metropolitan area in the country has some form of plea bargaining, even perhaps including the city of Philadelphia, in accordance with conversations I had with judges and prosecutors there who say sometimes they get together and decide these cases by advance discussions even though, I understand, Arlen Specter prohibits his assistants from making recommendations.

Mr. MANN. I asked him about that and I got the impression in his answer that they did determine the recommendation that they would make and they offered that to defense counsel and counsel took it and they would follow with the plea recommendation.

Mr. VANCE. That is what I call plea bargaining.

Mr. MANN. I do, too, and I so stated. But he seemed to think if you went further than that and compromise occurred, what you are really pleading for was a fair sentence and came below that, as he expressed, to give away city hall. Of course, that is bad. Of course, those of us who engage in plea bargaining don't think we do that; otherwise, we couldn't live with ourselves.

So I agree with you, it apparently goes on there, too.

Mr. VANCE. One thing, in answer to your question, I really think that plea bargaining, if it is done properly, is a good thing. I agree wholeheartedly with the American Bar Association's standards in this area. I think No. 1, you have to have sufficient courts and resources

so you are not giving away the courthouse and that the plea is made on the basis of the facts involved in the case.

I think, second, you have to get plea bargaining out on the table where you don't go through a subterfuge there as you are entering your plea such as we do in Texas and many States.

I think the third thing is you have to bring the judge into it. After all, it is his final responsibility. I think, ideally, you know, the judge would take the counsel for both sides back to his chambers prior to it and say, "OK, what's this case all about," and the prosecutor would say, "Well, Your Honor, we are recommending 4 years because here is our side," and the defense counsel says, "We think this is proper because * * * ." At this point the judge can require any evidence or ask the lawyers any questions he has to satisfy himself, and then it becomes a joint decision.

I think if you have competent counsel representing the State and the defendant and the judge approves the bargain, I do not see anything inherently wrong with a person having a reasonable expectation of what sentence he might receive should he enter a plea of guilty. I think this is one of the things that makes a guilty person enter a plea of guilty, that is the certainty he will receive a particular sentence and can adjust his life in accordance with the sentence he will receive. I don't see anything inherently wrong with that.

I do think you have to have sufficient courts, and you have to have a balance between trials and pleas. If you don't have the trials, say you only have the courts to have 1-percent trials, and everybody asks for a jury trial, in that case you would just be giving the cases away to keep up with the cases coming in. I think we would all disagree with that. None of us wants to do that.

Mr. Busch. I would make this observation. As long as there are accusers and prosecutors and defendants, there is going to be compromise of cases. I think the abuse of the plea-bargaining process, the abuse of that, enters into the sentence bargaining aspect of it. I have started a pilot program in our county in three different areas where my deputies can enter into plea bargaining but not sentence bargaining.

In other words, they are not going to say what a man is going to get; they will say what he can plead to. And to eliminate the judges. We are going to see what effect that has, what impact that has.

I think that the public generally feels that there is something wrong in plea bargaining. There is an inherent feeling in the last few years—I don't know why that has come about, whether it is the academicians who have come in to study prosecutors' offices, or whatever it may be, but there is an inherent feeling there is something wrong in plea bargaining.

Mr. Steiger. Would the gentleman yield?

Mr. Mann. Yes.

Mr. Steiger. I would be happy to tell you, as a layman what is wrong with plea bargaining.

The habitual criminal is apprehended, released on bond, and commits two other offenses. He is then permitted to plea bargain for that offense which will give him the lightest sentence and he has paid for the other two offenses, or six, or nine. That to a layman is offensive.

Mr. Busch. That would be offensive to me as a prosecutor, but that assumes that the prosecutor, to get rid of the case, to ease the court

load, to move justice so to speak, is giving the guy a break. It isn't dishonest, but it is really almost immoral. That is the stigma that plea bargaining has had.

The reason I mention this program I have, the compromise of a case isn't bad; I think what comes about is the sentence bargaining. That is the part. I agree with Carol that really and truly, as a defense attorney, I may have a client that is very guilty and he will plead guilty, but he will plead guilty only if he knows what is going to happen to him. He wants to know what is going to happen to him. If he doesn't know what the sentence is going to be, why not have the trial?

Mr. MANN. When you limit the bargaining to——

Mr. BUSCH. That is where the abuses come in.

Mr. MANN. Yes; to the lesser included offenses, you won't have a broad enough spectrum in the code-described crimes to pick out the right slot.

Mr. BUSCH. When Arlen Specter says he doesn't engage in plea bargaining, I don't think that is true. He isn't engaging in sentence bargaining. These are two different things.

Mr. MANN. He recommends sentences, though. He acknowledged that.

Let me make one other observation, and it is an observation in response to Mr. Steiger's statement.

He admits to being a layman, and the average layman really doesn't understand the power of a prosecutor's office. The power of the people has to reside somewhere and it resides in that prosecutor's office. The public never quite realizes that that prosecutor can determine whether or not that case goes forward or whether or not to terminate it. They would like to think that is the role of the court.

Well, in some jurisdictions, I guess it is. But in most jurisdictions it isn't. It is a determination by the prosecutor, representing the State, and he can dismiss all of those cases. He doesn't have to bargain; he can just do it because he wants to. It is not a matter of bargaining; it is a matter of using his power to carry out the function of his office, and that is to produce justice. And in doing that, he has life or death powers over all cases, generally.

So because he bargains one or two, or handles them in a certain way, they can seek their remedy at the poll, which is no use to think people don't take a vote, or impanel the court to make these decisions, or get a committee to do it. The prosecutor has that power and it is going to have to stay there.

Mr. BUSCH. Carol touched on it and I didn't discuss it, but the most important decision that is ever made with a criminal case is whether or not a prosecutor issues the case; the prosecutorial discretion of putting it into the system. The most important decision a prosecutor makes is the screening process.

In my office you have to be a senior deputy. We don't let young men decide whether somebody comes in. You have to be a senior man—we have them by grade, and they make that decision. That is long before plea bargaining.

Mr. MANN. That is right.

Mr. WIGGINS. There is bargaining in that process, too; isn't there?

Mr. BUSCH. Not really. It is what the police present you with. You may be bargaining with the policeman, not with the individual.

Mr. WIGGINS. Surely, in your experience, you have had the opportunity to receive a call from an attorney who says, "Before you file on this case, I would like to talk to you about it." The purpose of it really is to convince you that you don't have a case, or if you are going to file, you ought to file a lesser offense.

Mr. BUSCH. If it is the type of a case that isn't just a file of arrest of somebody, there has been an investigation. We always extend the courtesy to counsel to come in and have a hearing to present their side of the issue before you file a complaint. Yes; we do that.

Mr. MURPHY. Would the gentleman yield at this point?

Mr. MANN. I am through.

Mr. MURPHY. The reason for this, though, politically speaking, is that we have a lot of violations going on all over the country, especially in the Federal system. When you take a suspect before the grand jury and a determination is about to be made whether to indict or file an information, then leaks to newspapers will say, "So-and-So indicted."

This is worse than the conviction because the convictions are usually found in the back of the paper.

A lot of people are using this for political purposes. The leaks coming from grand juries all over the country is a very serious problem.

Mr. BUSCH. We do not use a grand jury indictment system. We use the preliminary hearing where we have a magistrate and present the witnesses in open court and confront the defendant before he is held to answer. Out of 55,000 felonies, we take about 100 to the grand jury.

Mr. MURPHY. Do you discourage going to the grand jury? Is that what you are saying?

Mr. BUSCH. Yes.

Mr. MURPHY. Why is that?

Mr. BUSCH. I think the preliminary hearing and the confrontation of the defendant and the right to cross examine the witnesses before he is held to answer, it really lets him know what kind of a case he has. Defense attorneys have the opportunity of discovery. It gets them prepared and leaves you in the position, when you get to the arraignment in the superior court, to talk about plea bargaining or to dispose of the case.

Mr. MURPHY. Either one of you may answer this—have you seen violations of the secrecy of the grand jury?

Mr. BUSCH. I have never seen a reporter disclose testimony of what occurred in the grand jury. I have seen witnesses, after they left the grand jury, tell what they testified to. And in California, that is supposed to be a crime. I don't know how you would ever convict them of it.

Mr. VANCE. I think this is what happens often. Lets say I go into a grand jury room and I testify I saw "A" shoot and kill "B" at a particular time and place, and describe it. Even though it is a violation of the law to say what I told the grand jury.

Let's say a reporter asks me, "Do you know anything about this case?"

Then I can say, "Yes, I saw 'A' shoot and kill 'B', et cetera."

Mr. MURPHY. I am not talking about a case like that. The kind of case I am talking about is when you pick up a newspaper and find a columnist that will have a verbatim question and then the answer. There is some violation there.

Mr. Busch. Absolutely. I have never run into that, but that is what I would call an absolute violation.

Mr. Murphy. Have you met Jack Anderson?

Mr. Busch. No, I haven't. But I read his column. Whether it is the court reporter who did it—he will dictate to the transcriber, the transcriber makes copies. They get paid by carbon copies. Somebody can pick up a few extra copies.

Mr. Vance. Only the court reporter has it and the trial attorney has it, and the grand jurors don't get copies, and neither do defense counsels or newspapers until the time of the trial.

But I would agree with Joe Busch, the best use of grand juries is in investigations and not in routine cases. In ordinary cases, I think the examining trial and filing of information is a much better way to handle the investigation. Even where a grand jury is investigating someone and even though they come out and there is a "No bill", it is sometimes written that a grand jury is investigating a particular matter. The reporter sees the three witnesses at the grand jury room area. When asked, I, or an assistant district attorney, will sometimes say this matter is under investigation. However, we release no other comment. I think this is better for a person under investigation to have a "No bill," than to have an examining trial and a lot of damaging things testified to in open court before the press. Sometimes there is no criminal case but a tremendous amount of damaging testimony against a particular individual.

But I do think grand juries are useful for investigations. They do protect the defendant as well as the State.

Mr. Murphy. Across the country there have been some bills introduced in State legislatures—I don't know about your particular jurisdiction—to do away with the grand jury. I take it from your comments you would not be in favor of this?

Mr. Vance. Not to do away with it. I think we need it in investigations. But we are slowed down by the fact a grand jury indictment is a requirement under the Texas constitution, so the legislature can't even change the law. It would take years to change the constitution. It would probably be an unpopular thing to do politically, to want to do away with them. People would think I am trying to get more power.

Really, if you have an examining trial, that gives the accused more protection than the grand jury in a routine case.

Mr. Murphy. Then there is a question of accountability with you. As Mr. Mann said, the people have to place this responsibility of their power with one individual who is held accountable. If there are violations, or some political indictments or smearing of individuals' reputations and characters, then there is some accountability.

With the grand jury, there is no accountability.

Mr. Vance. That is true. There are some very close cases, like murder cases. You get one witness testifying the person shot and killed someone without any reason, and you have four witnesses saying it happened in self-defense. You have a prima facie case. If you had an examining trial, the judge would bind him over for trial because you made your case. But yet you have maybe independent witnesses that have no ax to grind, saying it happened in self-defense. It is a real close decision.

I don't mind running these things by grand jury. It is not a matter of trying to shift my responsibility to them, but I just think as citi-

zens, in the sometimes real close cases, to develop a case before citizens such as would sit on ordinary juries is a real useful thing.

Mr. BUSCH. It is a check for the prosecutorial discretion. Maybe he would go ahead and again just accuse a man and go to the preliminary hearing and have the public hearing, but it may be a close question and you want the judgment of sincere individuals. I would always presume grand juries and the people that sit on them are sincere individuals, not controlled by a prosecutor.

Mr. VANCE. Another thing along those lines, sometime we turn down charges. Some people feel it is a matter of right to file a criminal charge and get it in the system. At least with a grand jury, there is one body other than an appointed prosecutor who can look at the thing and say, we are going to return an indictment.

Mr. MURPHY. I know the function of the grand jury. My point is that it is being so abused today throughout America that people's reputations are on the line through statements made by prosecutors. For instance, in Illinois there was a racetrack scandal. Some people were brought to trial and some people were convicted.

But then the prosecutor makes the statement: "We are continuing our investigation and we are looking at some 9 or 10 legislators." I think that is unfair.

Mr. BUSCH. I think that is true. I think it is unfair to make public statements about it.

At the present time, back in my county now, they are talking about the possibility in the *Ellsberg* case there was a burglary and the press is all over my office wanting public statements. What am I going to do about it? Well, I am not going to talk about it. That is what I am going to do. I am not going to talk about it.

Mr. MURPHY. You are a unique prosecutor, then, because a lot of them don't hold that same degree of integrity and they go to the press. I think this is a dangerous thing. I can appreciate your comments about it.

Mr. WIGGINS. I have several quick questions, Mr. Busch.

In the county of Los Angeles, the practice of plea bargaining is almost institutionalized.

Mr. BUSCH. That is true.

Mr. WIGGINS. It has been recognized as a proper function by no less than the Chief Justice of the U.S. Supreme Court.

Is it currently the practice to lay all of the facts before the judge who accepts the plea?

Mr. BUSCH. Yes. When we engage in plea bargaining, or sentence bargaining, we will have conferences with the defense attorney. If the judge wishes—some judges don't—we have conferences with the judge. Then at the time the plea is taken in open court, all of the discussed negotiations are made part of the record. What has been offered, what has been accepted, the discussions, and if the judge has been part of it, what his sentence will be. That is part of the official plea record.

Mr. WIGGINS. You end up with the magic question of whether or not the plea which is offered, or rather accepted, by the defendant is voluntarily accepted without inducement of reward and promises of favor or the other ritualistic type of statement?

Mr. Busch. No; that is not done any more. When I was first a young prosecutor and you took a plea to one kind of robbery and dismiss two, you say, "Are you doing this freely and voluntarily, without any promise?" And the fellow would say, "Yes."

Well, that isn't true. You were going to dismiss a couple of counts. Now, you say, "You are pleading guilty because you are guilty? You are, in fact, guilty, but you understand that two counts of robbery will be dismissed in exchange for the one count of robbery and the sentence will be State prison, or whatever it may be."

Mr. Wiggins. To what extent is the court bound by sentence bargaining in which the court did not participate?

Mr. Busch. He would not be. Most of the judges at the time of the plea, if there is a sentence bargaining, they will indicate that they have agreed to this particular sentence, based on the representations that have been made at this particular point.

In California, any felony case has to be referred to the probation department for investigation. If the probation report would show facts that the court had not considered, or had been misled, they will set aside the plea.

Mr. Wiggins. Now, another area. I think you have tried hundreds and hundreds of felony cases, Mr. Busch. Would it expedite the trial without affecting its fundamental fairness if the voir dire right of defense and prosecuting attorneys in selection of juries were severely curtailed?

Mr. Busch. As a trial lawyer, I hate to see the judge do the voir dire. If I were a defense attorney, I would want to pick that jury and if I were prosecutor, I would want to pick the jury. I wouldn't want the judge to do it. I don't think it would speed up the trial with the judges doing the voir dire in State courts.

Again, there are abuses of it. But I think the judge should be able to control it. But I don't think the right of voir dire should be taken away from counsel. They are picking the jury, not the judge.

Mr. Wiggins. Mr. Vance?

Mr. Vance. I think it should be very much curtailed. I do think the prosecutor and the defense attorney should have a right on the part of their case to make certain basic inquiries of the panel as a whole, or maybe even individual questions, but I do think it is ridiculous to spend 1 or 2 weeks picking a jury when you could get substantially the same amount of justice by 3 or 4 hours, perhaps, on an average felony case.

I think it depends on how complex the case is, as to how long the jury selection should take, because some should take longer than others. But I think the judge should be in the position to limit it and perhaps have a statute that would give him this power and by case law say a particular type case, to limit it to 30 minutes to each side to make certain general observations to the jury, to ask them questions, and the judge explain the remainder of the law, would very much speed up our entire system.

Mr. Wiggins. Back to Mr. Busch.

Recognizing the prosecutor's interest in conditioning the jury and the interest of a defense counsel doing exactly the same thing, trying to rise above those biases and prejudices, if you were limited in your

voir dire, if the defense were limited in its voir dire, do you think it would affect the fundamental fairness of the trial?

Mr. Busch. No. I would have to agree, I don't think fundamentally to limit voir dire would affect the outcome, except that when you are an advocate, whether prosecutor or defense attorney, I just can't see alienating your entire right to have the power of voir dire and give it to the judge.

I do not believe it would substantially affect justice.

Mr. Wiggins. Another quick area. Have the hundreds and hundreds of fourth amendment-based decisions, in your opinion, deterred unlawful police conduct in any major way?

Mr. Busch. No. I think the exclusionary rule and the application of the fourth amendment as a result of—you know, exclusion of evidence—have not affected police conduct in any way.

Mr. Wiggins. Mr. Vance, the same question to you.

Mr. Vance. Very same answer.

I would deal with the individual who makes an unreasonable search and seizure and deal with him in accordance with how unreasonable his search and seizure was and what all of the circumstances were and not exclude the evidence and scorn the public.

Mr. Wiggins. One final question, Mr. Busch. Would it speed up the process of trial, in your opinion, without effecting the fundamental fairness of the trial if, (*a*) the size of jury were limited to the extent constitutionally permissible, and it may be constitutionally permissible; and (*b*) if something less than unanimous verdict were required?

Mr. Busch. Yes. I even wrote my thesis when I was in law school that the requirement of unanimity in criminal trials where you have a test of beyond a reasonable doubt, to me is not necessary.

I wouldn't say that in a capital case, a death case. But, I do not believe that fundamentally things need be decided by 12 people; 6 people could decide it.

I think smaller juries and less than unanimous verdicts would speed up the process of justice and not do injustice.

Mr. Wiggins. Do you agree with that, Mr. Vance?

Mr. Vance. I certainly do. New Orleans, La., has nonunanimous verdicts and they have been upheld. I would select a number like 10, allow 10 to return a verdict. Most of all our hung juries are like 10 to 2, or 11 to 1.

Further, I think a six-man jury and less peremptory challenges would speed up the process in handling sentences of not more than 10 years in prison. This is for cases other than armed robbery or murder, where you want a full-scale jury. With a six-man jury why not let five return a verdict. I think it would be very helpful.

Mr. Wiggins. I think the summary of your testimony to be, if we could implement all of these suggestions, limiting voir dire, limiting the number of jurors, modifying the unanimous verdict rule, it would have a favorable impact on speeding the process of criminal justice?

Mr. Vance. Very definitely.

Mr. Busch. Very much so.

Chairman Pepper. Mr. Steiger?

Mr. Steiger. Thank you, Mr. Chairman.

I restipulate, as Mr. Mann has said, I not only admit to being a layman, I revel in that fact. Also, you can lead a rich full life and not ever have met Jack Anderson.

I am concerned because I think Mr. Busch's response to Mr. Wiggins' question with regard to voir dire is very interesting from this aspect. I have come to the conclusion that the entire criminal justice process in this country, both at the State and Federal level, has been reduced to a kind of gamesmanship in which the personality and the ego of the counsel plays a major role, in which victory has become not only more important than justice, but in many instances—and I hate to generalize because obviously, there are exceptions—but in many instances victory for defense counsel or for the prosecutor is all essential.

And the fact you, sir, have very candidly expressed the idea you would like to have the edge by loading the jury to people who might be sympathetic to your approach and recognize the defense has the same desire—and, of course, we would all be very naive if we didn't think that was our purpose—it has occurred to me again, as a layman, that any kind of random sampling, any kind of random selection of jurors, whatever number, over any given period of time has got to be more equitable than any kind of injuries resulting from a series of peremptory challenges or challenges for cause.

Obviously, in the specific matter confronting us at the time we have reason to be concerned. But the point is, not only with the exclusionary laws and fourth amendment defendants, but with a whole variety of structures which we have created because of laws and Supreme Court decisions, in a valid and honest attempt to protect the innocent and accused, we have erected a barrier behind which the guilty can conceal himself just as cleverly.

That is where this ego process, or the superseding of justice, becomes a very serious matter.

I don't mean to lecture, and I don't expect you to respond.

Mr. BUSCH. I know, yes.

Mr. STEIGER. Fine; if you would like to respond, please do.

Mr. BUSCH. We have the finest system of justice of any country in the world.

It is an adversary proceeding. You are an advocate. I represent the people when I try a case. Defense attorneys will voir dire a jury and say, "Would you be fair to my client," I voir dire that jury and say, "Will you be fair to my client." The issues are drawn. People will be under oath and presumed to tell the truth and they will be cross-examined and this is a real adversary proceeding.

I would never want to see that stopped, even to the point where as an advocate I would be denied the right to talk to the people who are going to judge my case for my client. Just as for the defense attorney who is asking those people to judge it for his client. It is a very healthy, good system.

And to just say, to do it at random, I think that would not be a fair system.

Mr. STEIGER. In the course of a 12-month period Mr. Busch, how many felony charges would result from your office's activities; not how many you consider, but how many are charged?

Mr. Busch. We file about 50,000 to 55,000 felony complaints. Those are screened by professional people and the conviction rate, if you are interested in that, is about 88 percent.

One thing a prosecutor should never do is put an innocent person into the system. That is why you screen the cases. We only want to have the people in there—the test in my office is, "Would it probably result in a conviction." Note, "probably." If not, don't issue it. Don't expose a person to that.

Mr. Steiger. The 55,000 figure are those who have survived the screening process?

Mr. Busch. That is right.

Mr. Steiger. Of those, how many plead guilty?

Mr. Busch. Actually, over half of the defendants who are accused plead guilty. Over half; about 60 percent.

Mr. Steiger. Of the half who would plead guilty, is that the result of plea bargaining?

Mr. Busch. Not necessarily.

Mr. Steiger. What percentage would be the direct result of plea bargaining?

Mr. Busch. Again, using the term "plea bargaining" in the sense——

Mr. Steiger. I will define it as I understand it: In which the defense counsel and the prosecutor's office engage in negotiations which result in a common agreement as to charge and sentence?

Mr. Busch. You always discuss with counsel when you take a plea; but in that sense, if you were to take out of plea, not talking about sentence, probably half of them would have to be. At least half.

Mr. Steiger. Mr. Vance, I wonder if you could respond as to the approximate number of complaints that are filed, felony complaints that are filed, and the approximate proportion of those that are resolved by plea bargaining.

Mr. Vance. Well, we had 18,000 indictments disposed of last year. There were some 700 jury trials, where, of course, there was no plea bargaining. There were approximately 12,000 that resulted in pleas of guilty. Now, we have a different system in Texas that causes our figures to be a little high.

For example, if somebody commits a burglary and felony theft we have to have two separate indictments even though it is one transaction. It is ridiculous.

Mr. Busch. We don't do that.

Mr. Vance. A person might get probation on the burglary and have theft counts dismissed and that would be a conviction. So we have one conviction and one acquittal.

But there were about 12,000 pleas of guilty, so I would say it would be around 6 percent of the cases were tried by juries compared to those who pled guilty. I would say 95 percent of those who pled guilty were the result of the plea bargaining process and maybe another 5 percent plead to the court without a recommendation.

These were more of a contested matter.

I think you brought up a tremendously interesting point a while ago in talking about plea bargaining and the habitual criminal who keeps on committing offenses. When I say plea bargaining is a good thing, if our goal is to put the habitual criminal in as long as the law provides,

we should not plea bargain in these kinds of cases. These persons should be tried and not subject to plea bargaining.

Yet there are so many cases.

Take the 17-year-old who has to be tried as an adult in my jurisdiction, who has not been arrested before and joy rides in an automobile, and didn't intend to take it and go sell it to someone. That is pretty much of an automatic probation case if there ever was one.

I don't see anything wrong with recommending a specific probated sentence so long as the judge knows all of the facts and he agrees.

You might have an armed robbery case—we don't reduce offenses often in that our law just doesn't provide for offenses being reduced for the most part. We will take the plea on the actual charge. Like on robbery cases for example. Let's assume it is a first offender robbery and you assume a judge or jury upon a full-scale hearing for this first offense, one armed robbery, would give in the neighborhood of 7 or 8 years, let's say, or 5 years for the first time out.

We are perhaps a little tougher on armed robberies than some jurisdictions. But I don't see anything wrong in going back and making the judge a part of this thing. He knows all of the facts, and saying, "Judge, we have talked this thing out, both of us agree, even the defendant, that 7 years would be the proper recommendation for pleading guilty to this particular robbery offense."

I think the public, if they know all of the facts would say, "Yes, that is proper." That is somewhat in the neighborhood of what I would do as a juror.

Where we get into a problem, is where the public sees somebody, and knows he ought to be tried because he has been in the penitentiary five times before and charged as a habitual criminal, and a prosecutor let him plead for a shorter sentence because of overloaded dockets.

My concept of plea-bargaining would try to come out with a verdict that would be acceptable to the public, to the community, according to the morals and justice of the day. And you cannot do this unless you have sufficient courts to try a good percentage of the cases.

Mr. Steiger. Mr. Vance, I want to make it very clear that I do not object to plea bargaining. In fact, you gentlemen here have eloquently stated what is the fact in every metropolitan jurisdiction in this country. There are more cases resolved by plea-bargaining than by any that result in convictions by either jury trial or straight guilty pleas. That, I think, is true anywhere in the country.

My point in questioning this is, since plea-bargaining, in spite of what Mr. Specter says——

Mr. Busch. I don't know how he says it.

Mr. Steiger. Plea-bargaining is an accepted and responsible portion of our criminal jurisprudence.

My question is: Have we ignored it in the construction of the law? Have we generally chosen to pretend it didn't exist because to the public it has somehow a stigma; which I think is improper. I think we have, and I think we aren't being realistic. I don't think anybody fails to recognize the significance of the prosecutor's power to determine whether or not his office will prosecute. That is clearly essential even to the layman. It is clearly a proper role.

But in the minds of many there is that problem, if it is a problem, a problem of justice in the hands of a single individual is compounded by the practice of plea-bargaining.

In effect, the guilty have two shots before he ever gets into the system. He has the shot to which the prosecutor makes the judgment and too, he might make a whale of a deal in plea-bargaining. That is prior to whatever the system calls for.

So I wonder, if in your opinion, it would be easier for you if there were some more ground rules laid down for plea-bargaining and, if so, if either of you have any suggestions as to what those specific rules might be.

Mr. VANCE. The only ones I have—and I have made somewhat of a study of it—I think the rule that is established by the American Bar Association, in this regard are good rules.

I think you have to go further than that. I think most of these rules were designed to protect and bring the judge into it and get it out on the table and protect the defendant's rights.

I think perhaps there are more standards or rules or guidelines needed to protect the public's rights, but I think basically the ABA's standards should be adopted.

Mr. Wiggins, before he left had asked a question of Mr. Busch, and they put all of it in California, but we don't. We ask the defendant if he is pleading guilty because he is guilty and absolutely no other reason, and usually he says no and the lawyer jabs him in the ribs and he gets the message that he should say yes.

That should be changed. The public should know what is going on and any time a recommendation is being made by the State and accepted by the judge, this is something that should be subject to public scrutiny, too.

Mr. STEIGER. I want to get the one thought. I was hoping maybe one of you would suggest it. Would it be an impossible burden if the prosecutor's office, faced with multiple crime situation, more than one specific felony which is involved in the bargain, if he would not be permitted to dismiss any of the counts, but all of the charges must be considered in the bargain?

Would that be an impossible consideration?

Mr. BUSCH. Well, of course, as Carol stated, in their jurisdiction they have to make separate indictments, and in ours, suppose a fellow wrote 14 forged checks. We would charge him with 14 counts of forgery, whether they were $10 or $1,000.

Now, I see nothing wrong if he wants to plead guilty to forgery, a felony, to taking 3 counts out of the 14 and dismissing the others. Not sentence bargaining. Forgery in our State is punishable, possibly by 6 months to 14 years in the State prison.

We have an indeterminate sentence. You don't set the thing. But the judge can also make it a misdemeanor and put him on probation. I see nothing wrong with saying, "I will take three counts of forgery, you plead guilty to a felony, we will dismiss the other counts."

What the judge does, as a way of sentence, is not make that part of the bargain. We don't sentence bargain.

I think the abuse in the bargaining process comes when you have 14 counts of forgery and the prosecutor and defense and the judge as just part of the plea say, "You are going to get a year in the county jail." But that is what the people can't possibly understand. It is difficult, as Carol indicated. We know by experience what the in-

dividual will get and we want to speed justice, we want to get what we feel is a fair sentence.

Here is a youngster, first offense, we know that is what he is going to get. Let's take a plea. Why take the 14 counts to the jury now and take about 2 weeks.

I would not agree you have to plead to all counts.

Mr. STEIGER. I didn't mean the case was a forgery of 14 specific checks. I am talking about the man who is apprehended robbing a Circle K in January and is placed on bond pending disposition of that matter, and robs another store in February, is apprehended and released on bail, et cetera, in which we have four specific situations, none of which have been dealt with.

When he has finally been apprehended, the practice here, at least, is if you will cop out on the two robberies, we will forget the other four.

I understand the need to get on with the business of the prosecutor's office and the courts, but I also wonder if it wouldn't be easier on the bargaining process—and this is an honest question; it isn't a rhetorical question—wouldn't it be easier if the defense attorney now going into this plea bargaining could not arbitrarily decide, if you had a valid case, you could not dismiss felonies B, C, and D in the bargaining process? Would that make the plea-bargaining process itself meaningless?

Mr. BUSCH. I think so. You have taken away the bargaining process.

Mr. VANCE. I guess we bargain in a different way. We would take a plea of guilty on the four robberies committed at different times and would not dismiss those cases unless we came up with insufficient evidence in a particular case. But we would recommend the particular sentence that would reflect all four of those and we would get into the sentence part of it. Joe doesn't like sentence bargaining. I don't see anything wrong with sentence bargaining provided the judge is made a part of it and you have an experienced prosecutor and defense attorney who know what they are doing.

But I certainly would agree that we just couldn't try all of those cases.

Now, really what happens is the person ends up with a lesser sentence than if you did have all four of those trials. Undoubtedly you would end up with a lesser sentence than he would expect if you went to trial in all four cases and took up a month of the court's time.

Chairman PEPPER. Mr. Winn?

Mr. WINN. We talked about LEAA funding. One uses that and one said you wouldn't get your share from the size of your office.

Mr. BUSCH. We finally have gotten some.

Mr. WINN. You have gotten some, but it doesn't do as much in your jurisdiction as it does in Mr. Vance's.

Mr. BUSCH. That is right.

Mr. WINN. We have talked about computers. Is there coordination through the national association where you can compare the programs, or is LEAA supposed to fund in each individual jurisdiction and everybody goes off and does what they think is the best thing?

Do we have anything to tie into it?

Mr. VANCE. Programing of a computer is a very difficult thing and the more I hear about it, the less I understand it. And I don't know

if the fault lies with the computer people or my own ignorance in the scientific areas.

What we do, many prosecutors have been up here and seen the PROMIS system that Charles Work is using and they can take those ideas back. But every law in every State is different and the means of prosecuting the cases, and they vary within the jurisdictions within a particular State and about all you can do is use ideas.

But we share all of the management reports that are made. When this group goes in and makes a management study and they need the use of computers, and this type of thing, all of this information is available and shared.

We have conferences on it where we send people to management conferences and like I send one of my top administrative deputies and I know that Joe has, and they will get deputies from 50 large cities and have somebody talking on here is the way you can use the computer. This is being done. So far as individual programing to be used in all 50 States, I don't know if it is even possible and I would have to plead ignorance.

Mr. WINN. Is NDAA doing anything about it?

Mr. VANCE. The National Center for Prosecution Management that is setting up management studies for prosecutors is part of the National District Attorneys Association. We have something like four of five out of seven members on the board from the National District Attorneys Association, although there are outside persons on the board, like Mr. Ernie Frieson, who heads the State court management center out of Denver. This is primarily an arm of the National District Attorneys Association that has been given this grant.

Mr. WINN. Since you brought up the point that all of the laws are different in the country, that makes it pretty hard for you to put the same information into the computer; and if you don't put the same basic information into the computer then what you get out is not going to be the same and not going to be of great benefit to you on a national scale. How about your own local information based on your local laws?

Mr. VANCE. We found we couldn't even run Houston and Dallas with the same program; and both are in Texas under the same laws.

Mr. WINN. Then should we strive for consistency in sentencing on a national basis?

Mr. VANCE. I don't know. This is even a problem on a statewide basis. A jury in south Texas might think one offense is deserving of probation, whereas a jury in west Texas might want to sentence somebody to prison for a long time. The community standards and sense of values change from county to county. I think that provided you have the same sense of moral values or standards and priorities, the sentencing should be the same. In other words, I should not have any system in my office that allows one prosecutor to recommend 10 years on a given case and another prosecutor, because he feels less strongly on that type of crime recommend 5 years. That would be a bad system. But I don't consider it wrong if Texas might consider one particular offense more seriously than Rhode Island. A person might get more time in Texas than someone in Rhode Island for the same offense, or vice versa. I don't see any thing wrong with that, if the people of those States have different beliefs.

Mr. Busch. One of the things that really bothers people within the system, the criminal justice system, is everyone within the particular jurisdiction being treated in the same way, the judges' sentences. In our State it is an indeterminate sentence, you know. This Rand study, just Los Angeles County alone, shows one judge sends 58 percent of all of the defendants that appear before him on a felony sentence; another judge, only 8 percent.

Now, obviously, that is a cold statistic, but it is a bothersome one. Here we have, either that judge is too tough, or this one is too easy; but we have a maximum or minimum, we don't have the optimum. We don't know what the optimum should be; but most certainly that isn't right.

Mr. Winn. So if the lawyers are smart they read the statistics and try to get assigned to the lower level judge.

Mr. Busch. Absolutely. These are the problems we have.

That is why I really feel prosecutors and court systems and criminal justice systems and through the LEAA should really be using modern methods and techniques and putting things into computers. It can never substitute for the human judgment involved when we are dealing with human beings, but at least to get us to that optimum point where we can feel confidence that there is equality of justice.

Now, in California, possession of marihuana is a felony or a misdemeanor. We call it a wobbler. You can be arrested and it doesn't matter how many cigarettes you have, it could be a felony. The policy of my office for a first offender, up to one ounce of marihuana, which is a lid, is handled as a misdemeanor. That is not true in San Diego County. They will handle more than five cigarettes as a felony.

Well, that bothers me a little bit, within a State, within jurisdictions. The man down in San Diego, he will know that is going to be a misdemeanor sentence, but he is still handling it at a felony level.

These are things that program and funding will help us with.

Mr. Winn. I appreciate you gentlemen appearing before the committee this morning. I think it has been very interesting and I wish we had all day to talk to both of you because I think it enlightens the committee. But I think your testimony points out the inconsistencies the public is now questioning of the law. I think we all agree with it; but what do we do about it.

That is all, Mr. Chairman.

Chairman Pepper. Mr. Sandman.

Mr. Sandman. You may have covered what I am going to ask you but I am curious as to your reaction. How do you feel about the various kinds of immunity statutes in some cases, especially in a conspiracy case?

Mr. Busch. I think immunity statutes are necessary. I like the kind of immunity statute where we can give immunity and force a witness to testify. And although you could never use that testimony against him, if he has committed a crime you can still prosecute him.

Mr. Sandman. Even after you give him immunity?

Mr. Busch. Yes. I can't think of the term they call that, but they have a technical term. The other type is you can never prosecute him. In other words, immunity is necessary where you use it for conspiracy. Sometimes you can't get to criminal activities unless you have people

that are involved in it. So you have to give them immunity. What I am talking about is——

Mr. NOLDE. "Use" immunity versus "transactional" immunity.

Mr. BUSCH. Thank you.

We do not have that.

Mr. SANDMAN. You do have some type of immunity. Almost all States have it. Take the crime of conspiracy to defraud, where you have to have more than two people involved. One is the informer and he is given immunity against the other person.

Now, under your law in California, can you get a conviction of conspiracy against the other person?

Mr. BUSCH. No; we have a corroboration rule in California. An accomplice must be corroborated. That is to say, you must connect the testimony to the crime independent of the accomplice's testimony. That is not Federal rule.

Mr. VANCE. This is true in Texas, and I think the particular rule alleviates one big criticism. For example, if you have the goods on one person, what does he have to gain or lose by saying he will be the key witness to convict somebody else and his testimony doesn't have to be corroborated. Under the Federal law you can be convicted without corroboration.

We have the same rule as California in that you have to connect the defendant with the crime by independent evidence. Therefore, even if you give someone immunity to testify—and it may be very helpful and we do need immunity statutes—we have another safeguard built in with our corroboration rule.

Mr. SANDMAN. Yes; but in the conspiracy-type case, a coordinated effort of more than two people to make an act, do you think it's right for one person, who may be the instigator, which is generally the case to be given immunity and the others who are involved to get convicted, and he cannot be tried for the same thing to which he testified. And this is true in your case, isn't it? Both of your States?

Mr. BUSCH. If we give immunity in our State he cannot be prosecuted for that offense.

Again, it is prosecutorial discretion. What is best in the interests of the community, to have somebody be given immunity, whether it is a murder case, multiple murder case, and not to prosecute him. He must be punished to get to the real culprits. Many times the only way you can prove a case is to give immunity in an important case. But the prosecutor should use sound judgment and make sure you would get the less culpable individual. Like the *Manson* murder case. We had people turn State's evidence. They walked out of the courtroom. Seven murderers—but all of them would have walked free if we didn't let one walk free. So that is a judgment that you have to make when you give immunity.

Conspiracy is a powerful weapon of prosecutors and I don't like to see it abused. Personally, I believe the best way to prove that a conspiracy is not by circumstantial evidence but by giving immunity to one of the conspirators to talk about the agreement and what was involved. But you want to make sure you get the least culpable individual and you are going to do substantial justice by giving that immunity.

Mr. SANDMAN. Yes; but in so many cases the fellow who is mostly guilty is the one that is given immunity.

Mr. BUSCH. I would disagree with that.

Mr. SANDMAN. Isn't that so?

Mr. BUSCH. No.

Mr. SANDMAN. It is not so?

Mr. VANCE. I wouldn't agree with that. The only case I think of occurred in Texas in the Federal court where I thought the kingpin got immunity, but we have not ever had that criticism in the State court and I would never give the instigator immunity to get the lesser person. I think I would let the whole case slide before I do that.

Mr. SANDMAN. This is a typical case. I heard this happen right in the courtroom in my own State. What happened, apparently in this case a contractor went to a particular officeholder in the town, and it wasn't a big town, and he really tried to bribe the man so he could get a particular type of exception in a contract for some extra work, apparently. As the testimony went, he did bribe, there was no question about it. The extra work order went through, which amounted to a sizable amount of money.

Now, the instigator of that crime, in my opinion, is the contractor, not the guy who finally wilted to it and took a few dollars. Right? Because if the contractor didn't go to him it would never have happened in the first place.

OK, the contractor is the one given immunity and the other guy got 3 to 5 years. How can you justify that?

Mr. BUSCH. Well, I would say that was poor judgment on the part of the prosecutor.

Mr. VANCE. If you had the contractor going to many different public officials, I think that is very poor judgment. If it was only one isolated incident, the instigator would not be as bad as the public official who is held to a much higher standard.

Mr. SANDMAN. Couldn't that happen under your law?

Mr. VANCE. Yes, certainly. Like dismissing a case you shouldn't dismiss.

Mr. SANDMAN. Yes. Should we have some sort of a regulation, some sort of a rule where it couldn't happen? That is my question.

Mr. BUSCH. That would not be an accomplice situation. There is a bribegiver and a bribetaker, two different crimes. We don't require that he is not an accomplice in that instance. If he testifies and is given immunity he could be convicted on that testimony alone.

Mr. SANDMAN. Should there be some sort of uniform rule to prohibit the incidents I talked about?

Mr. VANCE. I don't know how you would administer it.

Mr. BUSCH. What you are saying is you want to prohibit the prosecutor's discretion to make a judgment call as to who he gives immunity to.

Mr. SANDMAN. I believe you have to have immunity statutes. I understand it is a great tool. But should there be something where a man who perpetrates a crime should not be given immunity?

Mr. VANCE. You have to have approval by the judge. You have judicial approval. Sometimes it is merely a ministerial act. But no judge wants to put his name to something that was a gross abuse.

Mr. BUSCH. You have the witness take the stand and you ask a question and he refuses to answer on the ground it will incriminate him; and you petition the court for a court order to get immunity for the

witness and the court passes on it. That is the way we have the procedure on it. That is the way we have the procedure in California.

Chairman PEPPER. Mr. Busch, did I understand you to say you had indeterminate sentences in California?

Mr. BUSCH. Yes, sir. Anybody sentenced to the State prison does not go for a set period of years on recommendation of the judge. He is just sentenced to the State prison for the term prescribed by law. If it is armed robbery, it is 5 years to life.

The law says "armed." Then we have an adult authority and after the man arrives at the State prison, they determine how long he shall spend.

Chairman PEPPER. So the court adjudicates with or without the jury that the man is guilty of a certain offense, and the law prescribes a sentence. The judge adjudicates it, he is sent in to the custody of your penal system?

Mr. BUSCH. If he goes to the State prison. But the judge has additional discretion, he can grant probation and not send him to the State prison. He can suspend the State prison sentence.

Chairman PEPPER. If he sends him to prison without probation, then the penal system determines how many years he is committed?

Mr. BUSCH. Right.

Chairman PEPPER. That is different from giving him an indeterminate sentence to be held as long as the executive authority would like to hold him without the law fixing some maximum. In your case, the law fixes a maximum; doesn't it?

Mr. BUSCH. Yes. In other words, take burglary, second-degree burglary. It is 1 to 14 years. Grand theft, 1 to 10 years. They have all kinds of different types.

Chairman PEPPER. What is your idea about an indeterminate sentence without any legal limitations at all of the term served, leaving it entirely up to parole authorities and executive authority to determine how long he stays?

Mr. BUSCH. I have no quarrel with that. I think one of the most difficult things the criminal justice system is faced with is that a judge, or prosecutor, or defense counsel, based on a probation report of an interview that took perhaps an hour, decides how long a person should be incarcerated for a particular offense. Really, what they ought to do is put it under an authority who can study the individual.

I have had the wardens of prisons tell me—like assault with a deadly weapon. It is 1 to 10 in California; with good time off they can get out in 8 years—they know that that individual could be one of the most dangerous men to ever put out on the street and at a certain time they have to put him out. But they know it. A prosecutor can't tell it in the short time we have these individuals under our observation. That is why I have no quarrel with letting an authority such as an executive authority study the individual to determine how long he should be.

Chairman PEPPER. I have heard the question raised as to what is the effect of that kind of system upon the inmates, the feeling he never knows when he will ever be able to get out. There is no legal limitation.

Mr. BUSCH. I imagine it would have an effect upon those that are kept there for many, many years, that they wouldn't participate. It is like giving a man life without possibility of parole. You don't have a

carrot in front of him. He doesn't want to cooperate with the program. What you are talking about, there would still always be the carrot there, some hope for him.

Chairman PEPPER. Mr. Vance, would you care to comment on what type of sentence you have in Texas?

Mr. VANCE. I am opposed to an indeterminate sentence as such. I do think there should be a certain amount of flexibility, but we should look at the rehabilitative aspects of any person and how he does in prison and the whole bit. I think that is very important. But you could take one person who has stolen all of his life and steals a tube of tooth paste and you know he is going to be a thief all of his life; he has been a thief in the past. Under the indeterminate prison structure he would probably be there the rest of his life because if released he would steal in all probability. Somebody else commits murder and the recidivism rate among murderers is perhaps one of the least of all crimes. Under the rehabilitation theory, the murderer would be released. I think you have to reach some kind of balance to rehabilitate people but still keep the punishment somehow related to the crime that has been committed. Maybe this is archaic and old fashioned but I just think people ought to know in advance they will be punished if there is any deterrent to punishment. They should know if they murder somebody, the penalty is going to be severe. This is the best way to deter murder.

I would favor laws, I guess, more like Texas has, where you have certain formulas and flexibility but at least the time served should be based upon the sentence given.

Chairman PEPPER. Does the judge have the law fixed as a sentence for a certain offense?

Mr. VANCE. Yes.

Chairman PEPPER. And the judge can sentence within the limitation of the law?

Mr. VANCE. Yes. Take an average case. Robbery, for example. Robbery carries 5 years to life in Texas. Let's say a person gets 12 years because the judge can sentence anywhere in between. If a person gets a 12-year sentence he is eligible for parole in 4 years or one-third of his time. Actually, sooner than one-third considering credits. I think the parole laws are a little too lenient. But at least a 20-year sentence is going to keep a person there more than a 10-year sentence.

Chairman PEPPER. Does your court in sentencing an individual say maximum and minimum?

Mr. VANCE. Just a maximum.

Chairman PEPPER. Well, one other thing, gentlemen. This correctional system is a very critical part of the whole judicial process if we are going to try and curb crime. All of the expense and effort that you go through and all of the other people related to the court system go through is for the purpose usually of getting them into the penal system, into the correctional system. How adequate would you say the correctional system is today in your respective States?

Mr. BUSCH. Well, I think that probably again there is a great focus on the correctional system. How adequate is it in rehabilitative processes? It isn't too successful because people who earn the joint, people that make State prison, have done something. They have been through the probationary period, the rehabilitative process, and they are not really amenable to it. There is a great deal of recidivism.

Chairman PEPPER. What percentage of the people charged with felonies who come through your offices and into your system are repeaters? Mr. Busch first.

Mr. BUSCH. I would say that when you say repeaters, whether they have prior felony convictions is one thing. But having contact with the law, 90 percent we prosecute have had contact with the law before being charged with a felony.

Chairman PEPPER. Would you say a considerable number have also been incarcerated on previous convictions?

Mr. VANCE. I would guess about 25 or 30 percent in our State have been incarcerated previously.

Mr. BUSCH. Yes.

Chairman PEPPER. A much larger number have been arrested or probably been involved in the law?

Mr. BUSCH. That is right. About 90 percent. Criminals are criminals.

Chairman PEPPER. You say a criminal is a criminal. The reason I noted that is that to a large extent most of the crime in this country is committed by a relatively few people.

Mr. BUSCH. That is true. Only 2 percent.

Chairman PEPPER. If we can somehow focus attention on those relatively few people and find something adequate or effective to do with them we would make a very great step toward the solution of the problem.

Mr. BUSCH. This is a very involved field, Mr. Chairman. I believe in the theory of criminal law in violation of penal laws; when a person is convicted, he should be punished. I believe in that. That is part of our theory of punishment. That is to protect this society and to deter other people. And third, we should try to rehabilitate them. In that sequence we should try.

But we know people who commit crimes have a typical type of personality. They are called sociopaths. They just don't conform. How long you keep them in custody, that is the problem. What do you do? You have a guy and when he gets out of prison he is going to commit some more armed robberies. How long do you keep him? These are very involved social problems of today.

Chairman PEPPER. We are going to have to go in a minute. In California you are getting away from the big centralized institutions and putting people more back in the county systems for incarceration; aren't you?

Mr. BUSCH. In our State we have probation subsidy programs. If you don't send somebody to State prison, the State will give the county $4,000 a year to put them on probation. We call it probation subsidy.

Chairman PEPPER. How is that working out?

Mr. BUSCH. Los Angeles County gets $8 million a year. I don't think it is working out too well, personally.

Chairman PEPPER. Do they have any innovative system for handling these people who are in those probation programs?

Mr. BUSCH. Of course, there are all kinds of programs they have nowadays for supervision and work programs, and work projects. I don't know if they are innovative. They are the same programs that have always been in existence.

Chairman PEPPER. Mr. Vance, what would you say about the correctional system in Texas?

Mr. VANCE. I think, despite all of our laws that need reform, we have one of the best prison systems in the Nation. George Beto was there for years and headed it. I say this based on the fact we have one of the very lowest costs per day per prisoner. Normally this would be a bad statistic to cite, but the reason our cost is so low is the prisoners are self-supporting to a large extent. They raise all of their own food and vegetables. And they build their own buildings and they get involved; they have a barbers college, they have all kinds of training for them and also we have special units dealing with young offenders. I think we probably have given more college degrees and high school degrees to inmates, by far, than any other prison system in the country.

George Beto said, "Teach a man the dignity of work." About 60 percent of the people in our prison system had not completed the sixth grade. They just dropped out of school and they were sort of drifters and they committed offenses. They had a little lower I.Q. Some people you can't do anything with; there is no question about it. They will never reform but a large number never had any discipline in their lives or anybody to take them and say, "Look, given confidence, you can do a certain trade, you can reach a certain skill, you can make it." I think the Texas system achieves this about as good as a prison system can, unless you can go out and hire a thousand psychiatrists and deal with them on a one-to-one basis, which costs would probably be prohibitive and results speculative at best.

Chairman PEPPER. What about the appeals court? We had an early experience in the life of this committee that—I believe Mr. Younger is your attorney general now?

Mr. BUSCH. Yes, sir.

Chairman PEPPER. He was your prosecuting attorney, the district attorney in Los Angeles. He testified here on the frustration that he had as a district attorney on account of the length of time involved in appeals, the uncertainty of a case being fatal. What have you to say about how you are affected by the delay in your appellate system?

Mr. VANCE. Ours is horrible. We have only one appellate court for all cases in the entire State. We are right in the middle of proposals to completely reform the whole judicial system. I think appeals should be handled within a 60- to 90-day period. I think if a person is sentenced by a judge he should not have an absolute right to make a bail. This should be up to the judge. In Texas they have absolute right to make bail unless they get over 15 years. So if a person is convicted of 20 burglaries, and 12 years is the maximum, he comes in and takes his maximum sentence and stays out another year and a half while his case is on appeal. This is deplorable.

I think every State that hasn't done so should clean up the appellate process. We should be like England and process these rapidly.

Mr. BUSCH. I think the greatest indictment is delay on appeal, both Federal and State. We have a rule in our State, cases are supposed to be decided within 90 days of being submitted to the court, but the procedural rules are so slow in getting briefs that the system goes on for years.

I agree with Carol. We should have something similar to the English justice system. You have to decide between 60 and 90 days, briefs in, arguments in, and get it over with.

Chairman Pepper. We are going to have some State and Federal appellate court judges and justices who are going to be testifying about court-adopted innovative things to speed up their process.

Gentleman, I can't tell you how much we appreciate your coming here. You are two of the most knowledgeable men in the country. You have a deep concern with these problems and have been a very great help. We thank you very much.

Mr. Busch. Thank you for inviting us.

Mr. Vance. Thank you, sir.

[The prepared statements of Mr. Vance and Mr. Busch follow:]

Prepared Statement of Carol S. Vance, District Attorney, Harris County, Tex.

First of all, let me introduce myself. My name is Carol Vance, and I am the President of the National District Attorneys Association. Also, I am District Attorney of Harris County, Texas, a jurisdiction of nearly 2,000,000 persons of which Houston is the major city.

My purpose in being here is to discuss some of the innovations which our office is utilizing in an effort to make our criminal justice system and our office more effective.

A few short years ago there was no working blueprint to improve the criminal justice system in our state and my jurisdiction. However, with the help of the Law Enforcement Assistance Administration through our state planning agency, the Texas Criminal Justice Council, we now have significant programs that now are having an impact in our fight against crime.

One reason that the Texas program has been so successful is that a large percentage (approximately 20% for 1973) of the funds has gone into the courts and prosecution. Our county has been a good example of how these funds can be used to combat crime on the streets, and my testimony today will concern itself with actual programs in progress and their impact. Let me give you some specific examples.

I

COURTS

The problem of increased caseload today is known to everyone in every jurisdiction. Frankly, I don't know how we would exist without the support of our Texas Criminal Justice Council and the funds made possible by the Omnibus Crime Act. These funds have enabled our courts to operate more effectively in several different ways.

A. *Speeding up trials.*—One of the most exciting and productive programs is a grant that provided for *two additional jail courts* to try cases where the defendant is confined to jail. This helps to relieve an overcrowded jail and provide the Constitutional right to a speedy trial. Often we forget that the State, as well as the defendant, is entitled to a speedy trial. These two courts, manned by two visiting judges, began operation April 3, 1972. During the first nine months of operation which ended on December 31, 1972, these two courts disposed of 1400 indictments and approximately 650 defendants. While the planned population of our jail is 1650, with the help of these two courts, we have reduced the population of our jail from a staggering 2200 to 1995 in this same nine month period. This operation might well prevent the necessity of building a new jail or adding on to present facilities. It relieves the present courts to a certain extent so that persons on bail are brought to trial more rapidly. I am pleased to say that our present trial settings in most of our courts occur within five months after the commission of the offense instead of over a year as was true just a short time ago.

B. *Court administration.*—Another court funded program has included the hiring of a court administrator and a court coordinator for each of our district courts. These court specialists assist in the setting and programming of cases and trials. Many lay persons have the mistaken notion a judge is only working if he is on the bench and a jury is in the jury box. This is not true. There are many pre-trial conferences, the mere reading of motions filed each week, the consideration of lengthy writs of habeas corpus filed each day, reading records and briefs on cases prior to appeal, not to mention in chamber con-

ferences. Prior to the hiring of coordinators, judges were pre-occupied with dockets and the clerical burdens which are now assumed by these specialists.

C. *Use of computers.*—Another separate grant has been to fund a computer program that is now partly operational and provides the clerk, the sheriff, the district attorney, and the courts with instantaneous information about all pending cases. The computer is of great assistance in keeping persons from being lost in jail and in providing information so docketing decisions can be made.

D. *Pre-Trial release.*—Another court related program funded by LEAA is the personal recognizance program, which has also helped the crowded jail situation. Persons who are not charged with the most serious types of crimes and who are relatively stable will be eligible to be released and will not be held in jail simply because they are too poor to afford a bond. During the first three months of the program, 900 interviews were conducted by people working in the personal recognizance program. Of these 900 people, 213 defendants were released on their own recognizance and not required to stay in jail. Of these 213 individuals released from custody, only 3 failed to show up for a court appearance.

This project alone accounted for release during a six-month span of 455 suspects who otherwise would have been jailed. These defendants were returned to jobs and families while their cases were pending, rather than have them languish in jail at county expense. If the county had incarcerated each of the 455 for six months, it would have cost the taxpayers $250,000. And during the six months the releasees were able to earn an estimated $400,000 and to continue caring for their own families.

Not only is this project credited with enhancing the respect of the suspect for the criminal justice system, but also with increasing his rehabilitative potential by removing him from long term jail environment prior to trial.

II

PROSECUTION PROGRAMS

A. *The special crimes bureau.*—The Texas Criminal Justice Council funded a Special Crimes Bureau for our office on February 1, 1972. It is now in the third month of its second year of operation. This specialized division of prosecutors devotes full time to organized criminal activity, fraudulent financial schemes of highly complicated makeup and other criminal activity that requires the ability of a specialist who can both investigate and prosecute. The Bureau now consists of seven (7) lawyers and one (1) investigator. Three of these lawyers devote full time to the investigation and prosecution of organized criminal activity. They work hand in hand with virtually every law enforcement agency in the area—federal, state, county, and city. It is in this division of the office that most often the "total picture" is obtained on a given person or group of persons' criminal activity.

This is because the lawyers assigned to the division are trusted by the agencies in the community and are able to coordinate the activities of the various agencies for the mutual benefit of all. They have become known as a more or less central area where all sorts of intelligence data is put together from the many contributing agencies. In the first year of their operation, they opened over 250 files on persons, groups, associations and corporations suspected of some organized criminal activity. These opened files resulted in the return of 218 indictments by Harris County Grand Juries, resulted in 33 convictions and 5 civil injunctive proceedings initiated in the District Courts. At the beginning of this second year, the Special Crimes Bureau had 110 investigations pending and since the beginning of the year have opened an additional 49 files.

Just last week, for example, the prosecutors in the Bureau worked with the Houston Police Department in an investigation that resulted in the indictment of two (2) Houston Police Narcotic Officers for the sale of narcotics; opened up a file and began the investigation with the Grand Jury of what will probably turn out to be one of the largest auto theft rings in the Harris County area for this year; received information on an extortion plot involving a narcotics activity from the border and at this time are assisting State Intelligence officers in their pursuance of that matter; were able to obtain sealed indictments on three persons involved in a conspiracy to murder a prominent Houston doctor; investigated and arrested one individual who has in the past been dubbed as the "financial wizard of the Mafia" in one other particular area of the country and who had been in Houston only a few months. This man has already de-

frauded a Houston bank out of $50,000 based on a pledge of nonexistent securities—the man has been arrested, charged and indicted at the time of these remarks.

There is no question but for the Criminal Justice Council grant I would not have been able to spare the talents and resources of these lawyers on a full time basis for such investigations. Prior to the creation of the Bureau and the funding by the CJC, it was all I could do to keep an adequate staff to man the courts and their extremely heavy dockets and case loads. When our Organized Crime Division was evaluated externally by other people in the law enforcement field, they seemed most astounded at the rapid success and achievements of the newly created bureau. More particularly, the evaluators from the Criminal Justice Council and from other law enforcement agencies were astounded at the amount of cooperation between law enforcement agencies that the lawyers in the bureau had helped accomplish.

Unfortunately, certain matters came to our attention concerning our local fire department. This is a fire department of over 2,000 employees and those suspected of criminal activity were from the very top of the department. It took the resources and efforts of two assistant district attorneys from the bureau almost three full months to conclude the investigation which comes to an end this week. This investigation has caused virtually hundreds of man hours to be spent by the attorneys involved in same and has resulted in the return of indictments for conspiracy, bribery, theft and embezzlement.

The Special Crimes Bureau, which includes the Organized Crime Division, is perhaps the most important section of our entire office. This permits our resources to be used to go after the professional criminals, the public corruptors, the masterminds—in other words those who need it most—the biggest fish.

B. *Student assistants.*—Another innovation of our office funded by LEAA is our Intern Program. Houston has three law schools. The program provides for hiring six top quality senior law students on a half time basis. Under Texas law, senior law students can appear in court with a licensed attorney. Typical of these students is one who recently turned down the opportunity to become editor of his school's Law Review to become an intern. They are assigned to different divisions of the office and do substantial work. More important than the work is the chance to recruit the most outstanding students. Not only are these students pleased to become Assistant District Attorneys, but they generate interest with other top quality students. This causes two excellent results. First, we have over 200 applicants at present. Secondly, the entire attitudes of the law schools toward prosecution has changed for the better. In addition to our six regular students, we have 25 to 40 law students working in and around the office and receiving credit hours.

C. *Improved management.*—Our office consists of some 90 lawyers and approximately 170 personnel total. Our budget is close to 2.5 million dollars and in reality more like 3 million dollars per annum considering various grants. I suppose we are typical of many District Attorneys' offices where the District Attorney was chosen on the basis of his ability as a lawyer and gets into his first big administrative responsibility as the prosecutor.

To update the organization of our office and provide for the best management team possible, through LEAA funding our office received a management study grant. This study was conducted for nearly a period of one year by Peat, Marwick and Mitchell. As a result of the management study, our office was able to make major changes in the organization of personnel and the utilization of everyone—particularly our professional talent.

As a part of the management study, we implemented programs for modernized reporting systems, filing systems, communication equipment, programs and publications, community and school projects in crime prevention, and in many other areas . For example, we hired an office manager for the first time so that the District Attorney and First Assistant would not be spending time on hiring of secretarial and other clerical personnel and the assignment of their positions. We instituted a program and publications manager to systematize the various printed material from this office. A new reporting system gives us needed information concerning the workload of each prosecutor in each court as well as a greater breakdown on types of cases filed, time between arrest, indictment, and trial, and other needed information.

Today, a discretionary grant has been provided the National Center of Prosecutor Management, located in Washington, D.C., and this Center provides management services as well as seminars on office management for district attorneys

throughout the country. Management of the District Attorney's Office on a systematized basis is a relatively new creature. Every office should take advantage of these opportunities. We could not have undergone this reorganization and better utilization of our personnel without a management study. The report, that was made available, has been furnished to many other District Attorneys' offices throughout the country.

D. *Screening of all serious criminal charges.*—When a case is filed in our Federal system, the charge is first approved by an Assistant United States Attorney. This is standard procedure throughout the United States. Yet in most prosecutors' offices in this country, there is no screening of cases. Where there is no screening, often police departments, citizens, and others file charges with local magistrates sometimes where there is sufficient evidence to sustain a conviction.

In order to alleviate this situation in Houston and Harris County, pursuant to an LEAA grant, our office received funds for new equipment and personnel to manage a screening division. This now means that when a law enforcement officer gets ready to file a charge, he first brings it to an Assistant District Attorney and briefly outlines the case. If there are sufficient facts, the Assistant naturally approves the charge and begins building his file and assuming responsibility for the case.

This screening division is operated 7 days a week and until 3:00 a.m. on weekends and 2:00 a.m. on other nights. Not only are charges screened here, but the experienced personnel that rotate through this division also give needed advice on warrants of arrest, search warrants, and other highly technical legal problems confronting the officer on the beat and the detective at odd and strange hours.

This system has a way of discouraging officers from filing charges unless there is sufficient evidence. It also provides better communication between prosecutors and police and lets the prosecutor understand the vast and intricate problems of the police officer on the street. Where there is a further investigation to be done, the Assistant on duty can advise the officer to obtain such while it is fresh. This often saves a case that would otherwise die because of the passage of time before the trial assistant would receive the file in the ordinary course of events.

As a result of this system, there is a great saving to the City of Houston. Such action has substantially decreased the number of hours spent in preliminary hearings by officers involved. Houston Mayor Louie Welch noted a $420,000 annual saving merely by reducing the time Houston police officers spend giving testimony. Since its institution November 1, 1972, a total of 11,879 misdemeanors and felonies have been filed out of the 12,268 cases which have been screened. In other words 389 cases have not further clogged our criminal justice system because of this program.

E. *Regional offices and speeding up indictments.*—Our office has beefed up our new Grand Jury Division to better accommodate our twenty-two police departments. Through a grant we have instituted three regional offices whereby prosecutors cover certain geographical areas of the county. This saves police officers and the public up to a 60-mile round trip to the courthouse. Due to increased manpower, the length of time from arrest to indictment has been cut from four months to 20 to 30 days. The three Assistant District Attorneys assigned to the regional areas are also available to give advice to departments in these areas. The additional manpower allowed us to catch up on our backlog of cases pending grand jury indictment, which is a necessity in the State of Texas. We hope to have this time down to 15 to 20 days in the near future in accordance with nationally recommended standards.

F. *Assistance on the State level.*—Texas was the second state in the nation to hire an Executive Director, or as they are called in some states, Training Coordinators. Although the position of Executive Director was created less than three years ago with the help of LEAA funds, approximately thirty five states now have such an office. The Executive Director in Texas has turned our State Prosecutors Association from a twice a year social club to a viable, hard working organization which meets the needs of the prosecutors of Texas. Further, he conducts prosecutor training programs and sends prosecutors to regional training seminars across the country. Each state prosecutors' association needs its own Executive Director to speak for the state's local prosecutors before the legislatures and other bodies where it is necessary for the prosecutor to be heard.

One of the best efforts in recent years to the entire criminal justice system in Texas was the effort of the Texas District and County Attorneys Association in writing a Penal Code. The Texas Penal Code is over 100 years of age and extremely out of date. The Texas Prosecutors Association drafted a Code that was so effective that over 95% of their recommendations were approved and incorporated into a proposal by the State Bar of Texas now pending legislative action. We hope for favorable action within the next two weeks on passing a new Penal Code for Texas. The quality of this Penal Code would not have been possible had it not been for a central office to coordinate these meetings, publish the material, and do a substantial portion of the research to accomplish these goals. Every state needs executive offices for their prosecutors. Such has been recommended by the National Council on Criminal Justice, the American Bar Association, and the National District Attorneys Association. The smaller prosecutors' offices stand to gain the most from a central office that can provide legal advice, monthly bulletins on changes in the law, and other central services.

III

CONCLUSION

We have instituted many other fine programs in Harris County and in Texas. For example, our local probation department received a grant from the LEAA which allowed them to double their staff. This grant permitted the hiring of some 45 new probation officers, thereby providing people on probation with better supervision. The probation department is now better able to effectively counsel with and give guidance to persons convicted of crimes and who are thought by the public and the courts to have an opportunity to make decent citizens of themselves.

This same grant has provided federal funds for the establishment of a community services program. This program refers individuals to Alcohol Anonymous groups, narcotic rehabilitation centers, etc. This allows individual probation officers and their assistants to spend more time in counseling and directing the future of worthy individuals.

In this era, when we find that the criminal elements of this country are constantly upgrading and refining their criminal techniques in order to make themselves more elusive to law enforcement, we must take the initiative and maintain the same pace.

Every day in courthouses across this country we hear the same question from a criminal's victim and all people concerned with law enforcement. The cry calls out, "Why don't they do something? Streets aren't safe to walk on anymore!" If we ignore this plea, we can never ask this question ourselves because we had the chance to do something and failed.

Whereas several years ago there were few new programs to combat crime on the local level, today, with LEAA funding and new innovations, crime reduction can become a reality. I recommend we keep the basic structure of the Law Enforcement Assistance Administration as it is. The states need planning councils to give direction to proper funding and evaluation, so that the courts and prosecution will not be neglected as they are in many of our states. It does little good to provide more police to arrest more offenders if our courts are jammed and the people's lawyer is inexperienced with far more cases than anyone could reasonably handle. The courts and prosecution need resources and expertise and quality personnel to assume such a tremendous and sensitive responsibility. The National District Attorneys Association has recently asked that 15% of the total funds be earmarked for prosecutors. From my experience with the Texas program, I concur.

It is time we beefed up our courts, our prosecutors' offices and related services if we are to have an effective and well balanced program to reduce the incidence of crime on our streets.

PREPARED STATEMENT OF JOSEPH P. BUSCH, DISTRICT ATTORNEY, LOS ANGELES COUNTY, CALIF.

Mr. Chairman, members of the Committee, it is an honor to come before you today to discuss certain processes of justice in Los Angeles County which hopefully will be of interest to you and which may be adaptable to other areas of the country.

You have expressed interest in the application of law in our state relative to time limits on bringing criminals to trial.

Our 60-day limitation in California is a concept which I enthusiastically support and which does not cause major inconvenience in the trial of criminal cases.

The new Rand Corporation study of criminal felony prosecution in Los Angeles County shows that about half the felony cases are concluded within 60 days and the overwhelming majority (80 percent) are concluded within 90 days.

As a matter of practice, most of those cases which continue beyond the time limit involve motions by the defense and continuances requested by the defense. It is the policy of the District Attorney's Office normally to oppose excessive continuances. It is, of course, usually to the advantage of the prosecution to bring a case to trial as soon as possible, while the incident is still fresh in the minds of the victims and witnesses.

At the present time, we are attempting to achieve state legislation which will combine pretrial motions into an omnibus hearing and further speed the processes of justice.

Statistics on the number of cases which are dismissed as a result of the 60-day rule are not available. However, I can assure you that no important cases are lost because of this time limitation. And, it only operates to the benefit of the system.

It increases respect for the law. It protects rights of defendants.

I should also note that the California Supreme Court has held that state and federal constitutional provisions for speedy trials are self-executing and do not depend upon statutory schemes. Defendants are not limited to rights enumerated in statutes.

I should also note that the prosecution may refile a case which has been dismissed for lack of speedy trial, subject only to the statute of limitations for the particular crime.

The Committee also indicated interest in diversionary programs which may exist in California.

Under new state legislation (California Senate Bill 714), we began in March a new program of narcotics defendant diversion. This program provides for the diversion of persons arrested on narcotics violations who have no prior records and were not involved in a crime of violence at the time of arrest. Under this program, criminal proceedings are suspended and the defendant is diverted to a rehabilitation program.

If the person fails to respond to rehabilitation, criminal charges may be reinstated. Successful completion of an assigned rehabilitation program will result in dismissal of criminal charges.

At this time we cannot evaluate the success of the program. It has only been in operation since March and there are still many aspects of its practical operation which have not been resolved: for example, the question of whether a narcotics case may be diverted without the consent of the District Attorney.

The Los Angeles District Attorney's Office has also begun a pilot program on juvenile diversion involving youngsters who have had their first contact with the law. This program relies on volunteers to develop a one-to-one relationship with the youngsters.

It is patterned after similar successful programs in other parts of the nation. The response to the program has been splendid. We have volunteers of all ages and backgrounds. The police have given us great encouragement.

The program differs from probation efforts in that it attempts to divert youngsters before they get into the system—not afterward.

We will receive our first complete report on the program's operation in June. From my initial experience, I believe that it offers great potential for all areas of the country. It not only acts directly against juvenile delinquency, but also provides a creative outlet for talented and dedicated citizens who want to do something for the community in which they live.

I am also very proud of a program we have operating in the Watts area of Los Angeles. A District Attorney's Youth Advisory Board is composed of students from this predominantly black area. These students are paid to develop programs which will create sympathy, understanding, and respect for the law among the youths of the community. They sponsor rap sessions. They bring members of criminal justice agencies, and even convicts, to high school campuses to spend time talking to students.

They have developed programs to work with gang leaders, including weekend camps where the District Attorney's Youth Advisory members spend two days

trying to cut through the gang psychology and rechannel the thinking of gang leaders.

In Los Angeles, at the present time, we are facing an unusual resurgence of gang activity and an appalling growth in juvenile violence.

At the same time that the District Attorney's Office is working on the streets, we are taking steps in juvenile court to deal with this problem. Cases involving gang leaders are flagged and special attention is given to them. I have completely halted plea-bargaining in juvenile court. I don't believe that youngsters in trouble with the law are helped by the sight of lawyers and juvenile court judges making deals on cases.

We are taking steps in the state legislature to clarify the role of the District Attorney in juvenile court. I don't think California is unique in the fact that its juvenile laws have not kept pace with the new policies set down in court decisions. We are now faced with an adversary proceeding in which the defense counsel has virtually every legal tool available in adult court and the role of the prosecution is really undefined.

This is a most serious problem.

Probably the most startling recent development in criminal justice in Los Angeles County was the release last week of a year-long report by the Rand Corporation on felony prosecutions in the county.

I consider this report a milestone study in criminal justice and one which should receive the attention of leaders in criminal justice throughout the nation.

I commissioned the study shortly after I became District Attorney. It is a detailed statistical analysis of all aspects of felony prosecution from arrest to sentencing. And, it revealed that we do not have equal justice in Los Angeles County.

I wish to discuss the report with you because I believe that the method used in this study has wide, national applications.

First, let me explain that we have the largest local prosecuting office in the nation. There are 450 lawyers in the Los Angeles District Attorney's Office operating out of 23 separate offices. The Rand study concentrated on the eight offices which handle felony prosecutions.

The Rand study showed that a robber, for example, might get probation or a prison sentence depending on what area of the county he was arrested in and went to trial in. We have approximately 50 police departments in our county and their policies differ. Rejection rates of various departments' cases range from 59 percent to 25 percent.

Among the offices of the District Attorney, conviction rates may vary by 10 percent, and the use of certain procedures may vary even more than that—one office had three times as many jury trials as another office, for example.

The study also revealed major differences in judges' sentencing policies, with a range of prison sentences in the downtown court from seven percent to 57 percent, for example.

I am not proud of the disparities in justice in Los Angeles County. But, I am proud that we are the county that conducted the study which revealed these disparities. I am proud that we now have the type of information which will allow us to correct these disparities.

The report also shattered some myths concerning criminal justice in our county. It showed that blacks are the racial group treated most leniently in the criminal process, both in terms of acquittals and in terms of sentences. Mexican-Americans are next in line. And, the defendants who are convicted most frequently and receive the most felony sentences are Anglo-Americans.

In terms of attorneys, the report showed that court-appointed attorneys obtain the highest rate of acquittals and public defenders are most successful in obtaining lighter sentences for their clients.

It is my hope that this study will lead to serious self-examination by all agencies involved in criminal justice in my county. Since the thrust of the report was directed at my office and disparities existing in the District Attorney's procedures, I am already deeply involved in making major changes in prosecution practices.

In addition to pilot programs dealing with sentence bargaining and other prosecution practices, we have obtained a federal grant for a computer-based information system patterned after the PROMIS system which is being used by the prosecutor here in Washington.

The findings of the Rand report clearly underlined the need for such a system if we are to end inconsistencies in justice in our county.

This information system will assure:

—uniformity of office policies;

—consistency of prosecution among various offices;

—measurement and evaluation of performance;

—and, in effect, obtain monthly Rand reports on justice in Los Angeles County.

I believe that our experience in this regard and the changes which we are undertaking to remedy disparities in justice must be studied by all criminal justice agencies.

The federal government should take note of what we are doing in examining the functioning of the federal justice system. I know that organizational timidity, bureaucratic inertia, and organizational self-protection militate against the type of report which we had Rand do. But it is essential that such reports be done.

The demands on criminal justice and the need to reassure the public that the system can function equally and effectively make such studies a necessity.

I am delighted with the opportunity to appear here today to call the report to your attention and to discuss the aspects of justice in Los Angeles in which you have expressed particular interest.

Thank you.

[Whereupon, at 12:35 p.m., the committee recessed, to reconvene at 2 p.m.]

Afternoon Session

Chairman Pepper. The committee will come to order.

Mr. Counsel, would you call the witness and proceed.

Mr. Nolde. Thank you, Mr. Chairman.

We have with us today, Judge Joseph Weis, Jr. He has been a distinguished member of the bar and practiced law for 18 years; was appointed a trial judge of the Court of Common Pleas in Allegheny County in 1968; in 1970 he was appointed to the U.S. district court; in 1973 he was appointed a U.S. court of appeals judge. Judge Weis has had very extensive experience in the law and he is also in charge of a pilot program at the Federal Judicial Center for the use of video tape.

We are very honored to have you today, Judge, and will be pleased to hear your remarks.

Chairman Pepper. Judge, we appreciate your coming. As you know, what we are trying to find out is what can be done to improve our system for the administration of justice, particularly in criminal law in this country. What we have been doing is looking all over the country for the most innovative and progressive programs and procedures that would make for the more effective administration of our judicial system and we hope would have the effect of reducing and curbing crime in the country.

We heard from the police departments of 13 cities of the country; we heard from outstanding authorities in the country in the field of juvenile crime and correctional institutions. This week we are hearing from innovative prosecutors, trial and appellate courts, to learn what they are doing that does make for a more efficient system in the administration of justice and has the effect of curbing crime in the country.

We are very honored to have you with your splendid background to come and give us your counsel today.

STATEMENT OF HON. JOSEPH WEIS, JR., JUDGE, U.S. COURT OF APPEALS, THIRD CIRCUIT, PITTSBURGH, PA.

Judge WEIS. Thank you very much.

I have been interested in expediting trials, too, both during my career as a trial lawyer and then as a trial judge in both the State and Federal courts. Of course, one of the big problems always is the absent witness, or the man that can't get there at the time you need him. Lawyers have been reluctant to use depositions in civil cases and in criminal cases even more so, mostly because you don't get the flavor of the witness' personality, the innuendoes, the inferences, the emphasis or lack of it, from the printed record. Consequently, we have had to rely on the face-to-face and getting everybody in the courtroom: style trial.

The video tape, I think, has made a change in this picture, and I think it is worth using in the criminal proceedings. As you know by now, I am sure, Mr. Pepper, the video tape is simply an inexpensive and simple way of recreating sound as well as the picture of what occurred. Therefore, the old objection that you couldn't see the witness to judge his credibility no longer applies.

I have had the opportunity to sit in on one civil case, where we used video tape on one occasion, and did not use it on another. I was truly impressed by the difference between the presentation of the printed record and that of the picture.

As you are well aware, the Organized Crime Control Act of 1970 provides, for the first time, to my knowledge, that depositions may be taken by the prosecution. Up to that time it had been available only at the instance of the defendant. The case of United States versus Singleton, which is shown in the notes which I filed, indicates that the court of appeals, at least for the second circuit, has approved this procedure. But the dissenting opinion of Judge Oakes in that case points out the problems that have traditionally been raised in connection with depositions, that the witness couldn't be seen by the jury, that the opportunity for cross examination and reaction, therefore, was limited.

Video tape, I think, answers a great many of these objections.

I have also indicated in the notes of my testimony here that the use of video tape in criminal proceedings to my knowledge has been rather limited at this point. You heard from some police officers and I hope, perhaps, they mentioned to you that at least in Denver they have used video tape rather extensively in drunk driving cases. To my knowledge, it has been used in the West in connection with the confession of a defendant in a murder case. It has been used by a U.S. judge in California, in dealing with the problem of the material witnesses particularly in the immigration cases. They have had to remain in jail for months at a time. Now a magistrate will have a hearing, take the testimony of these witnesses on video tape and then excuse them and let them go on about their business.

The most startling case that I can think of in the use of video tape occurred in California just a few months ago when, at the trial, the prosecution showed on video tape the deposition of a witness in a murder case. At the time of the trial he was dead. His testimony had been taken by video tape in November of 1972. He was in the hospital

in Florida at that time with terminal cancer. His vocal cords had been removed and he was unable to speak, so the video tape deposition was taken with a lipreader present on the screen interpreting what the witness' words were which he was forming with his mouth. This case resulted in a conviction. There has been no appeal yet, so we don't know, of course, what is going to happen to it. But it certainly is a dramatic example of how video tape can be important in a criminal proceeding.

I was noticing in a newspaper just the other day, the complaint of a prosecuting witness in a case that he had been required to come to the courthouse five or six times before the trial finally proceeded. I think we impose on our witnesses too much in criminal proceedings. We don't show them enough consideration. If that man's testimony could have been taken by video tape, he would have been spared all of that trouble and justice would have been done, I am sure, just as well.

I would like to mention, too, just briefly, that I forsee in the very near future the use of the picture phone, or closed circuit television, in the courtroom, also. I had an occasion to call a case for trial about 2 months ago. I believe it was a narcotics case. In any event, it involved the testimony of an expert retained by the FBI at its offices here in the District of Columbia. When we were ready to go ahead with the case we found that the expert was not available, he was testifying in another city in another part of the country, and therefore, we had to put ours off. Consequently, more delay.

When we get to the point where the picture phone is available, we will simply be able to have that witness testify, remaining in his home city and have him appear on the picture phone. The companies now have a screen at least 13 inches wide which can be used for this and I understand the screen is being enlarged even beyond that. So the witnesses can be seen in the courtroom, the defendants can be there, the jury can be there, and they will question this man hundreds or thousands of miles away, let his picture be on the screen, and he can see what is going on in the courtroom.

Instead of traveling all around the country these experts can testify in four or five cities in the same day. Again, this type of testimony shouldn't be objectionable because there is no emotion involved in it, there is no element of revenge on the part of the prosecuting witness. He is simply describing factual material.

The only objection that I have heard up to this point with the use of the deposition or even the video tape is the constitutional doctrine of confrontation. Originally, I had thought that the doctrine would be limited perhaps to having the defendant present at the time the witness was being interrogated, with the opportunity to cross-examination through his counsel. There have been some decisions, however, which go a little farther than that and say not only must these defendants be present, but the jury also. You can see that this poses some problems. I would say that that is not absolute, however, because we do have cases on the books where if the witness were not available, then his deposition testimony could be accepted.

So I suppose we have to go through the process of case-by-case basis, fact-by-fact basis, where we have to find out if the video taped deposition of the witness will be considered so far superior by the courts to the ordinary stenographically reported type of transcription,

that we can say that the defendant is being properly protected and being given his rights, if the witness is visible to the jury, even though he may not be in the courtroom at the time the testimony occurs.

Chairman PEPPER. Excuse me, Judge. You mentioned awhile ago about the picture telephone, which I understood would give the right of questioning to that individual from the courtroom.

Judge WEIS. Yes.

Chairman PEPPER. Now, does the video tape do the same thing?

Judge WEIS. The video tape is simply a preservation of an event which occurred before.

Chairman PEPPER. That is what I thought. You wouldn't have an opportunity to cross-examine the witness in the manner in which you could do it if it were picture telephone?

Judge WEIS. That is correct.

Chairman PEPPER. But what you might do is let the deposition be on video tape so you have both sides represented and question.

Judge WEIS. That is right. We take a picture showing the presence of both attorneys and, of course, in a criminal case we would show the defendant being present also, and then the questioning proceeds.

It is still not as good as having every witness in the courtroom for the trial. There is no getting away from that. Because, of course, there might be something come up during the trial that would make the defense attorney want to take a little different tack in cross-examining the witness. It has also been said, you really shouldn't force a deposition on a defendant because the lawyer may not be adequately prepared to cross-examine at that stage of the proceeding. With a few critical witnesses, perhaps that is true, but the run-of-the-mill witnesses presenting what I call neutral data, that isn't really a valid objection.

There is one other area where I think that video tape might be handy and that is preserving the testimony of a witness in an organized crime case where there is some genuine fear that there might be harm to him before the case is called. You can see that if his testimony is "in the can" as we call it, on the tape, there is really no motive for the defendant anymore to try to do him in, because if the witness is not available in person, he is going to be available in the tape.

There is one other feature, too, of the use of the video camera—this is really closed circuit television rather than taping itself—would be in the case of a disruptive defendant in the courtroom. We can have him sitting outside where he can see what is going on, hear what is going on, and really not have an "in absentia" trial, which we really don't like in America, for good reason.

So I think these technological developments are on the way and they are going to be useful before too long.

Chairman PEPPER. Have you considered the use of video tape for making a record for consideration by the appellate court?

Judge WEIS. Yes; that is the third area in which there is a great deal of experimentation going on, mostly, I must say in the State courts in Michigan and Illinois. They have devised a system on having one or two cameras placed in inconspicuous places in the room, recording the trial itself. You can see what a great help it would be to an appellate court to view the judge giving the charge; for example, if there is a claim he was being unfair or biased and used misleading

inflections or emphasized the wrong points. This would be a quick check.

I think that probably the State courts are going to lead us in that field. We haven't done too much work with that in the Federal Judicial Center yet, but I hope it will be before long.

There is one other field, too. Every criminal case nowadays seems to require that there be a hearing before trial on whether the confession given by the defendant was voluntary or not. The Jackson versus Denno type hearing we have, where the trial judge is given a sheet of paper, usually typed out by the policeman, by the hunt and peck, one finger method, then signed at the end by the defendant and notarized.

Chairman PEPPER. Judge, if you will excuse me. We just heard two bells. That is a vote on the floor. We would like to run over and vote and we will be right back. We are sorry to disrupt you.

[A brief recess was taken.]

Chairman PEPPER. The committee will come to order, please.

Proceed, Mr. Counsel.

Mr. NOLDE. Would you please continue, Judge Weis.

Judge WEIS. I believe we were talking about the problems of the Jackson versus Denno hearing. That is where the trial judge usually has a preliminary hearing to determine if the confession is voluntary. Up to now, all I have had to deal with are the typed out question and answer statements to which the witness swears after it is finished. The witness comes into court and he will tell you that he was drugged, that he had been beaten, that he was tired, he didn't know what he was saying, that he didn't understand the question. And you have nothing really to guide you except what he says and the policeman says. It is a one against one credibility test. It is a difficult position for a conscientious trial judge to be placed in because, who knows, who is going to guess right or wrong, and we are always afraid of making a mistake.

If this confession or admission were reduced to video tape the judge would have not only the advantage of what was said, but he would hear the questions being put to the witness, he could see how he responds, and he would have an opportunity to make some judgment on whether the story he is hearing in court is true or false.

I think, too, that if the video tape of these confessions were made available to the defense counsel, in a great many cases we wouldn't even have a motion presented because he would concede the objections weren't valid. On the other side of the coin, too, if the prosecuting attorney were convinced from looking at the video tape that the defendant had been imposed on I would think he would probably withdraw the prosecution.

So again, this would be a help to really determine justice and assist it.

We have a video tape here of a confession of a defendant that I think might give you some idea of what I am talking about. Ordinarily we have our video tapes taken by one of the deputy clerks in our court. These fellows are not professional photographers, they are amateurs, but they become pretty skilled after awhile and turn out, I think, a pretty good quality picture and sound.

But in this one it shows that people are a little bit farther back from the camera than we like, and the picture could be a little bit sharper, but that is just a question of technique. If the policeman who was run-

ning the camera had a little more experience we would get a first-class picture. So I don't want you to think this is the best that can be used with the best equipment on the market.

Mr. Nolde. Before you show the case, I would like you to address yourself to the general issue of appellate delay being caused by sending up the record. By the time it is actually transcribed by the reporter and printed and gets up to the court, as I understand, it is months and months and sometimes years go by. Would you address that?

Judge Weis. This is, of course, a real problem we have. Now that I am sitting on the appellate bench, I can see how it works. The appeal is filed and the attorney could really start working on his brief and have it prepared within, say a month at the outside, if the record were available on the day the appeal was docketed. But the reporters are jammed up, they are backed up, and it takes them weeks at the very least, and most likely months before they can get around getting this transcript out. Because there are others waiting for them to do that.

One of the advantages of video tape—and I think it will be helpful in the appellate process—is that the minute the hearing or trial is over that record is prepared. There is nothing further to be done with that record. The following day you could argue your case in an appellate court and show back the appropriate phase of the trial on video tape.

Again, practically though, I don't know that the appellate courts are going to take the time to sit through the playing of a tape of a trial. I think they are going to insist that appropriate parts be transcribed. But you can see that this is a tremendous saving in not requiring that the whole transcript be prepared and just printing perhaps the testimony of parts of one witness' story, or the trial judge's charge to the jury, something of that nature. And in appropriate circumstances, as I say, if a critical witness' credibility is at the heart of the appeal, I would think that the appellate judges would like to see that video tape.

But I would say the shortening of the time required to file a record in an appeal of the proceedings can reduce the appeal time by months.

And as I mentioned to you, Mr. Nolde, during our little recess in the third circuit we have started the practice of entering judgment orders on the day that the case is argued. When we find that there are no complicated legal issues involved and no precedential issue to be obtained by writing an opinion in that case, again we have taken 2 months off the process and the case is now ready for final disposition.

Mr. Nolde. In other words, in those cases the court issued the decision on the same day oral argument was made?

Judge Weis. That is correct. I believe the second circuit issues them directly from the bench at the conclusion of arguments.

Mr. Nolde. That would be comparable to the British system.

Judge Weis. Yes. Of course, in the British system, they don't have the complicated preparation of briefs or records that we have and I must confess, I am a little baffled how they can do that, unless they devote a great deal of time to the arguments to develop all of the facts in the case, because if the appellate judges are completely unfamiliar with the background of the case it is pretty difficult to rule on a legal point.

Chairman Pepper. They don't require transcript of records or briefs.

Judge Weis. I understand they do not.

Chairman Pepper. I heard cases argued before the British Court of Appeals.

Judge WEIS. Their arguments are quite a bit longer than ours. They will go on for several hours or perhaps a day, whereas we would limit the argument perhaps to 15 minutes a side. Of course, with the written briefs we have we shouldn't have to listen to too much oral argument.

Mr. NOLDE. What is your view on the absolute necessity of having written briefs? Would it be feasible to eliminate them as a generality in most criminal cases, except as required by the court?

Judge WEIS. I think in selected cases that could be done. But again, we have a practical problem that perhaps is not generally recognized. Most of the criminal defendants in Federal court, at least, are represented by court-appointed counsel. We have been getting an increasing number of suits filed by the prisoners after the conviction, against their counsel, claiming that they were inadequately represented and asking for damages. Now, you can see that in order to protect himself from a suit, plus his own feeling of doing a conscientious job as an advocate, an attorney has an added incentive, in fact, almost a necessity to file every possible type of motion that the defendant can think up afterward and take every possible step to make sure his cases are cited and considered by the appellate court, or he is subject to criticism later on.

We have to modify this process somewhat.

Mr. NOLDE. As a practical matter, couldn't the court really best have a one- or two-page recitation of the case precedents, a short statement of the issues and a statement of error that would be an adequate basis on which to decide the case?

Judge WEIS. I think so, yes. I think we can shorten our briefs.

Mr. NOLDE. And I take it the briefing process is quite a lengthy and time-consuming process in itself?

Judge WEIS. Yes, it does take time. Of course, the research that goes into the briefing takes even longer and I don't know whether we can shortcut that, too, and still have the advocate do a competent job.

But again, if the argument on the appeal is held not too long after the trial concludes, it is fresh in the lawyer's mind, and he will have done a great deal of research and preparation for the trial itself.

Mr. NOLDE. And if you gave sufficient emphasis to the oral argument, presumably the lawyers would be prepared. And if they had 2 or 3 hours of oral argument, they could deal with the issues in the case adequately rather than going through this tremendous briefing process.

Chairman PEPPER. Excuse me, Judge. I might say we had a letter from an old friend of mine, Chief Judge Brown of the fifth circuit, and he was telling us how they had been able to reduce, I think he said by 60 or 65 percent the number of oral arguments, which has expedited the disposition of the case.

Judge WEIS. Yes. We followed that procedure in the third circuit, too, Mr. Pepper. We review every case about 2 weeks in advance of the date set for argument. If we feel the issues are set up clearly enough in the briefings, we dispense with the oral arguments. In many of those cases we enter a judgment right then and there, too. So it is shortened.

I don't know too much about the background of this case, as I was told it was a subject that came to the court of appeals of the eighth circuit on the question of whether the trial court or State court, I believe, properly admitted this video tape deposition of the defendant.

Mr. Nolde. Yes. that was the case of *Hendricks* v. *Jensen*. in which the U.S. court of appeals for the eighth circuit in 1972 upheld the use of this confession as constitutional, in the face of a challenge on fifth amendment questions.

Judge Weis. I would like to see the FBI use this in every case where they take a statement from a witness, a defendant. And the local police, too. It would help.

[At this point the video taped proceeding was shown.]

Judge Weis. I think you can agree when the trial judge was called to rule on the voluntariness of this confession or the condition of the defendant, he was in much better position to do it after seeing a tape like that than relying on oral testimony on a printed sheet of paper.

Mr. Nolde. In that same vein. I take it the use of video tape in such other areas as police lineups would also be valuable in showing the visual aspects of the lineup that are so crucial?

Judge Weis. That is right. I have seen a tape prepared by the California police. They used it on a raid. They have portable cameras and recording units that hang on the strap over your shoulder and a little camera that looks like a movie camera. They have one scene showing the troopers running in the house and arresting people and you can see what powerful evidence this could be if they said later the police beat them over the heads when they walked through the door. They have positive evidence one way or the other.

The cost of the tape might be an interesting item for you, too. Ordinarily, an hour's worth of tape costs about $25. I understand from an article in the New York Times, within the past few weeks, that some American manufacturers are now talking about using phonograph discs, flat plastic dics, instead of the tape. They claim the charge would be reduced from about $25 to less than $1 per hour. So you can see how this would wipe out any cost problem at all within a very few years, hopefully.

Mr. Nolde. This tape could also be used to record the entire hearing. We have seen a tape here today as used for a confession. I take it that for use as the record of a hearing it would be a tremendous improvement.

Judge Weis. Yes. And you could see a stack of flat records wouldn't take up very much room, either, from a storage problem.

Mr. Nolde. What safeguards are needed for such tapes?

Judge Weis. The one most frequently recommended is the use of a clock in the picture to show that the camera has not stopped and the proceedings have not been interrupted. The clock keeps going around. Some people recommend the use of a digital clock, one which flips numbers from second to second.

The Supreme Court of Pennsylvania adopted some procedure within the past 2 weeks allowing for the use of video tape depositions in civil cases. One of the things they insist on is that digital clock in the picture.

But again, I am told by experts it is more difficult to doctor a video tape because you have the job not only of dubbing the sound but also the picture. And trying to coordinate an alteration of the two they say is almost impossible to do so as to pass detection by somebody who knows about it.

Mr. Nolde. I think particularly where you have a closeup view of the defendant and seeing his mouth move.

Judge Weis. Correct. The lack of synchronization would show up quickly.

That is one thing, too, you note about the picture. Had the camera been moved in a few feet closer, I think we would have gotten a better closeup of the defendant.

Incidentally, I mentioned the picture phone a little bit ago. We have the picture phone with Bell Telephone Co. operating within a small area of downtown Pittsburgh and they show a picture on a monitor about 6 inches wide, at the present time. But they carry a very high fidelity picture. And I saw the picture phone transmit an X-ray of a tooth in regular size, and then focus it down to the point where you could see decay in that tooth on the other phone to which the picture is being relayed. It is tremendous.

Mr. Nolde. Judge, would there be any reason why this video tape couldn't be used to record the entire trial? Is there any risk of disrupting the trial?

Judge Weis. No. The experiments that have been carried on, as I mentioned in the Midwest mostly, in Michigan and Illinois, have shown what they call the "bugaboo" of distracting the jurors and the witness and the judge and the lawyers really doesn't exist. The parties will perhaps notice the camera for the first 5 minutes of the proceeding and then they ignore it. The cameras are, of course, very small, not much bigger than the movie camera; that is, 1 foot long and 3 inches thick and 6 inches high, being something of that nature. They are very small and inconspicuous. You can hang one on a little bracket and nobody will ever notice them. The operator can be in a separate room operating by remote control.

Mr. Winn. Shouldn't they be told they are on video tape?

Judge Weis. This has been raised by some people who think there may be an invasion of privacy if testimony is video taped without his knowledge or consent. I have a little difficulty accepting that because if a witness goes on the stand in a public trial he has no privacy about what he is testifying to. In fact, that is the very idea of the public trial, to take away the privacy. But some judges have been exceedingly careful to video tape only with the consent of the party being photographed.

Mr. Winn. Was this young man asked for permission to do this?

Judge Weis. It doesn't show on the tape. I would suppose he had been. Again, the police usually do put that at the beginning, right after they give him his rights, and say, "Do you understand it is being taped," or "Do you consent to it." I think they did mention it was being taped at the beginning. I don't recall if they specifically asked.

Mr. Winn. They said it is being taped. He identified himself and identified the young man and the officer, and "also in the room" so and so. I took it that might be the operator.

Chairman Pepper. The camera.

Judge Weis. He did refer to the fact that the camera was there.

Mr. Nolde. Would there be any difficulty in picking up side bar conferences in your courtroom?

Judge Weis. This is a mechanical problem I think could be handled without a great deal of trouble. They would have to have a camera positioned in such a fashion as to be able to pick it up. The problem you have of the jury overhearing it would be very simply resolved by having a separate microphone over at the place where the bar conferences were held so it would not go through the public address system in the room.

Mr. Nolde. Judge, turning to some other issues now, based on your experience as a State court judge, as well as a U.S. district court judge in Pennsylvania, who should control the calendar? Is it the district attorney or the court?

Judge Weis. I have had both. In the State courts the district attorney controlled the calendar and in the district court, the Federal court, the judges control the calendar.

Mr. Nolde. Which is preferable?

Judge Weis. I prefer having the judge control the calendar. I think that once a case gets presented by indictment it becomes the business of the court. It is the court which should look after getting that case up for trial and disposed of. The district attorney, of course, is a public officer, but yet he is a party to litigation in a sense, too. It always seemed a little strange to me that one party to the litigation would control when the case is called up. It is a little inconsistent with our idea of equality before law that one litigant sets the date for the trial.

Mr. Nolde. It would seem to me if the judge controlled it, if he were put in charge himself or had an administrative judge who had overall supervisory responsibility for getting cases through the system, that it would greatly expedite the process. I just wondered what possible justification there really is for having the district attorney control it.

Judge Weis. I think in many jurisdictions it is a matter of tradition. In Allegheny County, for a great many years, 20 or 30 or more, the district attorney has controlled the calendar. It probably came about because there was a rotating system of judges who went to the criminal court on rather rare occasion, and we had a lack of continuity to administer the business of the court. That has been remedied in the past few years, but I think historically that may have a lot to do with the district attorney having taken over the necessary work of making up the trial list for example.

Mr. Nolde. So, traditionally, we have had slow justice.

Judge Weis. I guess we can't always blame it on the district attorneys. I am sure they have a few comments on that.

Mr. Nolde. Do you favor the individual calendar system?

Judge Weis. It depends on what kind of a workload you have in the court and what type cases you are dealing with. In the federal courts we have an individual calendar, and I was very pleased with this. I like to work with it from the standpoint of knowing what my job was and being able to schedule the cases as best I could. It works well for serious cases. I would think that probably every court should adopt it for the serious type case. But when you have a mass of minor cases, perhaps many which should not even be in the court, you will find that the individual calendar may become unwieldly and unworkable and at times, for that type of case, the master calendar is the most efficient.

Again, it depends on the makeup of the court's inventory and which system they find works best. I don't think we can say flatly one system or the other is the absolute best in all circumstances.

Mr. Nolde. Do you favor voir dire examination of juriors by the judge?

Judge Weis. Absolutely. I think there is a tremendous waste of time that we have when the attorneys are given free rein to interrogate jurors. I find no justification for that at all. And again, I guess it is a matter of tradition and history. In our part of the country, for the last 30 years or so, interrogation of the jurors except in cases where the death penalty was involved has always been carried on by the judge or court clerk. The attorneys do not ask questions directly. Our voir dires generally do not take more than 20 minutes to an hour. When I read about these voir dires going on for weeks and months, I just am not used to that type of procedure at all and can't really see why it is necessary. The parties are entitled to an impartial jury without any obvious bias or prejudice, but I don't think they are entitled to people they would like to have on every jury.

Mr. Nolde. The latter is what has really been at the heart of these lengthy examinations.

Judge Weis. Yes.

Mr. Nolde. What about the use of the grand jury? Do you feel that is necessary as a routine way of initiating criminal cases, or should it be reserved only for limited kinds of situations?

Judge Weis. The chief value of the grand jury, as I see it, is in the investigative field. But in the routine criminal case, the use of the grand jury often does little more than delay the proceedings in the case. We have constitutional problems, of course, so we just aren't free to do as we would choose in this area. But I am rather impressed by the English system which requires a preliminary hearing in the criminal case, at which time the prosecution furnishes to the magistrate affidavits from the prosecution witnesses and establishes a prima facie case in this manner.

At this preliminary hearing the defendant finds out what the case is against him. He gets a measure of discovery there. I would think that it would speed guilty pleas, for example, if the defendant was aware that there was an overwhelming case against him. On the other hand, if the defendant is innocent, it certainly would be a great help for him to prove his case if he knew at the preliminary hearing what it was that the government was relying on. With the grand jury system, of course, that testimony is secret and the defendant doesn't know what is being asserted against him.

Mr. Nolde. And it also results in some further delay and, in fact, I take it the grand jury really doesn't exercise much of an independent judgment. It almost invariably goes along with the prosecutor.

Judge Weis. I have never been in a grand jury room but I have heard that charge made many times.

Mr. Nolde. Mr. Chairman, I have no further questions at this time.

Chairman Pepper. Mr. Winn.

Mr. Winn. I have no further questions. I find it very interesting and I think it may well be part of our judicial system in the future.

Thank you, Judge.

Chairman PEPPER. Judge, we both agree that there is no reason why the improved techniques that are invented from time to time could not be employed with proper safeguards in the judicial proceedings, as in other activities. I just would like to ask you a very few questions.

How long did you say it takes in your court from the time a case is docketed before it is disposed of, ordinarily?

Judge WEIS. I have to be honest, Congressman Pepper. I have been on this court now for a month and I haven't gotten all of these statistics down yet, so I can't give you an accurate answer. So it is probably better if I didn't give you any.

We consider ourselves current in the criminal appeals. We are not as up to date in the civil field as we would like to be, but hope to arrive there by November or December of this year. But I can't give you figures right now.

Chairman PEPPER. I just returned from a conference in England where we were at the Ditchley Park Foundation site. We were discussing correctional institutions, penal institutions, and I mentioned to that group that in this country we had a great variety of sentences imposed for the same offense by different judges; that sometimes prisoners would get talking to each other and it would be disclosed that one had gotten a much heavier sentence for relatively the same offense than the other one had received. Do you find that to be true in your judicial system generally?

Judge WEIS. It is a problem. There is some disparity in sentencing, there is no question about it. But so long as we have the human element involved, both from the standpoint of the judge and prisoner, I think there is bound to be some variation.

It is true the same crime may have been committed by two different individuals and their sentences may be quite different, but perhaps a review of the presentence report would show you that one had a lengthy criminal court record, that the reports from the neighborhood were he was a dangerous person, verging on psychotic, for example, and the other man perhaps is involved in a first offense, he has come under a bad influence, that there is hope of rehabilitating him, and it is felt a long sentence would only insure his total loss to society where a short term might be enough to jolt him back into the right path.

So that enters into the picture. It is true, there is no getting away from it, that some judges regard some crimes as being more severe than others. We are trying to alleviate that by having sentencing institutes for the judiciary. We meet every couple of years or so and sit down and talk about what would you give in a sentence like this, what is the average sentence on a national scale, what is the average sentence in this circuit, for example, for that crime.

Chairman PEPPER. Would you say your court would exercise some sort of general overall supervision of the variety of sentences in what appear to be similar situations? So that if you found a sentence you felt too severe for a given offense, the court might on that ground alone either modify the sentence if you had sought to do that or send it back?

Judge WEIS. I am a little hesitant about getting the appellate courts into the sentencing process, because this is an area which traditionally has been reserved for the trial judge. There are many things a trial

judge knows about a defendant from sitting there through the trial, from having followed that case through indictment until it is terminated. A lot of these things he can't possibly translate into words, he can't put down in a report accurately, but has a real feel for the case that someone reading the cold record would never have. In all candor and fairness to some of my appellate brethren, they have never sat on a trial court and never had that experience of seeing how a sentencing works and what can enter into the situation.

If there is to be a review of sentencing by someone other than the sentencing judge, it would seem to me preferable it be done by panels of trial judges who are in that field daily and who could have some effect in moderating and evening out a disparity between sentences. If there was to be a review, that is where I would prefer to see it rather than the appellate court.

Chairman Pepper. What is your view on indeterminate sentences?

Judge Weis. When I first got in the field I thought it was a great idea. It seemed to be the ideal way of letting the probation and parole authorities keep the man in as long as need be until they thought he was ready to get out. But I found to my surprise, that the prisoners were the ones who were most upset with it because they would much rather know they have a fixed sentence, 5 years for example, that they can look forward to getting out, than have an indeterminate sentence which might let them out in 3 or 4 years. They want some element of certainty, I guess, and some ways to pace themselves and get adjusted to it.

Now, I find it hard to dispute that.

Chairman Pepper. Would you find it desirable for the court to impose the maximum sentence therefore?

Judge Weis. Again. I would have to look at the case. I would like to know how that maximum sentence is going to affect this particular person. Is it going to ruin him? Is it going to take away all hope that he might have for coming out and straightening out? Or is it necessary for society to give the maximum sentence?

I just can't generalize on that too well.

Chairman Pepper. What you have said borders on the question of the type of penal or correctional institution we have in the country. What observations would you make about the type of institutions we ought to have in this country for corrections?

Judge Weis. I think this is one of our greatest problems. A trial judge does a great deal of agonizing over what kind of sentence he is going to give. If he has a young fellow who has been convicted of a nonviolent crime, who nevertheless must be given some kind of punishment, you know it is pretty difficult for the judge to see this young fellow and send him away to a penitentiary where he is going to be confined with hardened criminals who will wreck whatever opportunity there was to straighten the kid out. They really ruin him and he will come out far worse than when he went in.

I think we need more different types of institutions. We have to have more classification so we don't put the violent psychotic man in with the person who can be saved. The person who commits a nonviolent crime shouldn't be in the same category as murderers and people who assault and kill and ruin people.

This bothers judges. If they know that a young fellow in front of them is going to be sexually assaulted when he is sent away to a

penitentiary, do you want that responsibility on your shoulder? I tell you it really makes you stop and think. We just don't have the assurance which we would like to have that when we send a person into the system that he is going to be properly protected.

We have some leeway and we can pick out some institutions and that weighs a great deal in our sentencing. Again, this is one of the factors that may not enter apparently into the disparity of sentence, but if one judge feels this man can weather a lengthy sentence at any kind of institution, he is tough enough to take care of himself, he might not feel quite the same, he might not feel quite the same if a young, slightly built person who is obviously going to be the victim is standing before him. It is a serious problem.

Chairman Pepper. I agree with you. One of the most serious problems we have today is what to do about the correctional system, as we call it, that we now have. You know very well, of course, the reputation for recidivism that most institutions have. The brutalizing effect most of them have on the people who go there, the assaults to which so many are subjected.

I remember we discussed the other day as to whether or not an individual, say a young man who in all probability would be assaulted when he entered the old-type prison we have today, might get an injunction. From all he knows about this institution it is going to mean terrible agony and anguish.

And while the system has a right to incarcerate him, even to punish him, he does have a right to protect his person against such brutality. And unless he can be given assurance of competent character that he will not be so subjected, he asks the laws to protect him. That is not part of his punishment. It is not part of his sentence to experience such sort of an ordeal.

I would like such courts to begin to grant such injunction and tell the authorities you can't put a person like that in an institution unless you can assure that person of protection from all other persons there. The individual protection to which he is entitled.

Judge Weis. What we get so often are the facts that the institutions are so overcrowded now and there is no place to put the prisoners and not enough opportunity to properly supervise them. It is an area badly in need of correction.

Chairman Pepper. In my State, the authorities publicly called upon the courts not to send any more people; that they didn't have any more room for them.

But I am hoping that this committee will recommend to the House that the Federal Government pay at least half of the cost of helping the States to establish some of these new, small institutions, modern in character, with relatively few provisions for maximum security, where they will be in an area reasonably proximate to the area where the man came from; where his family and friends presumably live; where there will be opportunity for some community contact and where there would be job opportunities available. It costs a lot of money to set up a system of training in an ordinary institution. They can train in a reasonable number of trades or skills, for example, but inside of the community those skills are available and accessible to the individual.

My hope is that the Federal Government can help the States start building these institutions; that once they get it going the States will find they are desirable; they get a better record there of behavior on the part of the inmates, less recidivism and the like. And once these institutions are finally established the States will be able to bear the cost problem rather than the Federal Government, although I wouldn't personally object to that.

Just one other thing. You do feel that one of the great needs of our judicial system is to try to prevent as many young people as possible from getting embroiled in the system? In other words, to keep them from being school dropouts, try to teach them the necessary skills, try treatment, or if necessary limited incarceration in the areas from which they come and the like?

Judge WEIS. Absolutely, Congressman Pepper. As I said a number of times, trying to blame the judges for causing a crimewave is like trying to blame the surgeon who cuts away the cancer for causing the disease. Once it gets to us, things have gone too far in far too many cases. We have to start long before they get into court to correct these problems.

Chairman PEPPER. You are so right. The courts, as a matter of fact, simply are taking the refuse of society as it were.

One last question. Do you find in your trial experience, as a State and Federal trial judge and as an appellate judge, a great rate of recidivism among the people that come up for serious offenses before the court? Are most of them people who have been in trouble before?

Judge WEIS. Yes. We find really not a very large percentage of first-time offenders. They have had brushes before and they keep coming back. Again, it gets back to the point you made before. I think, the lack of a proper correctional system.

I would like to again endorse what you said about having smaller institutions. I think the idea of having large warehouses is a mistake, a big mistake.

Chairman PEPPER. Several of us on this committee went up to Attica and we saw the conditions there, heard the complaints of Mr. Oswald. He knew how to do better but he didn't have the money, he didn't have the means.

Judge WEIS. That is right.

Chairman PEPPER. Governor Rockefeller, when we conferred with him on the way to Attica, said, "Nobody knows better than I what it takes to modernize the penal system, but where is the money coming from? It costs $100 million to $200 million to do it." So there we are. We are just spinning our wheels, turning them in and out.

Judge WEIS. It might be a good investment if we did spend some money, because if we could cut down the cost of crime in this country we have done a good job.

Chairman PEPPER. We have had witnesses here for the last 2 weeks who were telling about the new method of dealing with juvenile offenders which costs much less than the old methods and have been much more effective. They pointed out in some cases they were spending as much as $12,000–$20,000 on an individual, and in a few instances up to $36,000 a year per individual confined. Somebody pointed out you could not only send the inmate to college, send him abroad every summer and save money at that rate of expense and get a very much better result when they adopt new methods.

Mr. Counsel, have you any other questions?

Mr. NOLDE. Thank you, Mr. Chairman.

Judge Weis, the problem of frivolous appeals seems to be inundating our appellate courts. What techniques do you utilize to deal with this problem?

Judge WEIS. We have the two techniques I mentioned before, the screening of the case in advance of the time set for argument, if we find it is frivolous we do not even have argument. We decide it on briefs and we decide it with a judgment order, which is simply a recitation that we affirm the result below without any opinion. So I think those are pretty effective ways of disposing of the frivolous appeal efficiently in as short a time as possible.

We can't cut it off completely. They are entitled to an appeal and if they have something, we want to take a look at it first to make sure.

Mr. NOLDE. What about having a single hearing appeal procedure, in which all issues and all appeals are to be heard, so as to prevent continual reassertion of further issues?

Judge WEIS. This is a real problem. I would say it would be great if we could have only one appeal per prisoner, for each defendant, and that would end it. But there have been a few instances where on a habeas corpus or post conviction hearing some fact which did come out which hadn't been developed before, indicated a wrong had been committed. I am not quite willing to say we will have one appeal and one appeal only in each case.

But there has to be something done to limit the repetition. When I left the district court, one man, one prisoner, had 12 or 14 cases pending there before me. I consolidated them and I kept them all together, because I could not afford, in fairness to the other litigants and the other people on my docket, to hear every case of his as it came in. He would file a complaint with the court whenever anything went wrong in the prison. If the doctor didn't show up on time that week, the following day we would get a complaint. If he wasn't treated by an ear specialist when he had an earache, in would come a complaint. When they wouldn't let him play the piano one day, in came a complaint. We are just flooded with that kind of material.

We had another who filed no less than 40, perhaps 50 petitions, trying to get out, repeating the same things over and over again. We have to do something.

Mr. NOLDE. That is right. What can be done? That tends to really demonstrate the frivolous aspect which still takes up the court's time when you have to screen those cases.

Judge WEIS. I am in favor of some type of ombudsman to whom all complaints of the prison would be referred before they are allowed to get to court. If it is a frivolous thing like they didn't get their meal, somebody wasn't permitted to visit them, or a thing that could easily be corrected by the prison, it should be done by the administrative officer before the court gets involved.

Mr. NOLDE. Are there any other ways of dealing with the issue of finality, to really achieve once and for all disposition of these cases?

Judge WEIS. Again, I would like to say yes, but I don't know of any answer, because I am afraid if we shut off all avenues of appeal to somebody, we may just be keeping somebody in jail who shouldn't

be there. I am willing to spend extra time looking at a serious case, a serious question, if it is important. It is just the frivolous ones I don't think we should have to deal with.

Mr. NOLDE. What about the use of unsigned memorandum opinions by the court?

Judge WEIS. We are doing that quite a bit. Per curiam opinions in some cases, and these judgment orders I referred to before, are simple orders.

Mr. NOLDE. Does that help to speed up the process?

Judge WEIS. It helps speed up the process and also helps to cut down the proliferation of printed opinions which I feel are really overwhelming us. It makes research more difficult. We have too many opinions saying the same thing over and over again without developing anything new.

Mr. NOLDE. Particularly in criminal cases?

Judge WEIS. Yes. Many of these are just the same problems repeated over and over again. In civil court cases, too, we have too many opinions published.

Mr. NOLDE. Dealing with the speedy trial issue, are the bills that are presently pending which provide for a mandatory dismissal if the trial is not brought within a 60-day period, capable of being implemented by the courts? Would you need more resources? How feasible are they?

Judge WEIS. I am a little afraid of those bills because I can see an instance where a case might go past the 60th day or get to the 65th or 70th day and there may have been good reason why it hasn't been reached for trial but it hasn't been and the law says it must be dismissed. So you are letting a serious criminal walk out on the street if for some reason his trial wasn't scheduled.

I see too much possibility of harm in that type of situation. Our courts in western Pennsylvania adopted a plan just about 3 or 4 months ago, where we are working—and I keep saying "we," I am not in that court any more—the district court plans to try every jail case within 60 days and every other case within 180 days. They are doing a good job of keeping within those guidelines, but they have that flexibility of taking care of that unexpected situation that may arise, where to free the man because of an arbitrary time limit would work a gross injustice on the community. I think that that type of scheduling and time problem is better left to the court to handle itself and the judges are well aware of the need for speed, and I think, are doing a conscientious job of getting those cases up and disposed of just as soon as possible. Certainly in the Federal system they are. As I say, I am dubious about the desirability of legislation putting inflexible limitations on it.

Mr. NOLDE. Unless you had some exception?

Judge WEIS. Once you put the exception in, aren't you throwing it right back to the district judges anyhow, where it is now?

Mr. NOLDE. The problem is that under the present system, there are great delays.

Judge WEIS. Not too many avoidable delays, I don't believe, in the Federal system. I was a member of the Metropolitan Chief Judges Conference of the District Court which met on three or four occasions to discuss this problem of delay in criminal cases. The Federal Judicial

Center put on a number of meetings in the past 2 years and we reviewed the major district courts in the large cities, New York, Pittsburgh, Chicago, San Francisco, and so forth, and we found out where the delays were, what it was that was causing them, and what it was that could be done to improve it. Most of the members of that conference went back to their local courts with plans and new desire to get within those limits and it has been successful.

Mr. NOLDE. As I understand the Judicial Center study, in the busier district courts delays average 350 days between arrest and trial.

Judge WEIS. That is not the usual case.

Mr. NOLDE. It is in the busier courts.

Judge WEIS. Even there it would not be an average case. Whenever you get involved in a complicated criminal matter, such as a securities problem or wiretap gambling case, for example, these require a great deal of preparation and it would be impossible, from the cases I have handled in the wiretap gambling field, to get that out within 6 months. Because the time required to prepare transcripts of all of those tapped phone conversations often takes 3 or 4 months of stenographic time before the attorneys have a chance to look at it and we have time to schedule a preliminary hearing and pass on all of the legal issues involved. So some cases just have to take time. We haven't got the mechanics to do it any better.

But the routine cases I think are getting out faster.

One of the points that impressed me on that was the time it takes from the day of a plea of guilty or finding by a jury to the imposition of sentence. This is the time devoted to preparation of presentence report. Now, this spread of time is regulated almost completely by the number of probation officers who are available to do that report. We have a shortage of probation officers. When they have to take care of their regular case load and prepare presentence reports in addition, that time just stretches out. The only way to cure it I know of is to get more help in that particular area.

Mr. NOLDE. I have no further questions.

Chairman PEPPER. Judge, we thank you very much for coming today and giving us your very enlightened and very encouraging testimony. You were very kind to come.

Judge WEIS. Thank you. I enjoyed being here.

[Judge Weis' prepared statement follows:]

PREPARED STATEMENT OF HON. JOSEPH WEIS, JR., JUDGE, U.S. COURT OF APPEALS, THIRD CIRCUIT, PITTSBURGH, PA.

Every trial lawyer likes to have his witnesses appear in front of a jury to give their testimony. Similarly, most trial judges prefer to have everyone connected with a case present in the courtroom during the whole of the trial. In this respect, the common law legal profession has traditionally been hostile to the procedures utilized in most continental European countries of having all or most of the testimony submitted by means of written affidavits.

However, the adversary system in civil cases at least has long recognized that there do arise circumstances where it is simply impossible, as a practical matter, to have a witness present for a particular trial and in those situations a deposition has reluctantly been permitted. In a few instances in criminal cases, at the instance of the defendant, a deposition has been utilized.

The resistance to use of a deposition in civil cases has been due mainly to the inability of the ordinary stenographically recorded transcript to convey the subtleties of expression, mannerism, tone of voice, inflection, and appearance of the witness which so often have been strong factors in evaluating the credibility

of the deponent. My experience, both as a trial lawyer and as a trial judge, have convinced me of the validity of this objection to use of depositions.

There has been more resistance to the use of depositions in criminal cases than in civil ones, based on constitutional grounds as well as matters of preference of the trial bar.

For example, just a few years ago, the Committee on Revision of the Federal Rules of Criminal Procedure recommended the use of depositions by the prosecution but this was rejected by The Supreme Court.

Nevertheless, The Congress, as you know, in 1970 passed the Organized Crime Control Act, whose Title VI authorized the use of depositions by the prosecution in cases where appropriate certification is made by the Department of Justice that the case involves organized crime.

This provision of the Act was upheld by the Second Circuit of Appeals in *The United States* v. *Singleton*, 460 F. 2d 1148 (1972), where the witness was too ill to leave his home in Alabama to come to New York to testify.

The dissenting opinion of Judge Oakes emphasized the two main objections to the use of depositions in criminal trials:

(1) The fact that there is the possibility that the defense may not be prepared properly to cross-examine because it has not heard the rest of the prosecution's case, and

(2) That the witness's testimony had not been subjected to the scrutiny of a judge and jury in a solemn impressive atmosphere of a federal court which might cause the testimony to be given with a little more care, deliberation, and accuracy.

Judge Oakes relates the second condition to the constitutional right of confrontation which implies not only the presence of the accused, at the time of interrogation of the witness, but the jury as well, so that they may look at the witness, and judge his demeanor upon the stand and the manner in which he gives his testimony in forming a judgment on credibility.

Judge Oakes' opinion is interesting because it expresses the expansive view of the right of confrontation.

The use of depositions can have an effect in speeding disposition of criminal trials. Every trial judge is familiar with the all too frequent request for a continuance because of the unavailability of a witness. It is a reason which must not be lightly disregarded and even though judges are reluctant to countenance delay, they must never forget that an injustice speedily administered is no substitute for justice, albeit delayed.

About two years ago I became privileged to conduct a pilot project of The Federal Judicial Center on the use of videotape in court proceedings, with the main emphasis upon the use for recording depositions.

I'm enthusiastic about the use of the new means of recording depositions and predict that it will do much to revise our traditional methods of trying cases. It should be clear that I recognize that the preferable method is to have the witness present in the courtroom. If he can't be, videotaped recordings are the next best thing.

The use of videotape offers a suitable means to afford the parties the advantages of giving a jury more opportunities to assess the characteristics of deposed witness than that offered by the stenographically recorded format presently used and at the same time reduce the incidents of delay because of witness unavailability. Videotape recording will also have a bearing on the constitutional objections since the jury can see the witness and make its judgments almost as well as if he were present. Still open for decision would be the question of the accused's rights to have the witness in the courtroom. If the requirement of unavailability were met, then that objection would seem to be answered.

Insofar as the public trial aspect is concerned, every spectator in the courtroom would have the opportunity to be present to view the presentation of the deposition and, thus, insure this constitutional facet of the trial, if indeed it does apply to deposition testimony at all.

The other objection cited by Judge Oakes in the *Singleton* case—that of lack of opportunity to adequately prepare for cross-examination—is of much narrower application. It is not every witness who is critical in the sense that a thorough understanding of the prosecution's case is essential to adequately cross-examine. Indeed, many witnesses in criminal trials supply only neutral, albeit necessary, material, e.g., chain of custody of evidence, identification of documents, of signatures, laboratory analyses, etc. With this type of evidence, any reasonably competent defense lawyer would have little difficulty in preparing an adequate cross-

examination. If the deposition of a critical witness is to be taken, the trial judge should consider the problems of the defense and require adequate disclosure by the prosecution before granting the right to proceed by deposition.

I repeat that a deposition is, of course, not as good as actual attendance at a trial. No one maintains that it is. But we must recognize with our increasingly mobile society and the demands upon the time of so many people that attendance of all at a trial has become an increasingly complex and difficult matter. Videotape presentations are an improvement over old methods and may well be adequate enough to safeguard the rights of the defendant without impairing the rights of the public.

I've had the privilege of sitting through a civil case which was tried twice, the first one ended in a hung jury, and utilized only the old fashioned stenographically recorded type of deposition. The second trial used videotape. The difference between the impressions gained between hearing a mere reading of the old fashioned deposition and watching and listening to the videotape recording was startling. If I had ever had any doubt, this trial convinced me of the necessity and the desirability of viewing the witness while he gives his testimony.

In another case that I tried, the parties had gone to the precaution of having a court stenographer prepare a transcript during the videotaped deposition. I read the transcript before the trial started and, again, was amazed at how differently I was affected by the visual presentation. Statements that seemed clear and positive on the printed page became defensive, argumentative and equivocal when seen on the monitor. I must admit that my view of the testimony changed from the time that I had read it in the deposition to when I had seen it on the video screen.

We are not very considerate of the witnesses in criminal proceedings. They must often wait for days to be called, oftentimes they will appear at the courthouse only to find that the case has been postponed at the last minute. Witnesses often appear before a Grand Jury, a preliminary hearing, and the trial itself. Indeed the innocent victim often is inconvenienced as much if not more than a guilty defendant in a criminal prosecution. Videotape offers a way to limit the number of appearances of witnesses at court trials.

The critical witness in organized crime cases also offers an opportunity for utilization of video. The Organized Crime Act already authorizes depositions in such situations. Can't you see though, how the fact that a witness had testified and his evidence was in "The Can" on tape would tend to remove an inducement to do away with him before the trial. What would the organized criminal gain by killing the witness when his testimony is readily available to the jury in any event. The accused would be doing little in such a case to help himself and would be merely adding to his troubles.

I have sat through a number of *Jackson* v. *Denno* hearings whose object as you know is to determine if a confession was voluntary. Some of these proceedings pose difficult factual questions. This is a particularly important area of the criminal law because we all have heard of cases where confessions have, in fact, turned out to be coerced or inaccurate. I can't help thinking that most of the questions would have been far easier to decide if the confession had been put on videotape instead of being typed out by the police officer by the painful, hunt and peck, one finger, method. Indeed I suspect that many of the hearings would not even have been held at all if counsel had had the opportunity to view the tape in advance. Videotaping of confessions by the police should not only be encouraged but in fact, in my view, mandated.

Surely the use of a closed circuit T.V. to cope with the disruptive defendant situation is a far better solution that gagging him or removing him from the courtroom with no access to what is transpiring during his absence. It offers a way of allowing the proceedings to continue in an orderly manner and yet eliminate the "In Absentia" type of trial which is so offensive to American tradition.

While there has been an encouragingly frequent use of videotape in civil cases, there has been little activity in the criminal field. One interesting case which happened recently, however, is worth describing. Last November a witness who had terminal cancer and as a result had his vocal chords removed was videotaped in the hospital with an interpreter using lip reading technique to vocalize the witness' testimony. By the time the case came to trial in the California state court just a month or two ago, the witness was dead. The trial judge, however, permitted the use of the testimony and the defendant was convicted. This case, of course, has not yet been up on appeal but the fact situation is certainly very interesting.

I understand that one United States magistrate in California has been successful in persuading the attorneys to take the videotape deposition of material witnesses in some immigration cases so that these witnesses may be freed from jail far in advance of trial.

The videotape equipment presently on the market is very portable and its use in describing the scenes or incidents of crimes has not yet been utilized to any degree. There is one film which I have seen of some California police during the course of a raid on some premises. The police in Denver, Colorado for some years have used videotape as an aid to conviction in drunk driving cases. But I think it is obvious that if instead of the ordinary still pictures we could have the videotape record of what the police see on their first visit to the scene of a crime, the matter would be much clearer for both judge and jury.

I tried a criminal case just a few months ago where the description of a staircase and its location within a cellar was of vital importance. Although a number of witnesses testified to this fact, I was unable to understand the critical facts and adjourned the case for a half day so that I could travel to the scene of the premises. In this particular instance not a great deal of time was lost since the premises were not far from the courthouse. It would have been different, however, if they had been many miles removed from the place where the trial was held. Again, a videotape presentation would have saved many words, conveyed the idea clearly, and saved considerable time.

Presently available on a limited basis is the picture telephone which shows the image of the parties as well as carries their voices. It won't be too long before we will be able to take a witness's testimony in a distant city and flash his picture on a screen in the courtroom. Whether we use the telephone company cables or some species of closed circut T.V. is still to be resolved but the advent of the picture phone and its use in the courtroom is very close.

The advantages of not being required to bring in a witness from a distant area are obvious. Particularly useful for this type of presentation would be that testimony of an expert witness, for example, which we so often encounter in cases brought in the Federal Court. The FBI refers matters to its experts in Washington, perhaps for an opinion on handwriting or chemical analysis and so forth. I have had to continue cases because the expert was testifying in another court in another city at the particular time that we needed him in my courtroom. This type of delay would be eliminated when we can have the man in Washington make an appointment to appear on the picture phone at a certain hour on a certain day. He would be able to testify in three or four cities on the same day without leaving the District of Columbia.

These technological developments being utilized and contemplated for use in the courts are really small steps, as I see them, but they do indicate that the courts are receptive to modern technology and do realize that they can be helpful in helping us perform our task more efficiently and in less time, without sacrificing the quality of the justice being administered. The demands upon the judicial system today require that we be alert for every opportunity to improve our work through modern scientific methods. I am convinced that properly utilized and with appropriate safeguards, technology can be helpful without impairing constitutional safeguards.

Chairman PEPPER. The committee will adjourn until 10 o'clock tomorrow morning in this room.

[Whereupon, at 3:55 p.m., the committee adjourned, to reconvene at 10 a.m., Thursday, May 3, 1973.]

STREET CRIME IN AMERICA

(Prosecution and Court Innovations)

THURSDAY, MAY 3, 1973

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON CRIME,
Washington, D.C.

The committee met, pursuant to notice, at 10:20 a.m., in room 1302, Longworth House Office Building, Hon. Claude Pepper (chairman) presiding.

Present: Representatives Pepper, Brasco, Mann, Rangel, Steiger, Winn, and Sandman.

Also present: Chris Nolde, chief counsel; Robert Trainor, assistant counsel; and Leroy Bedell, hearings officer.

Chairman PEPPER. The committee will come to order, please.

Mr. Counsel, will you introduce the first witness.

Mr. NOLDE. Thank you, Mr. Chairman.

We are pleased to have with us this morning, Judge Halleck of the Superior Court of the District of Columbia.

Judge Halleck is a graduate of Williams College and the George Washington University Law School. Judge Halleck served as an officer in the U.S. Navy for 4 years. He clerked for Judge Alexander Holtzoff of the U.S. district court, was an assistant U.S. attorney in the District of Columbia for 2 years, was an associate of the well-known Washington law firm of Hogan & Hartson.

He was appointed to the bench in October of 1965. He is now a judge in the Superior Court of the District of Columbia.

Judge Halleck, we are pleased to have you here this morning.

Chairman PEPPER. Judge Halleck, I would not want the time to pass without saying that I had the honor of serving in the Congress with your distinguished father, who has been my friend for a great many years, and I think you render most favorable service on the bench.

We are delighted to have you here. I appreciate your coming.

STATEMENT OF HON. CHARLES WHITE HALLECK, JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Judge HALLECK. Thank you, Mr. Chairman.

Recently there has been a plethora of rhetoric about law and order and crime in the streets which, unfortunately, seems to have generated a good deal more heat than light. The criminal justice system has come under increasing fire for its alleged inability to deal with the problem of crime in the streets, and more frequently are we treated to the spectacle of various elements within the system heaping blame on other

elements of the system in order to avoid any responsibility for apparent failures. It is important at the outset, then, to define the problem and the system intended to deal with it.

"Crime in the Streets" has become a convenient catch phrase of dubious value. Viewed from the perspective of the citizenry, it represents the source of gnawing fear that makes people afraid to go out at night, that makes people watch over their shoulders, and turns homes and businesses into armed camps behind locked and bolted doors. Essentially crime in the streets is urban crime; it is big city crime in the inner or core areas. It is crime committed by the poor, the addict, the underprivileged, and the minority groups. And this is so because of societal, cultural, and economic problems which cry for solution on a vast scale. Yet, these are problems which call for solutions manifestly beyond the power of the criminal justice system to provide. Police cannot eradicate poverty. Prosecutors and defense lawyers cannot improve education; nor can judges train the disadvantaged or provide jobs for them. The Department of Corrections cannot erase prejudice. The problems of urban blight and continuing inner-city decay are beyond the ken of probation officers, be they either soft or hardheaded. But it is, I think, essential that we realize that it is inner-city crime that we mean when we talk of crime in the streets, and it is the larger cities of America that pose the real problems. Finally, in defining the subject matter, it is equally important to bear in mind the kinds of crimes that the citizenry fear when crime in the streets is discussed. People stay in their houses at night because they are afraid of the depredations of those perfect strangers who may commit a crime of violence. Robbery, theft, pocketbook snatch, and to a lesser extent rape and physical assault, are the crimes the citizens fear.

Burglaries, auto thefts, store holdups, bank robberies, strong-armed larcenies, and other types of violent economic crimes against property by persons previously unknown to the victims are the crimes that put dread in the hearts of our law-abiding citizens. In essence, these are personal and economic crimes committed by strangers. Crimes which place in jeopardy the person or the property of the victim are the crimes which the public fears and which the public properly expects the criminal justice system to deal with most efficiently.

Unfortunately, the public expectation frequently exceeds the ability of the system to perform, and the result is a cacophony of excuses and blame shifting designed to win public approval for the efforts by the part of the system under fire, and to cause the disenchanted public to cast about elsewhere for a convenient whipping boy—I rather hesitate to use the word "scapegoat" these days, Mr. Chairman.

Politicians too easily play upon public concern about the state of crime in the city streets in order to win voter approval for promised, but not particularized, efforts to do something about it. The criminal justice system itself is essentially an adversary system, in which various parts are constantly pitted against each other in a search for truth. Unfortunately, the very nature of the beast militates against cooperative efforts. As a result, the public seldom, if ever, gets a real overview of the whole system, and in large measure is led to believe that this or that particular shoring up of this or that segment of the system will produce a Christlike miracle, a delusion frequently fostered

by the part of the system that is the recipient of public money at the moment.

A major and distressing fallout from this sort of piecemeal approach is a tendency, ultimately, to cast blame on permissive courts, or lenient, softheaded judges. Perhaps we judges are in part at fault for the fact that too often we are blamed for the ills of the entire criminal justice system, because we tend to remain aloof from all attacks, neither answering nor casting blame on others. We are expected to remain detached and silent on our benches, while we observe the frequently insoluble problems whirling before our eyes.

We must apply the laws written by others for the benefit of the guilty and innocent alike, and yet we must suffer in silence while others exhort the public through the medium of roadside billboards to impeach us or, at a more mundane level, seek to blame the judges for allowing so many people to be released into the community on bond, probation, or parole that 80 percent of the robberies in this city could be halted if we would but lock everybody up. I am here neither to defend myself, nor to cast blame on others. I would hope to be able to point out that we are all part of a much larger system, and that only through our concerted efforts at educating the public to our respective roles, obligations, and limitations, can we expect public support and confidence in our fight against crime.

Essentially, the criminal justice system begins with the citizens, and includes the police, the sheriff or marshal, the juries—both grand and petit—prosecutors, defense lawyers, judges, court support personnel, probation officers, departments of correction, parole boards, and parole officers. Citizens play a major role, as both wrongdoers and victims, witnesses, and jurors.

Without the full understanding and cooperation of the citizenry, the system simply cannot function. Witnesses are necessary, and citizen efforts to prevent crime are indispensable. There simply are not enough policemen to play the criminal man-to-man, or one-on-one. When citizens allow Kitty Genovese to be murdered, they can scarcely be heard to complain about crime in the city streets.

Consequently, citizen support of police and the court system is essential. Constant carping at the courts undermines that citizen confidence, and is, then, in the final analysis, counterproductive. Rather, the police, the prosecutors, the courts, and corrections must seek to understand and appreciate each other's functions and limitations, and join in explaining the system frankly and honestly to the general public. Community relations is not something that should be left solely to the police by default.

When we recognize the real nature of crime in the city streets, it should become apparent that we are too often diverting our police from efforts to prevent and solve such crimes. In many of our major cities, fully 50 percent of the arrests made by police, with the concomitant expenditure of money and time by lawyers, courts, and prisons, are for victimless crimes. Public drunkenness leads the parade.

Fortunately, in the District of Columbia, police no longer arrest for public drunkenness, and there has been no noticeable change in the number of drunks on the public ways, while the criminal justice system has been relieved of huge numbers of "criminals" whose only victims were themselves.

Similarly, the expenditure of large police, court, and corrections efforts to abolish gambling in the District of Columbia seems incongruous when compared with a State supported and run numbers game in the neighboring States of Maryland and New Jersey. The public soon understands that gambling is not wrong, it is just that certain kinds in certain places are supposed to be wrong. Selling taxpaid whisky out of the back door after liquor stores close is hardly in the forefront of crimes which prevent citizens from leaving their barricaded homes. Vast numbers of police, as well as the additional services of courts, are used in a continuing effort to enforce some vague standard of morality upon the sexual activities in private of willing, consenting adults.

The standard of public morality should not be enforced by police and prosecutors, particularly where there is no victim who has been wronged and who makes no complaint to police. Manifestly, if we are to focus our resources and our attention on crime in the city streets, as I have defined it, in our efforts to make our cities safe, then we must remove victimless crime from the ambit of the criminal justice system. While I certainly do not, for example, condone the use of marihuana by young people, if the wherewithal to wage war on narcotic traffic is limited, then it would seem that police and prosecution efforts should be directed at halting the importation and distribution of hard drugs, such as heroin.

Perhaps the most essential ingredient in the criminal justice system is public money, for it is the tax dollar which pays the bill. Police, prosecutors, and by virtue of recent Supreme Court rulings defense attorneys, as well as judges and all supporting court personnel, and the entire probation, corrections, and parole functions must be paid for by public funds. The taxpayer is not a bottomless pit. Therefore, priorities must be established in the use of such tax dollars. Only through public understanding of the relationship of all parts of the system, and their perspective limits, can such priorities be established wisely.

Some examples may illustrate this thesis. Recently, Police Chief Jerry Wilson, in testimony before this committee, attributed some 80 percent of the robberies in Washington to persons who were at the time on some form of bond, probation, or parole. The implication is that the courts, therefore, are responsible for 80 percent of the robberies. Putting aside the fact that the police only solve one out of five reported robberies, so that they could hardly know who committed the remaining four out of five robberies, the statement highlights my premise.

Included among court-released robbers are many for whom the court many months earlier issued a bench warrant calling for their immediate apprehension, arrest, and presentation to the court. Those warrants, unfortunately, go unserved. The problem of failure to execute bench warrants is one that plagues all city courts, and in New York City, for example, the problem has reached monumental proportions.

Let me interject at this point, I don't wish to be criticizing Chief Wilson unnecessarily. I think we have the finest chief of police that any city could have and he has done an excellent job here. There has been a lot of talk about whether or not crime has really been reduced in

the District of Columbia. There have been lots of accusations about a numbers game being played with the crime figures.

Mr. Chairman, a couple of nights ago I rode with a police sergeant in an unmarked car during the 3-to-11 p.m. shift, in the Third District, which is supposed to be one of our high-crime areas. I was amazed at the lack of calls that were coming over the police radio indicating crimes being committed. It was quite an eye opener to me to find that indeed the number of reported serious crime is way down in the District of Columbia.

Now, I think Chief Wilson deserves a lot of credit for that. I think the Narcotic Treatment Administration under Dr. Robert DuPont deserves a major amount of credit for that. And if I may not be accused of being a little too overzealous, on my own behalf, I think that Chief Judge Greene and our court deserve a lot of credit.

However, in regard to this bench warrant problem, I think the dynamics of the problem can best be illustrated by an actual case.

On October 20, 1972, one Julia E. Wade was arrested and presented before a judge of our court. She was charged with having forged a credit card sales slip in a local store. On the basis of the limited information presented to the court, she was released on third-party custody in accordance with the Bail Act provisions in the D.C. Code. She appeared and was given a preliminary hearing 1 week later. Then on November 1 she was indicted on five counts including burglary, grand larceny, forgery and uttering.

The indictment was assigned to me for trial. However, on November 4 she was arrested on a city street and charged with a narcotics law violation. The prosecutor, for no articulated reason, elected not to prosecute and ordered her released. I was never notified of this fact. Ultimately, she failed to appear before me on November 10 for arraignment, and I issued a bench warrant for her immediate arrest and presentation before the court. At about this time I was engaged in a series of letter exchanges with the U.S. marshal, the U.S. attorney, and the chief of police, as well as the bail agency, regarding an excessive number of outstanding bench warrants in felony cases assigned to me.

The result of that extended correspondence was essentially that none of the parts of the system were willing to accept any responsibility for the problem, and were instead earnestly attempting to shift the blame to someone else. It developed that the police took the attitude that since they had locked the people up once, they were not going to look for them again, and suggested that the fault lay with the lenient courts who erroneously released the defendants in the first place.

Of course, the court must follow the statutes, the eighth amendment, and rely upon information furnished by the bail agency, the prosecutors, the police, and other parts of the system. For some reason, the prosecutors do not use the preventive detention provision which has recently been put on the books. The U.S. marshal, a division of the Department of Justice, is simply too understaffed and overworked to serve bench warrants. Indeed, they are occasionally hard put just to provide required sevices in the courthouse.

The bail agency is understaffed and underfinanced to the extent that it cannot perform all of the functions assigned to it by statute. The prosecutors and police are unable to provide enough information quick-

ly enough to enable a judge to have adequate help in setting bond. In short, the various statutory schemes exist, and provisions are made for the performance of these various functions within the system, but when push comes to shove, there is inadequate funding and staffing to carry out the statutory mandate.

Consequently, all parts of the system, recognizing the seriousness of the problem, and the bad image that disclosure of the extent of it will create, busily engage themselves in blame shifting and justification for inaction. Meanwhile, defendants who have been ordered arrested and brought in through the issuance of bench warrants remain at large. In Miss Wade's case, she remained at large until March 13, 1973, at which time, by her own alleged admission, she apparently robbed one Houston businessman at gunpoint in the Mayflower Hotel, and 45 minutes later shot another Houston businessman to death in a parking lot a block south of the Washington Hilton. She was ultimately arrested for armed robbery and felony murder on March 26.

It belabors the obvious to say that if she had been sought out and arrested during the 4 months the bench warrant was outstanding, a murder and an armed robbery would not have occurred. It is also interesting to note that the police solved the subsequent crimes, and then located and arrested the woman in less than 2 weeks. It might not be amiss to ask why that diligence was not applied to the bench warrant case. I mention this to show that when the chief of police suggests that the lenient judges and probation officers are responsible for releasing persons who commit 80 percent of the robberies, that figure does not disclose how many of those persons had already been perceived a potential violator by the court or parole or probation officers, and for whom a warrent had already been issued.

The large number of unserved warrants are an acute embarrassment to any part of the system affected by them, but it does not serve the cause of reducing crime in the city streets to disclaim responsibility for the problem while at the same time blaming others. This type of blame shifting numbers game that is played by police and others is but another example of what I am talking about. I commend to you, in this regard, a report of a Subcommittee of the Criminal Justice Coordinating Board in the District of Columbia which deals particularly with this situation of the "number game."

I have a copy of it, Mr. Chairman, which I would tender to the committee for your convenience and for your information.

Chairman Pepper. We thank you for it. It will be included in our record.

[The report referred to was retained in the committee files.]

Judge Halleck. Thank you.

There is no question but that we in the District of Columbia have made major inroads in the crime situation. Yet, we must, I think, devote more of our limited resources to attacking the type of serious crime that occurs in the inner city streets, and less of it to victimless crimes, and crimes at the lower end of the spectrum of criminality. In this connection, I would heartily recommend a long delayed overhaul and modernization of the District of Columbia Criminal Code, much as the President has called for such a modernization of the Federal Criminal Code. Only in this way can we bring modern methods to bear on realistic crime problems.

I should like to close by taking, on behalf of the recently reorganized superior court and the District of Columbia Court of Appeals, a little credit for some of the success in the fight against crime here in Washington. I would commend to you the latest annual report of the courts which discloses the current status of our calendars in spite of dramatically increased caseloads.

Again, I brought an extra copy of it along, Mr. Chairman, which I would provide for the committee at this time.

Chairman PEPPER. Thank you very much. We will put it in our files.

[The information above-referred to will be found in the committee files.]

No greater force exists for effective crime control than prompt, fair, and efficient justice. I only wish that as much emphasis could be placed upon the needs of corrections, for I am sure you will share my concern with the paucity of viable alternatives for a sentencing judge who, as I in 1972, sentenced 1,600 defendants after conviction of serious misdemeanors or felonies.

I might add, I am only one of 44 judges on our courts. My own caseload in 1972 resulted in 1,600 sentences, carrying maximums of anywhere from a year to life.

Chairman PEPPER. 1,600 cases?

Judge HALLECK. 1,600 sentences, Mr. Chairman, not cases. Those were convictions of individuals I had to sentence. Bear in mind, that is more people than currently constitute the population of Lorton Penitentiary. If I had sent everyone of them to jail for at least a year, somebody would have had to build a second Lorton Penitentiary to accommodate them. I don't think the general public realizes we just simply can't put everybody in jail.

Mr. Chairman, our commitments are large, our resources limited, and our satisfactions often seem insignificant. Only through realistically, pragmatically reordered priorities which recognize the true nature of the problem of crime in the city streets can we make meaningful progress. Hopefully, an enlightened and informed public, rather than a propagandized electorate, will appreciate the true situation, and offer its support to a unified and mutually supportive criminal justice system.

That completes my prepared statement, Mr. Chairman. I would be only too happy to try and answer any questions which the committee might have.

Chairman PEPPER. Mr. Winn, do you care to inquire?

Mr. WINN. I would like to pass at this time, Mr. Chairman, and come back a little later, if I may.

Chairman PEPPER. Mr. Steiger.

Mr. STEIGER. Thank you, Mr. Chairman.

Your Honor, I think the chairman of the committee should know that Judge Halleck married me.

Judge HALLECK. No. I performed the wedding.

Mr. STEIGER. My wife would be happy about that.

Chairman PEPPER. That is one of the sentences that apparently worked out very well.

Judge HALLECK. That is a life sentence with the possibility of parole at any time.

Mr. STEIGER. I would like to know, because I know you are famous for your candor, just what exactly has happened to you. There must be something in this process of your tenure on the bench.

I view the statement in which you, I think, have properly pointed out that the various elements of the criminal justice system are at odds with one another. Then you go into a three-page detail in which you point out that the courts are great and the U.S. marshal is messing up, and the prosecutors are fouling up, and if only everybody would do what the courts are doing, we would be in good shape.

Nobody understands the need for self-aggrandizement any better than the people in this body, and I don't dispute that, but for you to belabor the victimless crime on the one hand—and I think you get a lot of sympathy here—and in the same paragraph you refer to this lady's, Miss Wade's, problem as either narcotic addiction or involvement in some kind of narcotic offense.

Hard drugs has to come under the category of victimless crimes, at least as far as the willing victim. You are not exempting, I gather, the diligent prosecution of hard-drug traffic?

Judge HALLECK. No, indeed.

Mr. STEIGER. Do you consider that part of the victimless crime process?

Judge HALLECK. No, indeed, I do not, Congressman. I don't want to be misunderstood in that connection.

It seems to me that we have seen a tremendous reduction in hard drugs in the District of Columbia. We have seen a dramatic decrease in the amount of drug-related crime. Now, I attribute that to a number of things. First of all, I think the President's emphasis on shutting off the importation of heroin and going after the major traffickers is exactly what is needed. It doesn't solve the basic problem of the importation of heroin into this country to walk up and down the streets arresting every individual who has a small amount of heroin for his own use.

All you are doing there is dealing with the ultimate symptoms. The emphasis properly has been placed, in my view, for this administration, on shutting off the neck of the funnel. Now, when it comes to heroin traffickers, persons that are dealing, importing, selling drugs, as far as I am concerned those people deserve long-term sentences and the serious concern of the prosecutors, the police, and the courts.

But what I am trying to say, Congressman, is that I am just not sure that we have enough policemen and enough at our disposal to be able to get after that serious part of the problem and at the same time have dozens of undercover officers walking up and down Georgetown trying to arrest every kid who is smoking a "joint." Because the kid that is brought in for smoking a "joint" is going to take just as much time and cost just as much in terms of bringing him through the system, putting him to trial, and ultimately doing something with him in the field of corrections, or parole, or probation, as a more serious seller of heroin.

This is not to say that I condone for a moment the use of marihuana. I don't.

Mr. STEIGER. You made that clear.

Judge HALLECK. But what I am saying is, it seems to me that if we have a limited resource, as indeed we do, then we have to put it to work on the more serious aspects of the problem.

For example, many, many cities spend perhaps a third or a half of their police effort arresting drunks, and yet they have major problems with robbery, burglary, auto theft, and crimes of that nature. What I am trying to say—perhaps I haven't made it clear—is that it seems to me the system itself ought to be focusing on robbery, burglary, auto theft, housebreaking, bank robbery, things of that sort, where it comes to having to make a determination as to where we put our effort.

Mr. STEIGER. All right. You cite 1,600 sentences which you accomplished in your court in 1972. How many of those were the direct result of plea bargaining with regard to the collaboration of the prosecutor and the defense attorney and yourself?

Judge HALLECK. None. I do not engage in plea bargaining and no judge in my court does, to my knowledge.

Mr. STEIGER. How many of those were the result of plea bargaining between the prosecutor and defense attorney?

Judge HALLECK. Let's define what we mean by "plea bargaining."

Mr. STEIGER. I would tell you my definition. Plea bargaining is where the defense and the prosecutor agree on what the accused will plead guilty to, and both agree, prosecutor agrees not to offer whatever other charges might be pending against the accused and the defense counsel accepts that agreement. That is my definition of plea bargaining.

Judge HALLECK. Well, on that basis, a number of them come up that way and I will come back to that.

The reason I asked you what you mean by plea bargaining is this: Many people are under the impression that plea bargaining involves what is done in other major cities, New York, for one, that I am told, or at least I am told exists there, and this is where some arrangement is made about what the sentence is going to be.

There was an interesting survey done under the auspices of LEAA in Connecticut, in which prisoners were interviewed extensively about what their impressions were of the criminal justice system. And in Connecticut, in the New Haven area, the major impression that the prisoners gave was that the judge was nothing more than a rubber stamp for the prosecutor.

Now, hopefully, in my court, and throughout the District of Columbia courts, that cannot be said. There are numbers of instances in which a defendant pleads to one or two charges and others are dismissed. Let me give you an example.

The prosecutor gets someone charged with stealing an automobile in the District of Columbia. That is essentially unauthorized use of a motor vehicle. He is caught driving down the street in somebody else's car by the police and he is removed from it, and he is brought in. Unauthorized use of a motor vehicle in the District of Columbia—and I might say, all provisions of the District of Columbia Code are passed by Congress, so if they are not right, I guess this is the place to go to change them—is a 5-year felony.

The indictment comes down, they charge the man with unauthorized use of a motor vehicle, receiving stolen property, and grand larceny. They have three counts in the indictment. The actual crime is unauthorized use.

In many instances, individuals are overindicted in just that fashion. I would suggest that one of the reasons is that it makes it possible for the prosecutor to go to the defendant and his attorney and say, "Look,

if you plead to unauthorized use, we will drop those other two charges."

Now, those other two charges are unrealistic anyway. In the first instance, you can't be guilty of receiving stolen property and stealing it. It has got to be one or the other. So that is essentially no deal at all.

But the defendant is not quite so sophisticated enough frequently to understand that. So he ultimately winds up pleading to unauthorized use and two counts are dismissed.

Mr. STEIGER. Excuse me. I don't mean to interrupt you, but I understand what you are saying. I think for our purposes, it would help if we had some kind of quantitative look at this. Of the 1,600 sentences you imposed, how many were the result of a guilty plea?

Forget plea bargaining, since you really have no way of knowing actually how many of those were the result of agreement. How many were the result of a guilty plea?

Judge HALLECK. I can only give you the figures for the 6-month period when I served in felony court. The vast majority of those 1,600 were misdemeanors because I sat in misdemeanor court for a long period of time; and those involved sentences where the sentence could be any time from 1 to 3 years.

As to the felony court assignment, I recently finished a 6-month assignment. I cleared 270 felony cases in 6 months. That is just about the number that got sent to me. In other words, I was keeping even. I was making a little inroad because I had a somewhat larger caseload turned over to me than I turned over to the next judge. But essentially, that is about keeping even.

Of that 270 cases, exactly 27 went to jury trial. That is one out of 10 cases and that comports with about the average throughout the country. It is my understanding that at one point, Ramsey Clark, when he was Attorney General, made some surveys and he was on a television program up in Boston one time with me and used the figures that throughout the Federal System about 90 percent of the cases were disposed of by pleas of guilty.

Mr. STEIGER. OK. Excuse me. You will be interested to know that also corresponds to the national average for disposal of felony matters in State courts also. All right.

Now, given that understanding, recognizing that——

Judge HALLECK. May I interrupt? Of those 270 cases, 175 pled guilty.

Mr. STEIGER. You have 27 that went to jury, 175 were guilty pleas, which would bring us up to 202. What happened to the other 68, or whatever it was?

Judge HALLECK. There were about 10 nonjury trials in there and the balance of the cases were disposed of either by some sort of dismissal by the prosecutor or the court.

Mr. STEIGER. All right. Recognizing that—and your experience is in keeping with the national average—recognizing those 175 guilty pleas, it is only realistic to assume there was some discussion between the prosecutor and defense. It is not reasonable to assume there wasn't. We had some eloquent testimony here yesterday as to the mechanics of plea bargaining. It becomes very obvious that without it the breakdown in the system would be fantastic. The caseload would be prohibitive.

From your experience and recognizing you are as equally concerned about the causes of crime and the social implications as you are with

the victim and the criminal himself—you have demonstrated that amply over the last 4 or 5 years—with that in mind, do you feel that an orderly system of plea bargaining, whereby all of the plea bargaining was laid on the table, where the court was consulted after the prosecution and the defense had reached an agreement, and the court was privy to all of the facts in the matter privately, and the plea bargaining was a matter of record, and included in the plea bargaining then would be sentence bargaining, do you feel that that would be useful? Would it constitute justice? What would your reaction be to a formal procedure of what is now clearly in many courts, both Federal and State, at least an informal practice?

Judge HALLECK. I believe that the plea bargaining aspect of it, as you have described it, ought to be on the record, or ought to be at least available to the judge and he ought to know about it.

Mr. STEIGER. Was it in the 175 guilty pleas?

Judge HALLECK. Yes. As a matter of fact, we have in our system what we call "status calls" in which the prosecutor and the defense are called in before the judge. In felony court, the cases are assigned to us for all purposes. It is an individual calendar system. What I do is call in the prosecutor and the defense lawyer in open court, in a status call, with a reporter there. Everything is on the record. And the defendant is there. At which point you ask the prosecutor, "What is your case all about? Tell me what you have got."

You ask the defense lawyer, "What is your opinion on this? What is your defense, if any?

Then you ask them, "Are you willing to plead to anything and, if so, what?" You ask the prosecutor, "Are you willing to take a plea to anything and, if so, what?"

Now, many times you get a situation in which there may be a number of counts in the indictment, one or two of which are "locked" and the others may be questionable. All of that is right on the record. And to a certain extent, I participate in that, in that I make the parties discuss the matter right there in front of me, put it right out on the table. Much like you do a pretrial in a civil case. Out of that frequently comes a plea.

Now, I don't believe that a judge ought to agree at that juncture exactly what the sentence is going to be. And as far as that phase of plea bargaining goes, my own personal view is I am not for it.

In my court, when the individual defendant gets ready to plead to whatever it is the prosecutor and the defense lawyer agreed is an offense he is going to plead to it in the indictment, when he pleads in front of me I make it clear to him on the record that no matter what may have been told to him by anybody, I have made no deals and no promises about the sentence. The maximum penalty is "x", perhaps 10 years, 20 years, life, whatever it may be. And I haven't made any deals about it and I am going to get a probation report and I am going to look into this matter, and the only thing I can promise you is I will try to be fair and I will look into it and find out about you and find out about the crime, get all of the facts; but I am not going to make any deals about the sentence.

One of the ways that works is that I had a young man in my court plead guilty to two counts of armed robbery out of about six or eight counts and his counsel thought that he was going to get a break. I made it abundantly clear to him at the outset, the maximum penalty was life,

and as far as I was concerned he would get anywhere from a suspended sentence to life and I wasn't making any deals.

He wound up getting the first life sentence from me that was handed down in the superior court.

When I looked into the matter and found out about his long history of institutionalization, followed by armed robbery followed by more institutionalization, followed by more armed robberies, I made the conclusion in my own mind, as the sentencing judge, that here is an individual that has become an institutional problem. I gave him 15 years to life. That leaves it up to the parole and corrections department when he reaches a state when he may be safely released back in the community in some fashion.

Mr. STEIGER. Be eligible for parole in 5 years; is that correct?

Judge HALLECK. I don't believe so.

Mr. STEIGER. A third of a minimum.

I yield to the gentleman from New York.

I want to say at the outset, if your statement was restricted to what was written, I certainly support it. The plea bargaining is always such an intriguing contract to me, that, when you say you don't make a deal, you make that clear to the defendant, that you are not making any promises to him, reminds me of something I heard the other night when they said, "I take full responsibility for whatever happened, but I am just not a part of it."

Judge HALLECK. You don't want me to comment on that, do you?

Mr. RANGEL. No; but somewhere along the line you are assuming this defendant has been talking with the prosecutor through his lawyer.

Judge HALLECK. I know he has.

Mr. RANGEL. And they have talked with you.

Judge HALLECK. No; I make them do that on the record. Nobody comes in and talks to me individually.

Mr. RANGEL. On the record, but the defendant wasn't there.

Judge HALLECK. He is there. He is standing right there beside his lawyer.

Mr. RANGEL. If you don't make any deal and the defendant comes in with the possibility of facing 20 years, what possible incentive would he have to plead guilty rather than take the risk that the prosecutor or the State may not, whatever you call it, the district attorney may not be able to prove his guilt beyond a reasonable doubt? He always has that going for him.

Now, when he comes before you, what are you offering him so that he should not take his gamble before the jury?

Judge HALLECK. A fair shake.

Mr. RANGEL. Well, sometimes that is not what the defendant wants.

Judge HALLECK. I understand that. But you see, in a lot of instances the prosecution case is so strong there is no question about it. You take somebody who is in an unauthorized use of an automobile case. The police get him driving down the street after a chase and they get him out of the car and it has been hot wired. There is no defense. It is an open-and-shut matter. There is no question about it.

Mr. RANGEL. I am in total agreement with you, Judge. Confession, eyewitnesses, everything, he comes to you; there is a maximum of 20 years. And you tell him, "No deal."

Judge HALLECK. Well——

Mr. Rangel. He knows that with 12 jurors, there just might be a psychotic, sympathetic member of that jury and he has got his "deal" and he walks away.

Judge Halleck. The only thing I can say to you is it doesn't happen that way.

When I was defending, and for a long time after I left the prosecutor's office and came on the bench, one of the things I did as a private lawyer was to defend a great many people charged with crime. Back in those days we got assigned by the court to do it and we didn't get paid anything. We were out of pocket for all expenses. There was no money involved.

The thing has gotten so vast now that the Criminal Justice Act has undertaken to furnish counsel for indigent defendants and at this point, perhaps I should make a plug somewhere along the line for the Criminal Justice Act funds or some comparable funds for the District of Columbia.

If we don't have decent, good lawyers, young lawyers, being paid to come in and defend people, we are going to shut down. Because the Supreme Court has placed such a tremendous burden now on the court system to provide counsel for every defendant and we don't have them available and they can't be paid, they just simply won't come down and we will be in real trouble.

Mr. Rangel. Was that the local system or that Federal courts would not release the money available to them?

Judge Halleck. No. The problem is there is some belief that the Federal Criminal Justice Act no longer is going to apply to the District of Columbia, to the Superior Court of the District of Columbia.

Now, if that is so then Congress has got to appropriate special funds for it; it has got to be put into the District budget; it has got to come from someplace. And if it doesn't the only thing I can say to you is the court is going to be in real trouble.

As Congressman Steiger was talking about, if we don't get pleas, we break down. If you can imagine, in order for me just to keep current, I tried to a jury about—well, just exactly 10 percent of the cases that came before me. If I had to try 50 percent of the cases, I would be in real difficulty because I was getting indictments at the rate of 9, 10, 12 a week.

Mr. Steiger. Charlie, I am going to take back my time for just a second.

I am not going to debate you on the propriety of the sentence being involved in the plea bargaining. I must tell you I share Mr. Rangel's view that a prosecutor who bargains without any basis of sentence isn't really bargaining at all. So we are saying on the one hand that the plea bargaining is valid, but on the other hand we are not going to support it. But, obviously, we asked for your view.

What I do want to know specifically is the manner in which you have these pretrial sessions on the record. Is that a matter of your own discretion, a policy of this court, or a matter of law?

Judge Halleck. I would say that there is a basic policy of the court embodied in our rules involving the status calls, and to a certain extent it is within the discretion of the judge in what manner he wants to handle that.

Mr. Steiger. Do all members of this bench handle them the same way?

Judge HALLECK. I don't know. I never sat in anybody's court but my own, Congressman, and that is one of the difficulties.

Mr. STEIGER. You don't know how the others handle it?

Judge HALLECK. I suspect Mr. Work can give you a better answer than I can. I think basically they are.

Mr. STEIGER. But you never discussed it with other members of the court?

Judge HALLECK. Yes; but not in that much detail. As far as I know, in the felony branches of our court, where the judge sits in felony, by and large they are handled pretty much the same way. It may vary a little bit.

Mr. STEIGER. Some judges may get involved in sentence bargaining?

Judge HALLECK. I don't think anybody gets involved in sentence bargaining. Some judges will simply ask whether or not there is going to be a plea in this case and if the answer is no, they set it down for trial. When that happens, we just get further and further behind. The judge has to, it seems to me personally, become involved to a certain extent in order to keep the thing moving.

Let me tell you this, and it may answer both of you in terms of this question about plea bargaining. You may get somebody that is charged with armed robbery and he may be allowed to plead to robbery instead of armed robbery. The difference is the maximum penalty becomes 15 years instead of life. And that, I suppose, really gets down to a question of whether there is any value in having a maximum penalty of life available in so many cases.

You know, every offense now in the District of Columbia where the individual perpetrating it—serious felony cases, almost all of them—has in his possession or available to him, closely available to him, a gun or other dangerous weapon; it is not limited to guns. It could be knives, blackjacks, clubs, all manner of things. He can be charged with an armed offense. For committing a crime of violence while armed with a weapon, that puts the penalty up to life. If he is a third-time felon, or in other words, if he has been convicted twice before of a felony, he may be subject to life imprisonment.

I will give you an example of how absurd this can be. We had a felon convicted a couple of times before of minor felonies, unauthorized use or grand larceny of $120 in amount, something of that nature, and he gets involved at a hotel with an unpaid bill that grew out of some sort of party they had and he apparently got stuck with it and didn't pay it. He got charged with unpaid board bill over $100, a felony, and the U.S. attorney filed life papers on him for that.

Mr. STEIGER. Of course, the chances of that man receiving a life sentence are slim or none.

Judge HALLECK. Congressman, what it comes down to, I suppose, is this: You asked me earlier what had happened to me.

Mr. STEIGER. Yes. I really would like to know.

Judge HALLECK. Let me tell you.

Mr. STEIGER. He used to be tough.

Mr. RANGEL. He looks pretty tough to me.

Mr. STEIGER. Defendants fight for him.

Judge HALLECK. You see, after you have been around there awhile, you begin to see people coming back. You begin to wonder what you are doing, and why. You begin to learn a little something about corrections and about a lot of the problems of criminology and penology.

You know, it is an interesting thing. You get to be a judge without any background or knowledge in those affairs. I was an economics major at Williams College. I was in the Navy for 4 years. I studied law under the Case Book method, no practical experience. I went up and practiced law, did a lot of court of claims work, workmen's compensation work, some criminal work, a variety of things like that.

Then I came on the bench. I started out with this "Get tough, law and order" approach.

Then I began to read and to look at the people, to go down to the jails myself. I spent a couple of days down there during a conference, locked up in Lorton as a prisoner. I have gone around to the various institutions that I send people to and looked to see what it is they are doing and what is happening.

You begin to realize that the vast majority of people that you have to sentence, if you send them to jail, are within a reasonable period of time going to come back into the community. Long felony sentences, in my personal view, ought to be reserved for perhaps 10 percent of those people that come before us, who in essence really deserve it, who become, if you will, institutional cases. The others ought to have an option of serving a certain amount of time and then, within the Department of Corrections or the Board of Parole, becoming ultimately eligible, as they demonstrate their ability to conform, ought to become eligible to come back into the community under some sort of supervision, with that Sword of Damocles of backup time hanging over their head, if you will, but with the option to reintegrate into the community.

My idea about corrections is what we really are doing is trying to socialize, not in the political sense, but in the sociological sense, to try and socialize these people we send down there. In essence, that is what probation is all about, what parole is all about, what correction itself is all about. The vast majority that get into difficulty need that kind of approach.

I think the President himself has indicated that in recent speeches he has made, in indicating that we have to put new emphasis on corrections. The President spoke favorably about rehabilitation. That is a convenient word; although I don't like it because it presumes a prior state of habilitation you are trying to recreate, and in many instances the people coming before me simply never had it in the first place.

If somebody comes in, for example, charged with armed robbery, and he could get life and he pleads to robbery and he gets 15 years, if I give him, for example, 3 to 15 years that doesn't mean that he is being turned right back out on the street. What that does, in essence, is shift a certain amount of the responsibility ultimately over that individual to people that are much better equipped to judge him, to determine when he is rehabilitated and when he is able to go back in the street. The function is shifted to parole boards and departments of correction, which hopefully are sufficiently staffed and sufficiently well paid so they have good people there doing the proper job.

It seems incongruous to me that a judge at a given instance should look at somebody and say,

Well, Mr. Offender, I realize the rehabilitation is what we are after and I recognize all of these things you are up for, and I decide right now, based on no experience on my part in these fields, except just a gut reaction or a hunch, I recognize right now and I am telling you it is going to take you at least 10 years to get yourself together and 30 years at the maximum.

Now, I just don't believe that I am equipped to do that.

Sentencing is a very, very difficult thing for a judge. What most people don't realize is about 90 percent of our time, 90 percent of the cases we deal with, the most important decision we have to make is sentencing. We have to deal with people's lives.

There are a number of things that are supposed to go into that equation. Punishment, deterrent effect, rehabilitation. Those are the three major categories.

Punishment is viable and in many instances very definitely enters into the picture. The question gets to be how much should the punishment be—50 years or 2 years? Most of the investigators and the writers on the subject indicate that the punishment aspect of it reaches about its maximum effect after 2 years, give or take. You put somebody in jail for much more than that and the whole punishment idea is over and done with and all you do then is turn him around and really turn him against society, so ultimately when you let him out he is going to be 10 times worse then when you put him in.

If we are going to accept the idea there is a deterrent effect, then I think we ought, realistically, to look at who it is we are trying to deter and how we are trying to do it. Street crimes, the major street crimes that people are really afraid of, crimes in the streets, if you will, are committed by the individuals within the inner city who generally are in a milieu that involves a lot of criminal activity of one sort or another, antisocial activity.

Take robbery in the District of Columbia. Four out of five of them go undetected.

Mr. Steiger. Unreported.

Judge Halleck. Well, I am talking about the reported ones. There may be a lot more that are unreported, so the average is way down. But the young fellow out on the street knows that he has maybe only a 15-percent chance of ever being arrested for a robbery if he commits it.

I am a little bit reminded—it may be an Apocryphal story, I don't know—I heard this many times. Just before the troops went over to Normandy to land on Omaha Beach there were some speeches given by senior officers. At one time, one of the generals, addressing some of the troops just before they left, indicated to them that one out of three of you soldiers will be dead by the time this operation is over. Another one out of three of you will be wounded and only one out of three of you will come through unscathed. At which point every man in the line turned to the fellow on his right and the fellow on his left and said, "I am sorry about you two."

I suspect the same sort of approach goes on in the street. Nobody commits a crime expecting he is going to be caught. So when we talk about deterrent effect, you have to recognize right away the people we are trying to deter have a better idea than we do about how many people are doing it and getting away with it. So right away the idea crops up into his mind, "It doesn't really make any difference that Willie got 40 years for that the other day, because if I do it they are not going to catch me anyway."

So that comes into the equation.

The other factor is this: It doesn't do any good if I belt some defendant with a real severe sentence, hoping it is going to deter others, if others don't know about it. Hundreds and hundreds of sentences, thousands of sentences get handed down in the courts every year, and no-

body knows what they are, unless you are actively engaged in it or make some survey or some efforts to find out. So it seems to me that unless there is some real publication and wide dissemination of the fact that so-and-so got a stiff sentence and a tongue lashing from the judge, the deterrent effect may be somewhat suspect.

I am not suggesting there isn't a deterrent effect. But I would suggest to you that the greater deterrent is the prompt apprehension, prompt trial, and in the case of the guilty, prompt conviction.

Now, we have come to that point here in the District of Columbia. We have come to it in large measure because the vast number of the criminal cases that come in are disposed of in some way other than by trial. The reason we now have all of these cases is because it was assumed that our Superior Court is going to be able to move them more expeditiously than the U.S district court did. The district court got to the point where they were a year and a half behind in trying people. We can try them for a felony within 6 weeks after indictment.

Somebody who is apprehended by the police, brought in, indicted promptly, tried promptly and sentenced, it seems to me, is going to be an example that will serve as a much greater deterrent than the individual who is the one out of five who gets caught and brought into court, and then walks around on the street for a couple of years before his case comes to trial.

I can't think of anything worse in terms of deterrent effect, or any worse spectacle that the criminal justice system ever got involved in, than when 13 years after the fact they ultimately executed Caryl Chessman. It just made no sense to me as an individual. And I can imagine the deterrent effect of that, whatever it may have been, was so far removed from the offense that by the time they executed him that nobody remembered what it was he had done.

I don't know whether I have answered your question or not, Mr. Steiger.

Mr. STEIGER. I think I appreciate the depth of both the question and the answer. I would hope some of my colleagues would get into the bail bond situation here, but I have been monopolizing a lot of time, Mr. Chairman.

I thank you for your indulgence.

Chairman PEPPER. Mr. Rangel.

Mr. RANGEL. Judge, you probably will never make it, because you just make too much commonsense about the whole thing.

I think a problem that we face—and I say this as a lawyer and former Federal prosecutor—is that in dealing with the social problems there are such strong traditional barriers. Just as you say, "No deal." I can understand now in listening to you talk, and listening to my colleague, that there would be no need for any lawyer to ask for a deal when you have displayed a sense of fairness and justice that is truly equitable.

But when you say that your prisoners have such an attitude about justice so that they feel that the courts are just a rubber stamp for the prosecutor's office, to a certain degree, as far as a layman is concerned, they are right and it is so. Judges sometimes in the State of New York are forced to lie. They force the defendant to commit perjury. If someone pleads guilty to a lesser crime, there is nothing wrong in saying some type of "deal" has been made. Not an illegal deal, not a suppressive deal.

Obviously, the district attorney has laid out his case and persuaded the defendant that he should plead guilty to a lesser crime and he was persuaded to do it because he is guilty of the crime.

We have in New York judges asking defendants whether or not anyone promised them anything. And the defendant looks to his lawyer, whether he has been appointed or not, and the lawyer tells him, "No." Seldom, far more seldom than I can understand, the defendant doesn't say, "What in the heck are you talking about? Why am I pleading guilty if you haven't arranged something for me, rather than a life or 15-year sentence?"

I do hope, I guess I am not asking you a question, that from this committee we will have the opportunity to talk with people like you and we might be able to find some vehicle to disseminate this type of information, to bring all parts of law enforcement together. The lawyers are still talking Latin to each other. To walk into a New York City criminal court and hear a defendant pleading one of his rights is absolutely ridiculous.

I have been very impressed with your testimony before this committee. I hope that it is representative of the judges here in the District of Columbia. I would like to say I am a member of the D.C. Committee and we did have eloquent testimony as to what the cutoff of these funds for the defense counsel would mean. That committee is aware of what the effect of it would have on the judicial system generally.

I want to thank you for taking time out and coming here. I don't know whether we need a lot of lawyers on the bench or whether judges have to really apply the old common law traditions. I think society has changed and perhaps we are a little behind lawmakers as well as those who interpret the laws.

Again, thank you for coming.

Judge HALLECK. If I might make one comment to what you said. Before I take a plea from anybody, I don't ask him whether he did it. I say, "Tell me what happened," and I have him tell me in his own words—and I won't let his lawyer interrupt him. I have him tell me in his own words what he did, on the record. And on the basis of that, on the record, I can then make a judgment as to whether or not what he is telling me constitutes the elements of the offense to which he is pleading guilty. I will not take a plea from anybody who has not committed the offense to which he is pleading guilty. I do not allow him just simply to admit, "Yes, I did it." Instead, I have him tell me what the facts were and what is involved.

I think that is generally the case with most of the judges in our courts.

Mr. RANGEL. It protects the court from further appeals.

Judge HALLECK. Yes.

Mr. STEIGER. Would the gentleman yield?

Mr. RANGEL. Yes.

Mr. STEIGER. Do you address the interrogatory before you accept a guilty plea and before you pass sentence? Do you investigate the interrogatory—have you been promised anything in exchange for the guilty plea?

Judge Halleck. Yes. I generally put it this way and I don't go through a lot of formal rote and it gets me in trouble sometimes because I guess some people think I am not formal enough to be a judge. But in some respects it seems to me that the defendant and the people in the court system really don't understand it when, as the Congressman indicates, we talk Latin to each other.

I will generally say to the defendant something along these lines:

That I want you to understand that you are pleading guilty to this particular offense. I haven't made any deals about what the sentence is going to be. It can be anything from suspended sentence up to the maximum, which is so-and-so. And no matter what may have been told you, whether your lawyer or anybody else has told you I made any promise about what kind of sentence you are going to get, I want you to understand right now that I have not, and I will try to be as fair with you as I can. I will get a probation report, but I am not going to make any deal about the sentence.

I make that clear before I accept the plea and if he has any problem about it he can back off.

Mr. Steiger. Do you ask him, then, if he has received any promises of anything, or received anything—I have forgotten the ritual.

Judge Halleck. There is some question by rote asked him have you been made any promises; have you been coerced into a plea; and that sort of thing.

Mr. Steiger. Do you address that, or something like that?

Judge Halleck. Generally, I try to cover it.

Mr. Steiger. Do you accept the answer when he says, "No, I haven't"?

Judge Halleck. I don't want to put him in a position of having to lie to me.

Mr. Steiger. It is so obvious because you know here is a guy with five counts, pleading guilty to one and regardless, whether there has been a deal on sentence, there is a deal to drop the other four. You know it and he knows it.

Judge Halleck. I generally tell it to him. I say, "You are being allowed to plead guilty to one charge. The maximum penalty to that is 10 years, 15 years. If you went to trial and were convicted, the maximum could be 10 years on each of four counts."

A lot of times, the rule of leniency applies and there are many instances where the sentence has to be concurrent. I believe the Supreme Court came down in one case, where a man pointed a shotgun at several Federal officers in a car. He was charged with assault with a deadly weapon on a Federal agent as to each individual in the car. When it came down to sentencing, he was given a series of consecutive sentences, and the court ruled, "No, one act, one sentence," whatever the act is.

You may pile up a lot of different counts on the indictment but in essence what the individual has done is commit one particular act which is criminal in nature, and he is entitled to be sentenced to something for that act, not have it piled up on top of them. That enters into it sometimes.

Mr. Steiger. The thing that concerns me is the necessity, as I get it under case law, for the judge, in order to protect the court record, to ask for and receive some assurance from the defendant that he wasn't given anything in exchange for his guilty plea.

The king with no clothes. Do you think we should retain that as a matter of case law or simply a matter of practice and, if not, what is the remedy for it?

Judge HALLECK. I think what we ought to do is be perfectly frank and honest with the defendant and with the system. In other words, the judge knows that the man is pleading guilty to one count or another count and they are dropping other counts. It ought to be right on the record and the judge ought to tell the defendant, "I recognize this is what is happening and to that extent there is a benefit to you." At the same time, there is a benefit to the prosecution in your entering the plea of guilty, because, as the Congressman points out, some psychotic on the jury might turn him loose.

Lightning always strikes. When I was a defense counsel, I never pled to the indictment because I figured that was the worst they could convict my man on. So in order to plead, you have to get a little something.

Quite frankly, and to be perfectly pragmatic about it, we just simply cannot provide a jury trial for everybody in the court system. We have got to have dispositions in order to make it work.

Chairman PEPPER. Judge, apparently you are making the distinction that was made here yesterday by an outstanding prosecutor in the country, Mr. Busch from Los Angeles County in California, with 400-odd lawyers in his office, a population of 7 million people. He emphasized the difference between plea bargaining and sentence bargaining. That he would not participate in sentence bargaining, but he would participate in plea bargaining. It does, as you suggest, allow the defendant to plead guilty once instead of three times, with the knowledge that he would not be prosecuted or held responsible on those other two counts.

So you do apparently take that into account:

You pleaded guilty on count 1, let's say. There are two other counts, but I want you to know that the law provides you could be sentenced from 1 to 15 years on count 1, and while we are going to accept your plea to count 1 and the prosecuting attorney advises the court that upon your plea of guilty on count 1 he dismisses counts 2 and 3; I want you clearly to understand that it is up to the court to determine your sentence, which may be under the law from 1 to 15 years as your punishment for pleading guilty to count 1.

Is that about what the position is you take?

Judge HALLECK. Yes, sir; very definitely. There is one other thing.

Mr. RANGEL. Would you yield?

In the criminal courts I have been everything except a defendant, and that may come, too. But I think it is safe to say that when one is arrested, and we get away from the myth about your innocence until proven guilty, there is a feeling the man is going to go to jail. You know. I don't care how the judge handles it or how his lawyer handles it, and I am not particularly concerned whether you reduce the charges or reindict or file a new complaint.

If, in fact, my maximum sentence under the indictment is 20 years, and I come before the judge with a maximum sentence of 5 years, my sentence has been bargained.

Judge HALLECK. That is true. But here is another thing about it. Many times you will get a man that is indicted, for example, for four or five different robberies. There will be three or four different armed counts and a lot of lesser counts on down the line. He may plead,

out of a 20-count indictment, to one armed count. That is a big deal for him. But, by the same token, if he pleads to one armed count, his maximum sentence in the District of Columbia could be life imprisonment. It doesn't matter if he has got 75 other counts behind it, life is the most I can give him.

There is only one—and I might bring this to your attention since you are on the District Committee and maybe you can do something about it—there is one flaw in our code. "Accessory after the fact" is still retained as a separate offense. "Accessory before the fact" becomes a principal. But accessory after the fact is a separate offense and the punishment for that is one-half of the maximum sentence the principal offender could have received.

We have got a host of crimes in the District of Columbia for which the principal offender can receive life. How do I tell somebody who pleads guilty, as I had a young lady plead guilty to me to accessory after the fact to an attempted armed robbery, and attempted armed robbery carries a maximum of life for a felon. She pled guilty and there I was trying to tell her what the maximum penalty would be. In that case, I choked.

It suddenly dawned on me the maximum penalty is one-half the life of this other fellow. If we put them together, she may kill him and walk out.

It was a very unusual situation. I pondered a bit as to how you could go ahead and put that kind of sentence in. An indeterminate sentence up to one-half of somebody's life—I would like to be a defense lawyer and file a habeas corpus. You would have her out in a minute. I resolved it by sentencing her under the Youth Corrections Act on an indeterminate sentence up to 6 years, really not counted as prison time.

That is something, perhaps as a lawyer and on the District Committee, you might look into. It seems to me we ought to have the maximum penalty not to exceed 10 years for accessory after the fact.

Chairman Pepper. Mr. Winn?

Mr. Winn. Thank you, Mr. Chairman.

I have two questions. Judge, you pointed out the fact that you gave the court credit for reduction of the use of hard drugs and drug-related crimes.

Judge Halleck. I gave the Narcotics Treatment Administration and the Chief of Police and the President's program to combat the importation of drugs into the country the credit.

Mr. Winn. I see. I misunderstood you. Along that line, you did make a statement which we have all have heard many times. I heard it again Monday night from my chamber of commerce people when they were here for their meeting this week. They were afraid to go out at night and two of the women were actually afraid to come up on the Hill to see Congress in action.

Judge Halleck. What I am trying to say in my prepared statement, Mr. Congressman, is this. You have to examine clearly what it is they are afraid of and what, realistically, they are afraid of. You know, murder is not one of those crimes that ought realistically to be something you are afraid of, because 75 percent of the murders are committed in somebody's house between family members and friends. It isn't something that occurs between strangers.

A very large number of rapes, it turns out, are committed by that same sort of relationship grouping.

But the problem is the pocketbook snatch; it is robbery; it is breaking into your car. You know, essentially what women are afraid of and what women are really afraid of, if you examine it, is they are going to be held up or yoked or robbed or dragged back in the bushes.

Mr. WINN. I think they know what they are afraid of. I don't think there is any question about it. The point is, why do people come in or hesitate to come in to the Nation's Capital from all over the country, or even other parts of the world? Why do we have that? That is the point of my question.

How do you get the policemen to spend more time trying to divert a bank robbery? How in the heck do they know when there is going to be a bank robbery?

But the perennial call, annual or hourly, although it is down. I agree with you. I used to be on the District of Columbia Committee and have ridden in the car several times at night, but I disagree thoroughly that the police ought to be in other directions. I think they ought to do something about the crime on the streets. That is the gist of all of these hearings.

Judge HALLECK. I hope that is what I have been saying. I hope in my statement that is what I made clear. Sometimes my intent gets a little bit blurred.

Mr. WINN. Maybe the rest of them understood it that way, but the way I read your statement was you felt that the police were spending too much time on these small insignificant crimes that you referred to. Maybe I am wrong.

Judge HALLECK. Well, what I am trying to suggest——

Mr. WINN. They ought to spend more time on the bank robberies, and things like that.

Judge HALLECK. As I understand, Chief Wilson came here and indicated that on a given shift about 600 of his 4,900 men were on the street patrolling at any given instance. Now, it seems to me if the police were relieved of a lot of inconsequential chores, they could have more people out on the street patrolling. They could do more tactical force patrol, toward actually being out there doing something about halting street crimes.

In my view, Mr. Congressman, what the entire criminal justice system needs to do is to devote more of its attention to the protection of the citizens from the street crime and to the resolution of those crimes once they have been committed, and the courts should be spending more of their time addressing themselves to those serious cases.

And in all major cities, not just the District of Columbia, they should be spending less time going around picking up drunks off the street and taking them down and filling the courts with them and bringing the policeman down there.

You know, we have vast numbers of policemen every day who sit around in the traffic court over parking tickets, one thing and another. It seems to me we ought to be able to develop some sort of administartive procedure for handling that sore of thing. Get it out of the courts and not have policemen, who should be spending their time solving burglaries and apprehending robbers, passing out yellow tickets.

Mr. WINN. That, I agree with. I agree with you thoroughly on that. What you are saying, like the many heads of police departments that appeared before us 2 weeks ago, is we ought to have more men on the streets, more men protecting the citizen on the streets, basically being seen, making more rounds, so they are available.

But the thought in my mind is, that if there is an assault, if there is a pusher selling drugs to kids, if there are some of these things that have to be followed through—I agree we ought to improve the system—then we still ought to make an effort to get those people that are dealing with the small people on the streets instead of the banks.

Judge HALLECK. That is true; no question about it. But you see, you get down to the question when the policeman is riding along, and they see a crap game going forward on the sidewalk, which is against the law, or he sees somebody standing out in front of a house on the public sidewalk drinking beer out of the car, which is against the law, does he spend a lot of time on that?

Mr. WINN. He has to pick his priorities.

Judge HALLECK. Does he make that arrest and take himself out of service for 2 hours and take the fellow and book him and come down the next day to court for hours and sit around, or does he let that go on the theory that isn't really hurting anybody, although it may be technically against the law, but spends his time on patrol trying to make sure your pocketbook doesn't get snatched and burglaries don't occur?

It seems to me it is the reordering of priorities and to that extent, hopefully, the members of the District Committee can see their way clear to appropriate money and get the long-delayed review of the D.C. Code in the mill. We would all be a lot better off. I think way back in 1967 that was supposed to have been done and nobody ever appropriated the money and followed through on it.

Mr. WINN. I think the committee would have understood your point better if you had said reorder the priorities. I have a better understanding of what you are trying to say. I am still concerned about the safety of the small guy on the street a lot more than I am the reputation of a bank robber.

My last question is, Do you base some of your decisions on your sentences on the fact that the penal institutions are full, are rundown, or not serving a rehabilitational purpose?

Judge HALLECK. Yes, sir; you can't help but do it. From the point of view of a judge who cares, and who is concerned about where he sends people and what he is doing to them, other than simply sit up there and deal out sentences like some sort of emperor who sentences everybody, "Off with their head," but when he begins to think seriously about what he is really doing and where he is sending people and what the result is going to be, he cannot help but fashion a sentence on that basis, or have it enter into the problem of sentencing. For example, if you send a woman to jail she is going to wind up down here at the Women's Detention Center, where it is overcrowded in a little small place, with literally nothing to do but sit around. She doesn't go down to Alderson where you hope she is going to go.

She may sit there for 2 or 3 years. That is pretty harsh business. If she could go down to some institution like Alderson or somewhere else, where something could really be done, then she would benefit.

You know, we delude ourselves so many times. We salve our conscience by writing on the commitment, "psychiatric help ordered," "psychiatric assistance ordered for the defendant," because we recognize he needs it.

I had an individual recently attending a conference, who came down from New Jersey, and pointed out when he was in charge of a prison in New Jersey he had 6,000 inmates and one psychiatrist. All of these commitments come down requiring psychiatric help. When you get down and look at what is going on in the prisons you find out that the promise is a far cry from reality. They are supposed to be training them to be auto mechanics down there. They have room for maybe a half dozen or 8 or 10 men in the program and an old beat up automobile to work on.

And down at Lorton, if you don't have at least a 3-year sentence you don't even get into any of those programs. You just do dead time down there.

Mr. WINN. The woman that you mentioned, I don't know what she was charged with. If she was charged with assault and battery——

Judge HALLECK. Make it grand larceny, $150 fur coat.

Mr. WINN. Grand larceny. So you set down a decision, because of the facilities in the District of Columbia—which I know, I have toured them, are very bad—and you don't want her to sit there for 2 or 3 years until she gets a sentence or decision, but isn't it possible that the same woman, if she was in some other State, let's say California, where they may have a country club type of facility for grand larceny for women, isn't there quite possibly inconsistency in what your sentence might be and what it might be out there?

Judge HALLECK. Yes, indeed.

Mr. WINN. Based only on the institutions that the taxpayers pay for?

Judge HALLECK. That is right. One of the problems we have in the District of Columbia, Mr. Congressman, and I suppose you probably know it as well as anybody, as Congressman Steiger says, sometimes I get a little blunt, and I have got to be blunt with you gentlemen.

The Department of Corrections of the District of Columbia has to look to the Congress for the money to function. And you gentlemen have to go back home to your districts in order to get reelected. If the people in your district get the idea that you are spending a lot of the Federal taxpayers' money to build country clubs for criminals, bearing in mind 98 percent of the people down in Lorton Penitentiary are black and come out of the inner city, when you go back to your districts, if your opponent begins to get that idea, he is going around the district and he is going to remind the voters.

He will claim you are squandering the Federal taxpayers' money on this sort of business for all of those kind of people up there that don't deserve any kind of break anyway. After all, they committed a crime, didn't they? And they are in minority groups generally; they are the poor, underprivileged, and dispossessed.

It is a fact of life. We see it coming through. So when I tell you about how the people are that come in, and we can all go down to the jail and look—you can go down yourself and look. You hardly see a white face down there. If you have to go back to some district in the South and try and explain that to a lot of folks back there, or go back out to my dad's former district, I tell you I am sure you gentle-

men know his replacement, who is a colleague of yours. I don't suppose Mr. Landgrebe would earn very many votes back in the Second District of Indiana if he were to devote a whole lot of the taxpayers' money to something of that nature.

That is a political fact of life we have to deal with here. And as a judge, I have to recognize it pragmatically. I know that these deficiencies exist. I know what the problems are. I know, looking into what I am trying to do and trying to be, reasonably fair both to the victim and to the community, and recognizing the individual has to come back to the community sometime. I have to take all of these things into consideration.

Mr. WINN. Thank you, Judge.

Chairman PEPPER. Mr. Brasco?

Mr. BRASCO. Thank you, Mr. Chairman.

Judge Halleck, I listened with great interest to your initial statement. I thought it was quite good. I suppose I find myself in that position, having spent some time with the Legal Aid Society in New York and over at the district attorney's office, so I understand your flip-flopping back and forth. Maybe it should be a tough line one day and another day maybe we should be looking at the greater picture.

Just getting back to one of your comments—and I agree with that wholeheartedly, that justice should be swift in order to have a deterrent effect. I would also add to it, "consistent and under an atmosphere where the defendant understands and appreciates that there is no hypocrisy."

Particularly, the thing that disturbs me, and I think it does everybody, is the whole question of plea bargaining. When I was with legal aid, we got right down to situations where the defendants turned around to the judge and said, "But later on, could they prosecute me for perjury for the things I am saying here?" It is very difficult to get a defendant to understand that he is admitting to the commission of a lesser crime but sometimes a different one.

I think everybody understands that and the defendant very well thinks he is part of a charade at that time, whether he says so or not.

But one of the things I mentioned was consistency and it is very often that I found a man would get x years by one judge and if he were fortunate enough to be down the hall in another courtroom for the exact same crime, exact same background and circumstances, he would get a suspended sentence. So one of my questions to you is, Should there be and can there be any guidelines set up in terms of that limitation: consistency of sentence with the same defendants committing the same crime and relatively from the same background?

Judge HALLECK. One of the things we have done in our court—Chief Judge Greene is essentially the one that pushed it, and the Board of Judges adopted it, we do it in felony—we adopted a system of what we call sentencing councils. On every felony sentence, three judges of the court are assigned in panels, three judges review the probation report, review the facts, go over the entire gamut of material that is available, and discuss what kind of a sentence seems appropriate in this case.

All three judges give their input into it. Ultimately, the sentence is the responsibility of the sentencing judge, but before he imposes the sentence, as I said, in the preceding week before the man is up for

sentence, it is reviewed in the sentencing council and two other judges give him the benefit of their views about this particular case and what they think, and there is serious discussion about it.

Many times sentences, the original sentence perhaps that the judge who has to impose sentence may have been thinking about, or may have considered might be appropriate, gets modified either up or down, depending upon the views of the other judges.

What that does is lead to more consistency. You know, it is a strange thing, particularly among the judges of our court.

Mr. Brasco. Not to interrupt you, Judge, but I wanted to get to something specific. The point is—and I am not questioning the propriety of it—but I gathered from my colleague, Mr. Steiger from Arizona, that you might be inclined to give a lesser sentence than the judge down the hall for the same crime.

What I am saying is my experience has been that this has a deleterious effect on the system. Now, that is not to say the other judge wasn't too severe. I am not pointing out you should raise yours or he should lower his. The question is how that affects the overall administration of justice. I just think it is a bad situation in terms of not building any confidence in the individuals who come before the judges and therefore you have not only plea bargaining but you have judge shopping.

Judge Halleck. I can't agree with you more, but you see what actually happens is that the judges are really not that far apart in sentences. We have these sentencing institutes periodically and included among them are sample cases that we are given with all of the information. Each judge goes over it and puts down what he thinks a sentence ought to be.

You would be surprised how much unanimity there is. Everybody is pretty much in the ball park. There may be one or two sort of far out, off-the-wall-type sentences, but by and large, most of them are pretty much in the ball park. I am sure you will know, if you have been a prosecutor and defense lawyer both, that very often sort of an aura exists around the judge and he gets a reputation which may not necessarily be commensurate with what he actually does.

For example, while I get accused of being a little on the lenient side and a little on the liberal side, it surprised everybody when I passed out the first life sentence. When you go back and review, you find I have a higher degree of sentences for time to work release, or something else than the national average. I am about in the same percentage category for that sort of thing as other judges.

I may vary it; for example, if I give him 10 years, I give him a 1-year minimum, because I happen to believe he ought to have the opportunity to get himself rehabilitated within a short period of time and have an opportunity for parole. But Judge Murphy, who is right next to me in chambers, has a reputation for being one of the toughest judges down there, and yet he and I were on the sentencing council all through felony court and our sentences were almost identical in every case.

Mr. Brasco. I didn't mean to be critical of that.

Judge Halleck. I agree with your statement in general.

Mr. Brasco. I am personally arriving at the opinion that I don't think you can rehabilitate anybody if he is sentenced to a long period of time. I suspect you can take a prisoner and put him up in the best

hotel in Miami Beach and give him room service and say, "You stay in this room for the next 15 years and look out at everybody on the outside and never leave this room," and I believe you will have the same kind of effect, in my opinion, emotionally and socially, as 5 or 10 years in a penitentiary.

So I think we have to work on a better way of dealing with the defendant once he is incarcerated. I am particularly unhappy because I don't know all the answers. If we talk about rehabilitation, however, long sentences don't rehabilitate anyone. If we talk about just putting someone away on the shelf away from society to give society that kind of protection, that is a different ball game. But they are two different things.

Judge HALLECK. The one thing we have the least of and need the most of is empirical data to support what we are doing or not doing. There just aren't any realistic surveys, nothing is being done to come back and feed back to a judge, after he has been there for awhile, whether what he is doing is right. Whether putting people in jail for long periods of time is the answer, whether he is more successful on probation.

The closest thing I heard to come to statistical surveys recently was at the sentencing institute—and I think I have my figures correct. I may be a bit off—but Massachusetts, as you may know, recently deinstitutionalized its juvenile justice system. They stopped putting kids in jail. But before they did that they figured they had a lot of public objection they were going to have to meet. And they ran some control groups and got some statistical information. They discovered if they brought a juvenile into the court, brought him through the process, convicted him, and sent him home with the minimum of supervision by a probation officer, the recidivism rate of those that went right out of court and back home to their own neighborhood and own home with some supervision and care, the recidivism rate, I think, was 17 percent.

But of those that they put in institutions and locked up for a year or more, the recidivism rate was something like 98 percent.

Mr. BRASCO. I am not surprised at that.

Thank you, Judge.

Mr. NOLDE. Judge Halleck, do you have any high-level support for your ideas on so-called victimless crime?

Judge HALLECK. I published several opinions recently to try to take some of the victimless crimes out of court, and I guess the next highest level is our court of appeals. I don't know what they are going to do with it. Mr. Work is here; his office is appealing it.

Mr. NOLDE. I was referring to, particularly, a high government official. I believe you have it in front of you there.

Judge HALLECK. Yes. I will give this pamphlet to you. It is a publication by the National Council on Crime and Delinquency, and in here they quote President Richard M. Nixon, who says:

> We have to find ways to clear the courts of the endless stream of what are termed victimless crimes that get in the way of serious consideration of serious crimes. There are more important matters for highly skilled judges and prosecutors than minor traffic offenses, loitering and drunkenness.

Mr. NOLDE. Thank you, Judge Halleck. And that is a direct quotation from the President of the United States, Richard Nixon?

Judge Halleck. Yes. I would suppose that is about the highest level support you can get. This is an interesting publication, called "Crimes Without Victims: The Two-Billion-Dollar Problem That Blocks Effective Crime Controls." It is published by the National Council on Crime and Delinquency.

[The publication referred to can be found at the end of Judge Halleck's testimony.]

Chairman Pepper. Judge, you are known as being a very understanding, dedicated, and passionate judge. What would your suggestions be, if you were asked by the President and the Congress, as to what recommendations you would make if you had ample money and authority to reduce the rate of crime in the District of Columbia.

We are proud of all of the innovations we have had. There has been a reduction in the rate of increase of certain crimes and we are disturbed there has been a slight increase in index crimes. But we would like very much to have your views and counsel, out of your experience and out of your concern with the subject, as to what could be done to reduce crime in the District of Columbia, to give a greater sense of security to the people of this area.

Would you be kind enough to write out and send here for inclusion in the record, a summary of what your proposal and recommendations would be if the President and/or the Congress were asking you for your recommendations as to what could be done to reduce crime further?

Judge Halleck. I would be happy to do that. I can give you one answer very quickly. Jobs.

Chairman Pepper. Thank you very much, Judge. We thank you for the valuable contribution you made here this morning. We wish you godspeed in your effort.

[The following information, previously referred to, was received for the record:]

[Excerpt from "Crimes Without Victims: The Two-Billion Dollar Problem That Blocks Effective Crime Control," National Council on Crime and Delinquency, August 1971]

Victimless Crime

Victimless crime is defined as crime based on moral codes in which there is no victim apart from the person who commits the crime. The commonest examples are drunkenness, drug addiction, voluntary sexual acts, vagrancy, grambling.

The acts of someone who commits victimless crime are in most cases socially disapproved, but none of them is criminal in the real sense. Whatever harm occurs is to the offender himself and not to society. In some cases—vagrancy, for example—there is no harm to anyone. The typical victimless crime, therefore, is a health, moral, or social matter rather than a criminal one. But it is now dealt with by our criminal justice system.

Drunken driving is *not* a victimless crime, nor is the robbing of a bank by an addict. These are real crimes and they produce real victims.

The Impact of Victimless Crime

Victimless crime is so overwhelmingly pervasive throughout the country that dealing with it through criminal penalties misuses our policeman power, congests and makes a travesty of our courts, and jams the jails. It so preoccupies the criminal justice system that it prevents it from dealing effectively with real crime.

Some measure of how large a problem this is may be gauged from these three facts:

One-half of all arrests by the police are of victimless crime offenders.

One-half of all the people in jail are charged with or have been found guilty of victimless crime.

One-third of all arrests are for drunkenness.

Granted that many of those who commit victimless crime indeed cause society concern, the question remains: Should such offenders be the responsibility of the criminal justice system—of police, judges, and jailers? Or should they receive therapeutic help from health or social service agencies?

Before answering the question, we ought to take a look at how well the system now manages these problems.

Take drunkenness, for example. Dealing with a drunk requires a police arrest, transportation to a precinct house, detention, booking, photographing, arraignment, trial, and, finally, jail for terms ranging from five days to six months. Such a process involving police, courts, and jails is very costly. Does it work? The answer is no.

A Washington, D.C. prison committee in 1957 reported that it had found six men who had been arrested 1,409 times for drunkenness. Collectively they had served 125 years in penal institutions! These drunks were obviously not rehabilitated. Coping with these six men through criminal penalties cost the public an estimated $60,000, and never dealt with their illness—alcoholism.

THE USE OF CRIMINAL PENALTIES

The imposition of criminal penalties has proved to be ineffective in controlling victimless crime behavior. The laws dealing with victimless crime are commonly disregarded. Alcoholics continue to drink; addicts go on using drugs; gamblers persist in betting; vagrants wander as they will.

Imprisonment is no deterrent and it is no rehabilitation. Quite the contrary. Instead of being reformed by jail such men come out embittered, unemployed estranged from their families, and, too often, criminalized.

THE SIDE EFFECTS OF CRIMINAL PENALTIES

Dealing with the victimless crime offender through criminal penalties not only fails to deter or reform him, it also has a catastrophic impact on the country. For, in addition to drastically lowering the capability of the criminal justice system to control real crime, it has the following effects:

It lessens respect for law.—Since the laws relating to victimless crimes are so often disregarded, there is a diminished respect for laws in general. To illustrate: Millions of people gamble illegally every day. The law is powerless to stop them. There is no benefit from laws that are disregarded by the public and unenforceable by the authorities. On the contrary, there is much harm. (We should have learned a lesson from Prohibition.)

It enriches organized crime.—Organized criminal groups spring up to profit by providing the illegal goods and services desired by many people. Gambling is now mainly an illegal business whose net income is estimated to be in excess of ten billion dollars a year.

Thus, by giving organized crime a virtual monopoly in these goods and services, we have helped build one of the most ruthless and destructive social forces in our history. No part of American life is now uncontaminated by the far-reaching power of organized crime.

It fosters corruption.—The victimless crime offender carries out acts which the police and other public officials are pledged to prevent. The illegality of these acts fosters corruption. Crime syndicates pay an estimated two billion dollars a year to public officials to permit such activity to continue without serious interruption.

It causes crime.—In the case of the addict, the ban on his drugs and his inability to obtain them cheaply cause him to commit crime. More than one-half the crime in some cities is traceable to addicts seeking money to pay for drugs.

A MATTER OF DOLLARS AS WELL AS LIVES

The American criminal justice system—police, courts, jails, prisons, probation, parole, legal aid—costs the public an estimated six billion dollars a year, not counting depreciation or interest costs. Victimless crime is responsible for at least one-third of the effort made by our criminal justice agencies. Thus, victimless crime as now dealt with through criminal penalties costs the American taxpayer more than two billion dollars a year.

And for that two billion annually there is no positive gain.

A NEW APPROACH TO VICTIMLESS CRIME

The National Council on Crime and Delinquency urges that laws relating to crimes without victims be removed from the criminal codes. NCCD does not condone the acts of victimless crime offenders. It contends that, for many of those now prosecuted under such statutes, the appropriate measures are not the sanctions imposed by police, courts, or jails, *but the voluntary services offered by health or social agencies.*

Currently, all legislatures are faced with demands to allocate huge sums for more manpower and bigger institutions to control crime. The need to examine our present costly and futile approach to victimless crime is, therefore, imperative.

NCCD is joined by many public officials, law enforcement specialists, judges, and penal experts in asking the diversion of the victimless crime offender from the criminal justice system.

President Richard M. Nixon says, "We have to find ways to clear the courts of the endless stream of what are termed victimless crimes that get in the way of serious consideration of serious crimes. There are more important matters for highly skilled judges and prosecutors than minor traffic offenses, loitering, and drunkenness."

New York City Police Commissioner Patrick V. Murphy says, "By charging our police with the responsibility to enforce the unenforceable, we subject them to disrespect and corruptive influences, and we provide the organized criminal syndicates with illicit industries upon which they thrive."

Says Norval Morris, Director of the University of Chicago Center of Studies in Criminal Justice, "We should stop trying to enforce morals. It did not work with the Volstead Act that produced prohibition and opened the door to a widely profitable criminal era. . . . Drunkenness, use of drugs, gambling, and homosexuality are distasteful to most of us and harmful to the person involved, but these activities, in and among themselves, neither hurt other individuals nor destroy property. So why use our police, courts, and jails trying to stop them? Use them instead to fight real crimes, especially crimes of violence."

James Vorenberg, Director of President Johnson's Commission on Law Enforcement and Administration of Justice, says, "The real need is to reduce the number of laws. . . . The prime area for such action is in relation to 'crimes without victims' such as sex, liquor, and drug crimes."

Chairman PEPPER. We will take a brief recess while I make a purely personal statement.

[Brief recess.]

Chairman PEPPER. I ask the committee to come back to order and I ask Mr. Brasco to preside.

Mr. BRASCO (presiding). I understand our next witness is Mr. Charles Work, Chief, Superior Court Division, Office of the U.S. Attorney, District of Columbia.

STATEMENT OF CHARLES R. WORK, CHIEF, SUPERIOR COURT DIVISION, OFFICE OF THE U.S. ATTORNEY, U.S. DEPARTMENT OF JUSTICE, ACCOMPANIED BY WILLIAM A. HAMILTON, PROMIS MANAGEMENT INFORMATION SYSTEM

Mr. WORK. I have with me Mr. William A. Hamilton. He has been associated with me for the past 3 years in the establishment of our PROMIS—management information system—that I am here today to tell you about.

Mr. BRASCO. You may proceed, Counsel.

Mr. NOLDE. Thank you, Mr. Chairman.

Mr. Work is a graduate of the University of Chicago Law School and has a master's degree from the Georgetown University Law Center. He was an E. Barrett Prettyman fellow from the Georgetown legal intern program, has been an assistant U.S. attorney in Washington, D.C., for the past 7 years.

He is presently the Chief of the Superior Court Division of the U.S. Attorney's Office in the District. He is a member of the Judicial Conference of the District of Columbia and a member of the American Bar Association Committee on Court Modernization. He has authored numerous articles and received a number of awards.

We are very pleased to have Mr. Work, who has done such a superb job in effectuating the PROMIS system, and who is here on behalf of Mr. Harold Titus, U.S. attorney for the District of Columbia. Mr. Titus is certainly one of the most outstanding prosecutors in the United States. We are anxious, Mr. Work, to learn about your innovative PROMIS program, which has been put into effect and is designed to identify certain offenders in the system, and give them expedited treatment. You may begin with your opening statement.

Mr. WORK. Thank you very much.

Thank you, Congressman Brasco, Mr. Mann, Mr. Nolde.

It is a privilege to be here today to appear on behalf of the Department of Justice and Mr. Harold H. Titus, Jr., the U.S. Attorney for the District of Columbia.

If I may, I will, instead of reading from my statement, highlight it. I think that you will find that more instructive and I think you will find it more interesting if I do it in that fashion.

[Mr. Work's prepared statement appears at the end of his testimony.]

Mr. WORK. You are all too familiar, hearing from Judge Halleck and other witnesses, with the scene in the District of Columbia, and in other major courts in the country, in the major urban areas. By that "scene" I mean the scene of the mass-produced, assembly line environment, where there are thousands and thousands of cases processed by courts that have insufficient resources.

It is that scene that has prompted us to do some of the work with respect to the PROMIS system I am going to talk to you about today.

For instance, one of the things that has troubled us the most in that mass-produced assembly line scene is the recidivist, the major offender, who can be lost in that assembly line scene.

The major offender has anonymity there that he would not have in a small town prosecutor's office. He can have, for instance, several cases pending in the court at the same time, assigned to several different prosecutors, and not of those prosecutors know there is in fact another case pending against him in the system at the same time.

Among other things, the PROMIS system is an attempt to help us alleviate this situation.

There are other problems in this environment. The lack of control over files. Mr. Brasco, you must have experienced, in your time as a prosecutor and public defender, going to the fileroom and the frustration of not being able to find anything, much less an inadequate incomplete file.

Prosecution supervisors in this environment have very little sense of what goes on. I sometimes say that big city prosecutors manage their offices by newspaper. They go out in the morning and read the morning paper to see who has been shot or assaulted and they go to the office knowing that is one of the cases they will be concerned about.

Then they pick up the afternoon paper and see what happened in the courts during the morning. They wait for one of their assistants, perhaps, or perhaps a newspaper reporter, to run into their office and say:

Mr. Work, or Mr. Supervising Prosecutor, lo and behold, there is a very serious case down in Courtroom 20, and wouldn't you know it, it is being tried by your newest assistant prosecutor—who just came on 2 weeks ago in the office, and it just came up to him in the ordinary course of business in that court.

What we wanted from automation, what we wanted from a management system, was a system that would help us with this environment, a system that would give us an early warning about a crucial case coming up, a system that would help us to know in advance when we were going to have a problem, to enable us to react to it in a systematic rational way.

I think that it is this scene more than anything else that led us, back in 1969, to begin work on more than just a system that would index cases, more than just a system that would show us what the calendar was for a given day, although PROMIS does both of those things. But instead, a system that would help us accomplish the objective of identifying in advance in this mass of cases the serious and important ones, that would help us make certain that these cases were treated, and all of our cases were treated, in an evenhanded and in a consistent fashion.

We wanted a system that would help us set the different priorities that should and ought to be established by the prosecutor's office in a major urban center that has a limited number of resources.

That is what we are talking about. We are not talking about the smalltown prosecutor who has a feel for his caseload, who knows what the serious and important cases are, who knows what kind of experience he has in his staff. We are talking about, here, the prosecutor's office in a major urban center. We have 70 attorneys and we had last year over 12,000 serious misdemeanors prosecuted and we had about 2,500 major felonies prosecuted.

Now, in this environment, what we attempt to do with our automated system was establish a system that has as its core several key concepts. The first and perhaps the most important is our standardized rating system. The idea that we must find in this mass number of cases the case that involves the recidivist, the person with the major serious criminal history.

And the case that involves the serious offense, a serious injury, a serious amount of property damage. To develop this rating scheme, we called upon the field of criminology and found there are two different rating systems. The first, which rates the seriousness of the offense—really, it measures, Congressman, the harm done to society—is a scale developed by the criminologists, Thorsten Sellin, and Marvin Wolfgang, and I will show you just a little bit later in my testimony how we use that scale and how we feed the data from that scale into our system.

The second scale characterizes the scope and the quality of the defendant's criminal history. It was developed for the California penology system by a team of criminologists headed by D. M. Gottfredson.

In addition, as I said before, to help us locate the recidivist and help us locate the serious cases, it also is designed to help us give cases that have similar ratings, similar kinds of treatment and attention.

It is a matter of setting priorities. In this mass produced environment, where you cannot assign an individual prosecutor to an individual case from beginning to end, the prosecutor has to establish priorities. He must not just stuff each case through the limited judicial resources as they come up in chronological order. Chronological order is not a sensible way to establish priorities.

He has to make differentiations and he has to be responsible to his constituency and the public for the differentiations.

For a moment, Mr. Chairman, I would like to show you how this is being done. I will call upon Mr. Hamilton to pass you a set of our materials. If I may, I will take you through how we process a case in order to help us establish these priorities.

We have several other copies here, Mr. Chairman, for members of the audience if they care to follow along.

The first document that you see as you open this folder is a police form, and the police form we call the 163, after the number on the form. The thing I want to call your attention to here is that one of the first priorities that we had is we needed to get in the routine case, in the standard street crime case, a certain amount of uniform information about every single case.

In 1969, when we began to worry about this problem, we had a three- or four-line form. The rest of it blank. That constituted the standard police form. You could not open a file at that time with any confidence that the information you were seeking would be there.

A standardized form, in fact, even a manila folder, was in 1969 a management improvement of tremendous significance. We were at that time taking that three- or four-line form and we were wrapping it up in a piece of paper, folding it up several times, and I am sure you understand, Mr. Brasco, where that went was inside the coat pocket and home and then perhaps to the cleaners.

One of the first things we did when we took over this responsibility in the superior court was that we inserted these police forms into a folder.

What we wanted was, and we had to really start from scratch with this, was not only an automated system, but we had to have a manual system first. Automation is just a part of the sex appeal of this program, but it is really rooted in having information on which you can make intelligent prosecutorial decisions and it is getting that manual information into the hands of the prosecutor's office. That was our first and perhaps our most important challenge.

Now, the police officers fill out this form, Congressman, and the items that are automated are indicated on this form by the small triangle in the left of each blank.

Mr. Brasco. Let me get that.

Mr. WORK. In the left of each blank is the indication that this particular item is automated.

I call your attention, first of all, to item No. 3, just as an example. We carry in the automated system the identification number for each one of the persons that comes through our office. This identification number is a fingerprint-based number and he gets that number every time he comes through the system. This is vitally important because, as you are well aware, there is a significant alias problem in the criminal justice system.

This enables us to say this is the same man that has been through several times before.

Mr. BRASCO. Basically, that is his prior record?

Mr. WORK. That reflects his prior record.

That particular number is crucial to the development of our system and gives us the ability to trace the defendant through each one of the steps in the criminal justice process. We, in developing this system, conceived of it originally as a subsystem of a system for the entire criminal justice process in the District of Columbia, that would enable the offender to be traced from his first contact with the Police Department, through the prosecutor's office, through the court, and through the Department of Corrections. PROMIS is, in effect, a subsystem of this concept.

We can track not only the defendants through this tracing concept but we can also track criminal events, and we can also then finally track the case through to its ultimate disposition.

The way we track criminal events is through the No. 2 item up there, the complaint number. The complaint number is the number that is assigned to a particular bank robbery. That enables us to do a number of things. If two people commit a particular bank robbery, it enables them to be tied together because they carry the same complaint number and it enables us to also measure our workload much more significantly.

Criminal statistics are a very important byproduct of this system.

Mr. BRASCO. Excuse me. You are losing me just for one moment. Let me see if I can understand. When you talk about multiple defendants as related to box No. 2, would not the complaint indicate the number of defendants?

Mr. WORK. Yes, it would. But let me get, if I may, to the point.

Mr. BRASCO. Because I was missing your point.

Mr. WORK. I understand.

The point I was trying to make is simply this: From time to time I am sure you have been confronted with it right here in your responsibilities on this committee. You will find some organizations reporting to you that they processed so many cases last year. By "cases," Congressman, they might mean the number of defendants they processed, the number of counts in an indictment they processed, the number of indictments that they processed.

They can mean anything about a variety of statistics and they all would be honest and fair statistics, but they would be counting in different universes. So you have New York counting counts of indictments, you have the District of Columbia counting cases, you have Virginia counting indictments, and criminal statistics mean very little.

What we have developed in the PROMIS system is a way of counting in all of these modes. In other words, if someone in the police

department wants to count the number of defendants, we can count the number of defendants in our system. If you want to count the number of counts, we can count the number of counts. If you want to count the number of indictments, we can count the number of indictments. If you want to count the number of criminal events, that is where this complaint number comes in, you can count the number of criminal events.

That enables us to compare to Chief Wilson's statistics about the number of crimes that were committed. We can then count the number of criminal events that came into the system. We therefore can have a uniform set of statistics about each one of those problems.

In other words, it makes no sense to say that x number of crimes were committed in the District of Columbia, and x number of defendants were prosecuted. The first glance at that is that it is a comparative figure. That is not a comparative figure. You have to go back to x number of criminal events prosecuted in order to have the comparative figure. Because every time a crime is committed by two people, that throws your comparison statistics off.

What I am saying, the PROMIS system is a significant advance in the ability of the prosecutor's office to keep track of what actually is going on.

Now, the next form I would like to call your attention to—and I am not going to go through this whole packet, Mr. Chairman, but this one and a couple of the reports—is the PROMIS case evaluation form. I call your attention to just a few of the questions in the first column on the inside, because it is primarily this first column that constitutes the Wolfgang-Sellin seriousness scale.

And I think that you will see that they really derive from commonsense. This is not an esoteric, academic exercise. This is something that can appeal to a prosecutor who is working on the front line. The amount of harm that is done, the amount of property damage that is done, it is these commonsense factors that go into rating how serious the offense was.

Over in the last column—you will see that this is column 7—you will see the characterization of the offender. You will, again, I think, be struck by the commonsense factor involved in this last column. You will see that we are concerned about his arrest record. You will see we are concerned about whether he was on some form of conditional release. You will see we were concerned about his status at the time of papering or screening.

Not every one of these questions goes in the rating at all, Mr. Chairman. The ones I referred to are the primary factors in rating whether or not this is a serious offense or how serious the offense is and rating the person's criminal history or record.

Now, the way this is used, is reflected in the item—the second item down, you will find in your package, which looks like this. It is a report that comes from the computer system.

This report represents a middle page of a daily report that I, as the manager of the Superior Court Division receive and is received by several of the other supervisory people in my division. You will see that it reports a variety of things to me. It lists the cases. First of all,

in order of the seriousness of the defendant's score. You will see there, for instance, in the first one, No. 13 on the calendar for that day, it has a 15-defendant score. That means that that is a shorthand for, and it is a representation that I understand that is based on the facts that were gathered at the initial screening process and checked off in this first screening form.

Mr. Brasco. Is that high or low?

Mr. Work. You will see if you look at the top, it is above average. You will see up at the top, the year-to-date average scores and the daily average scores. This is for the misdemeanor trial calendar. You will see on this particular day, May 2, that the average defendant's score was 9.52, and the average defendant's score, which includes both felonies and misdemeanors for the year, is 10.69.

Interestingly enough, we sometimes have misdemeanor days that come up higher than the felony days, because the mere fact the person committed a misdemeanor doesn't mean he doesn't have a significant and very bad, very serious criminal record.

So here is a case that involves a gun, carrying a deadly weapon, gun, the first one, and it has already been especially assigned to one of the assistants in our division, and it has been continued one time under that number of continuances column. We have the continuance reason recorded there in the last column.

The final thing I wanted to call to your attention, Mr. Chairman, on this report, are the *X*'s that you will see over on the right-hand side. The *X*'s represent a significant management improvement for us in our office. The *X*'s mean that that person has another case pending in the system. And if it is over to the left of that column, it is a misdemeanor. If it is over the right, it is a felony.

That is all the more significant, because our court system is one of the most current court systems of any major city in this country. We are trying misdemeanors in approximately 8 weeks. We are trying felonies in approximately 100 days from the day of arrest, and this type of recidivism occurs within that span of time.

I did not bring with me the sheet that would have been the first sheet, which has the most serious defendants, the ones with the most serious records. And that is usually where the *X*'s are concentrated.

Chairman Pepper. You mean by that, that during that interval of 100 days that they committed other crimes?

Mr. Work. That is correct, Mr. Chairman. It is a problem that is a terribly significant one nationwide and only a system like PROMIS is in a position to measure. It is in a position to measure it because we capture that fingerprint-based identification number. So it is not just on the basis of name we are matching up, that this is the same person, but it is on the basis of a fingerprint identification.

Mr. Brasco. It is a terribly interesting program. I haven't been in court now for some years, but I might say I was assistant district attorney in Kings County, which is a rather large county in New York City. We had a fingerprint record system there and I suspect it has been there for quite a number of years, but the rest of this is a most significant improvement with respect to keeping statistics and something that is very worthwhile and can give up-to-date statistics with respect to the entire case.

Not only that, with respect to your entire workload, I suspect, in a very short period of time.

Mr. WORK. Yes. I have, in fact, with me, Congressman, a set of statistical reports I could pass up. It is typical of the kind of work we can do with our system. It can be highly detailed.

Mr. BRASCO. You gave us the figure 6 to 8 weeks' trial, disposition, for misdemeanors, and approximately 100 days in felonies. I assume you are including all of your cases.

Mr. WORK. That is correct.

Mr. BRASCO. Is that an average?

Mr. WORK. I am sorry, that is an average.

Mr. BRASCO. Something like 8 months or a year?

Mr. WORK. That is right. An average figure.

Mr. BRASCO. That goes into the overall average?

Mr. WORK. That is right. But one of the things we are proudest of in terms of our accomplishments since we have received the full local jurisdiction in the Superior Court of the District of Columbia, has been a substantial reduction in time. For instance, you take the time in our grand jury. Before court reorganization, the time was upwards of 95 days between arrest and the return of the indictment. We have reduced that time in the superior court—as I am sure you appreciate, it is the prosecutor's office that has responsibility for the processing times in the grand jury—we have reduced that time now in our last set of returns to 32 days.

We have been running our average times in the last 4 months between 30 and 40 days, which is, of course, a substantial reduction from 95 days.

It is the PROMIS system that enable us to keep track of these cases. And if I may just turn your attention then to the clipped-together print-out. Let me tell you how that does it specifically with relationship to time.

If you will turn to the middle of this handout, or rather the back, you will find a page that comes up and says, "The following grand jury felonies have been pending at least 30 days." We have a terminal in our office connected to the computer of which we can ask many questions. We can ask at the present time five different questions but they are questions of great significance. We can ask the computer to lift out for us any case that has been pending over any number of days in that particular section. So we can walk up to the computer and say, "Give me a list instantaneously of cases pending more than 30 days in the grand jury."

Mr. BRASCO. And you would have the assistant assigned to that matter?

Mr. WORK. That is right.

Mr. BRASCO. So you have a good gage as to productivity, also.

Mr. WORK. Exactly.

Mr. BRASCO. Let me ask you this in connection with this system, and I suspect that is another advantage of having such a system. You then have an opportunity based on your entire work product in terms of your scale in the procedure, of the ability to assign certain types of cases to certain assistant U.S. attorneys, obviously predicated on experience and expertise.

Mr. WORK. Absolutely.

Mr. BRASCO. Which is a distinct advantage. Then, I see, also, that even predicated on this information, you can have one assistant in

court on the arraignment, present the case to the grand jury, and ultimately try the case.

Mr. WORK. That is right.

Mr. BRASCO. Which is a distinct improvement as opposed to having separate assistants handle each part——

Mr. WORK. That is right.

Mr. BRASCO (continuing). Of that criminal process.

Mr. WORK. There is scarcely a part of the management of the prosecutor's office that PROMIS doesn't address itself to or attempt to improve. For instance, we get calls from witnesses in the mass-produced environment and the witness will call up and she or he will say, "My name is John Doe. I am a witness in a case and I have forgotten the day I was supposed to be at court."

We ask if you know the name of the person who assaulted you or the name of the defendant, and they will say, "No, what would I want to know the name of that person for"? I would then ask them perhaps, grasping for straws, "Do you know the name of the police officer that assisted you," and sometimes I will get a "No" there. If we get a "No" there, under our old way of operating, there was no way I could tell that witness what day his or her case was up. With an automated case system, we merely plug in the name of the witness in the system and it flashes up on the screen on a response that shows this witness is in such-and-such a case and this is the date.

A valuable tool for public relations in the prosecutor's office, a valuable tool for convictions.

Mr. BRASCO. That is very interesting.

Is your office here in the District of Columbia set up in various bureaus, in which cases were, basically by virtue of their category, assigned to relatively a small number of assistants: namely, homicide, robbery, and so forth.

Mr. WORK. We are not as specialized as some of the New York offices are, Congressman, but we have in the Superior Court Division, which is essentially equivalent to a local prosecutor's office, as I am sure you understand, three separate divisions.

One is our Felony Trial Section, another Misdemeanor, and the other is the Grand Jury Section. We are fortunate in that we also have on the Federal side our Office of Major Crimes, an Organized Crime Section, and we have a Fraud Section.

Because of the unique relationship of the U.S. Attorney to the District of Columbia, in that my superior of the U.S. Attorney is both the local and Federal prosecutor, he is able to use both the local and Federal statutes to the complete advantage of the citizens of the District of Columbia, and therefore is able to see his Organized Crime Section in the Federal side of his Office and Fraud Section in the Federal side.

But our Fraud Section will prosecute cases in the Superior Court Division or in the superior court as well as in the Federal court. As will our Organized Crime Section.

Mr. BRASCO. In terms of statistics, this is a very great improvement over some of the things I have seen in local prosecutor's offices. One of the things that always disturbed me in terms of statistics, and for the sake of discussion, a defendant may be charged with grand larceny of an automobile, and the same officer might charge the same defendant

with being an unlicensed operator, with being someone who was operating a motor vehicle without the proper insurance and right down to and including traffic infractions.

I suspect you could pick out for the sake of statistics, that this was only one transaction.

Mr. WORK. That is exactly the function of that number I was explaining to you before. That number is the transaction number and that ties everything together. That transaction number, that particular criminal event number, enables us—I am sure you are familiar with circumstances where an indictment would have to be dismissed and rebrought for technical reasons. That dismissal and rebringing under some statistical systems would be counted as two cases. It is not, in fact, two cases: it is one case, and it is that transaction number.

Mr. BRASCO. How much does this cost?

Mr. WORK. Congressman, I have here, anticipating your question, a sheet that sets out exactly the funds that were set out for this system and Mr. Hamilton will pass them up to you here.

It cost, under LEAA funding, $304,000.

[The funding information referred to follows:]

GRANT FUNDING OF PROMIS

Grant number	Date	Grantee	Purpose	Amount expended
70-DF-047	Completed, Dec. 31, 1971	Office of Crime Analysis	Contract awarded by OCA to Peat, Marwick, Mitchell & Co. for design and programing.	$60,000.00
72-A-111 (subgrant 72-13).	Sept. 1, 1971 to Jan. 31, 1972.	U.S. Attorney's Office, Superior Court Division.	System maintenance; interface with office manual operations system; improvement of source document filing.	42,328.40
71-DF-1120	Jan. 25, 1972 (initial award of funds) to Mar. 31, 1973.	do	Amended to make Institute of Law and Social Research grantee.	[1] 202,395.00
Total				304,723.40

[1] Extension of PROMIS to felonies. Redesign of subsystem.

Mr. BRASCO. That is for equipment?

Mr. WORK. No. That is for the development of the system. It has not been a terribly expensive development process. The equipment, we are fortunate in that the Department of Justice, of course, has a computer center. But we are not unique in that regard. There is hardly a major jurisdiction in this country that doesn't have a county or city computer center and usually there is hardly a major jurisdiction in this country that doesn't have an underused county or city computer.

In fact, in my experience in talking to other district attorneys about this, what you might think ordinarily in commerce and business would be a most important hurdle is not, in fact, a hurdle at all—computer time. There are computer centers that are underused and dying to be used and the prosecutor usually can find a computer center that is going to run for him very reasonably.

Mr. BRASCO. Do I understand you developed this system?

Mr. WORK. Congressman, that would be a gross overstatement. I was one of the leaders of the team that developed this system. Mr. Hamilton, to my left, was also a leader of that team.

Mr. Brasco. Both you and your colleagues in absentia are to be commended. I think it is a very fine system.

Did you ever give any thought to using a similar system for prisoners who have been incarcerated and are serving their sentence, in terms of trying to match up things to produce a better system of rehabilitation? Possibly the work records, backgrounds, habits? Because it seems to me it is part of the committee's work.

This is one of the things we think is lacking in terms of meaningful rehabilitation programs—the name is probably good, too, "Promise—with an "e" on it. This could be used to correlate all the information one needs to know about a defendant in order to rehabilitate him. It seems to me to be a tremendous way to coordinate the data that is necessary to try to fit him into a proper work program or training program.

Mr. Work. Even more important than that is evenhandedness of approach. I have had some correctional experience as a law student. I was an intern for a summer at Leavenworth Penitentiary. One of the things that sticks in the craw of prisoners time and time again is someone will be able to get into a college program and others won't be able to get into a college program. They say, "My record isn't as bad as his and I didn't commit as bad a crime, and I have more promise than he does, and yet I am not in this kind of program."

Evenhandedness is not just a problem for the courts or prosecutor or judges: it is a problem for corrections. And a system like this can help this. It can help management monitor this kind of problem right here, say in the Federal Bureau of Prisons here in Washington.

But I am happy to say the same gentleman who developed the scale we used, D. C. Gottfredson, with respect to persons' criminal history and background, is also working under contract to the Federal Bureau of Prisons to develop a system much like the one you have just hit upon here in your discussion this morning.

This type of practical application of a theoretical approach, we are just scratching the surface on it in our field. There has too long been a broad separation between the theoretical innovative thinking and the actual practice. There are a variety of reasons for that, including the lack of resources on the practical level.

You know, I sit down and talk to some of these local prosecutors about developing a computer system and I say, you know, developing a computer system is very hard work for your management team and you and the other people in your office are going to have to spend some time on it. They throw up their hands in despair and say:

> Where am I going to find the time? I almost have to go to court myself in order to move the cases through the system. I can't afford to be thinking about the future. I do not have the resources, do not have the ability to do anything but cover the courts.

That is one of the real tragedies of the prosecution in major cities today. We are really fortunate in the District of Columbia in that we have perhaps a larger number of prosecutors per population than any other city in the country.

Mr. Brasco. Maybe you can answer this, Mr. Work, or our chief counsel. Would this kind of program come under funding of the local prosecutor's office, where we can send in a team to develop the concept? Would it come under LEAA?

Mr. Nolde. Yes; it is, in fact, funded by LEAA.

Mr. Brasco. The problem is no money?

Mr. Work. LEAA has in fact helped promote the PROMIS system in other jurisdictions. The past administrator, Jerris Leonard, sent out a letter to all of the prosecutors in the country last fall telling them about this system and telling them that they would be available and another organization called the National Center for Prosecution Management, which has been funded with LEAA funds, would be available to assist them in making an application for this type of system for their office.

I ought to stop here and just say a few words for the National Center for Prosecution Management. The head of the National Center is Mrs. Joan Jacoby, an extraordinarily talented person, who helped us develop this PROMIS system, who worked with me in my office for a period of more than a year and a half. I asked her to come with me today so I could introduce her, but she was too modest to come.

The three of us really worked on the developing of these concepts in their earlier stages and she has taken what she has learned in those initial years now and applied them in her position as the executive director of the National Center for Prosecution Management.

In addition to that, we have had some very good response from a number of other prosecutors' offices in the system. As you heard yesterday, Mr. Busch from Los Angeles is installing the PROMIS system.

Chairman Pepper. Have you had any inquiry from the Miami district attorney's office, Mr. Gerstein?

Mr. Work. I have had some inquiries from the Miami office. I don't know how far along they are, but I will say this, a number of jurisdictions in Florida are moving right along in the computerization field and are doing some very good work down there.

Mr. Brasco. I feel like I am on a busman's holiday here.

Let me ask you this. In terms of this fingerprint record that you run, how many jurisdictions have that?

Mr. Work. Only the District of Columbia, Mr. Brasco, and that is a problem.

Mr. Brasco. That would be a problem. You would never know whether or not this individual had committed a crime in another State.

Mr. Work. That is a significant national problem and one I think probably should concern this committee very deeply. We also have room in our system and we do carry, when we get it, the FBI number, which is also a fingerprint-based number. So whenever we have a match on a FBI number that will also occur.

Mr. Brasco. Couldn't you use just the fingerprint of the FBI without a number?

Mr. Work. I am not certain. I am not expert enough technically to be able to conceptualize this for you, but I have the hope that someday we will be able to have a universal fingerprint number identification system, that will be crossjurisdiction. This problem is magnified in larger States, such as your own, where one city will have a defendant on one fingerprint number and another city will have him on another fingerprint number and never the twain shall meet.

I t hink we are going to be coming up—with the NCIC system, National Crime Information Center system—with an answer to this,

hopefully in the relatively near future, but we are years away. Unfortunately, even though we are getting the theoretical basis, we are years away from the full-fledged practical application.

Mr. Brasco. In New York, if I remember correctly, it might be a trifle more advanced in terms of the collection of information, because what would happen, the fingerprint request would go to 100 Center Street in downtown Manhattan, which would include the entire city of New York. Then a second request would go to Albany, and under the system, all jurisdictions report whatever fingerprints they have in terms of the relationship to a defendant and his criminal actions to Albany. So we get the benefit of that. And then send the copy of the prints to Washington.

Mr. Work. Right.

Mr. Brasco. So that we get a pretty good gage of whatever was available. Obviously, there are gaps in between, but I think with your system, you could develop the kind of network that would stop the gaps and would be more meaningful in keeping the necessary data.

Mr. Work. The key is that instantaneous access. For instance, we can go in when we screen that case, and before we make the bond representations, through our terminal and get instantaneous access to that fingerprint record and see what the pending cases are against the person and whether or not there are any existing warrants out for him, which are so important in this coordination respect and so important with respect to making adequate recommendations to the judge or magistrate about the bail recommendations we would submit we would need.

Chairman Pepper. Excuse me just a minute. How much would it cost and how technically difficult would it be and how long would it be after you get the money to provide that kind of a system on a national basis that you have here for the District of Columbia?

Mr. Work. Well, Mr. Chairman, we have here, and I think Congressman Brasco has the figures, the figure that shows how much LEAA money went in the sytem so far, $304,000. It takes a long time because not every jurisdiction, as you know, is like every other jurisdiction.

Chairman Pepper. On a national basis, you wouldn't necessarily have to have all of the items which you have in your local report. You give pretty generally what the record of that party charged with a crime in a given case was in the country, his rate of recidivism, instance of recidivism, his incarcerations, and crime, and what cases were pending against him perhaps in other parts of the country, and the like.

How much would it cost and how long would it take to set up that kind of system so you have access to it here in the District and other parts of the country?

Mr. Work. Let me suggest this: We have just recently been awarded a grant of $89,000 from LEAA to develop a series of modular software packages that can be lifted out of our system and transported to another interested prosecutor's office. One of the first customers these sofeware modular packages is going to be the prosecutor in Cobb County, Ga. He has already sent his people up to begin working with our software people to enable this system to be transported into other interested offices throughout the country.

That is going to save a lot of time. We have been working on this system and developing the concepts behind this system since late 1969.

Chairman PEPPER. Why couldn't the FBI develop this kind of a system on a national basis? Of course, where it would depend on use only by the local jurisdiction that have these systems to feed it in, but why wouldn't the FBI set up up a comprehensive system of this sort to bring in data from all over the country and it, in turn, would be accessible to all of the prosecuting offices or the courts in the country?

Mr. WORK. I think that is in fact the goal of the NCIC system, Mr. Chairman, and I think that kind of planning is presently going on.

Chairman PEPPER. Have you had any estimates from anybody as to how much it would cost to do it and how long it would take?

Mr. WORK. Mr. Chairman, I just don't know how much money is budgeted for the NCIC plans or how much they project will have to be used in the future for developing such a system. But it all depends ultimately, Mr. Chairman, on developing the subsystems in the prosecutors offices themselves to feed that information.

One of the things our system is going to be doing in conjunction with the Wales system is feeding data into the NCIC's District of Columbia repository. We are linked in. We have in our system what they call the project search codes, which are the NCIC Codes of Criminal Offenses, and we carry those search codes so we can link them with NCIC and provide the automated base for NCIC queries for the District of Columbia.

What we have to do is build the subsystems in the major prosecutors' office throughout the country that will link into NCIC, and all of a sudden, I think, and within the next 5 or 10 years, it is going to be very interesting. We are going to be faced with an information explosion in the criminal justice field.

Right now we have an information famine. But once these systems get developed, once they get linked up, we are going to have a great deal and the ability to do a great deal of significant research we just don't have now.

Chairman PEPPER. Suppose X is convicted here in the District of Columbia of some serious crime and there is a probation inquiry about that individual so it would be background for the judge's sentence. What access do you have at the present time as to information about that man's record?

Mr. WORK. At the present time—and maybe I should take this moment to do what I was going to do at the end of my remarks, take this moment to invite you to come down and see how it actually works. You will see what we can do. We can type in the man's name and ask what his status is right at the moment at any stage in the proceedings as he goes through the system.

For instance, if we have a man that comes in— and we check every single one that comes in on a new arrest—and we found out—well, let me give you an example.

I was working with the system myself just this last week and I ran into a case as I was working with it, where the defendant was on two different probations. He was on probation to the U.S. District Court in the District of Columbia and he was on probation in the Superior Court of the District of Columbia. He had just been rearrested and come into our system again.

Now, the likelihood, although I of course do not know it for a fact, the likelihood is great because those probations were very close to each other, that the information was not given to each probation officer and each judge, that he was on production somewhere else.

To answer your question more directly, we can type in his name and see whether or not he is on probation. We will, of course, have to call for his file because all the computer does is alert us to the fact he is on probation.

Chairman PEPPER. I know, but information is available only in the district you are talking about.

Mr. WORK. That is correct.

Chairman PEPPER. I am talking about in the whole United States.

Mr. WORK. I know of no other place that information with his kind of depth——

Chairman PEPPER. When the judge is sentencing that man, he doesn't know whether he just got out of a prison in Florida or some other place, or whether he served half a dozen prison terms, et cetera.

Mr. WORK. Our only hope is that we will have the FBI rap sheet in the file and the FBI rap sheet is in fact accurate and complete.

Chairman PEPPER. You mean every time a man is fingerprinted in a State that information is given to the FBI?

Mr. WORK. That is it, presently.

Chairman PEPPER. Every time he is sentenced and spends incarceration in a jail or penal institution, that comes to the FBI?

Mr. WORK. That is right. It is supposed to.

Chairman PEPPER. Have they got it on a computer over there?

Mr. WORK. I believe it is computerized, Mr. Chairman. The difficulty goes not to the FBI system, but right back to the heart of the local systems. If the local system isn't good enough to know they have that man in there several times, which we know they are not, they are also not good enough and accurate enough and complete enough to get the information to the FBI. Because it all goes back to the local criminal public system.

It all rests at their door. If they are not feeding accurate information to their own files, they can't get accurate information to the files of the FBI.

Several other aspects, if I may continue.

One of the most important things we have done with this system, and it is very unique, is that we record in this system the reason for the actions that we take. We don't just record that we have nol-prossed a case or dropped a case or the case has been dismissed. We put into the system the reason for the action.

I think this is one of the most significant improvements that we have made in this, in the problem of recordkeeping for a prosecutor's office. How many times has an experienced prosecutor been faced with going to a file and perhaps not even being able to tell from the file itself what the reasons were the case was dismissed or dropped.

This makes, I think, a very telling and important point. The prosecutor is responsible to the public, the people, for these reasons. He therefore should have these reasons at his fingertips, should be able to get them instantaneously. The court, of course, when they automate, only write down a nolle or dismissal. They don't know, they haven't got the information why the case was either screened out, why it was dropped, why it was nolled, and dismissed. We collect that information. We have standardized reasons and you will see perhaps in that larger report, the one that is on—actually, my working paper. Not that report, Congressman. The one that is on real computer paper, not Xeroxed paper.

You will see on that report a table of dismissal reasons.

You will see reasons that relate to witnesses, nonappearance. You will see where we record reasons that relate to search and seizure. We are putting down why we are taking the actions that we are taking, and we are putting it down in a way we can retrieve it quickly so that we can make reports, so we can evaluate it.

Another product of that, for instance, is that we were able to feed back information recently to the police department with respect to a type of case that the police officers were having problems with. The police officers were not using the correct procedures in handling knife cases. They were not making correct arrests under our statute that relates to knives.

We were able to identify that because of our information system and feed back to the police department that information. They issued a special set of directives that related to knives. We have already, then, begun to see the salutary effect coming back through the arrests with respect to knives.

Mr. BRASCO. I see you have one that indicates witnesses not being available.

Mr. WORK. That is a terribly significant problem.

Mr. BRASCO. That would be an interesting thing for a prosecutor to know if the man comes back into the system with respect to problems that might have been experienced before with witnesses.

Mr. WORK. We recognized this as a problem and it was the data base that first pointed it out. You can see witnesses were a problem. We didn't understand the gravity of the witness problem until we began to see it statistically. As a result, we have applied for and received a grant from LEAA to do a witness survey of witness problems in the District of Columbia, and we are going to do a study not only of the data in our data base, but also we are going to conduct an actual opinion survey of our witnesses to see what kind of problems they have.

Mr. BRASCO. I think the general public would be very interested to see that independent statistic with respect to the witnesses' availability and cooperation.

Mr. WORK. It is very important.

Mr. BRASCO. To indicate that an integral part of the prosecution system is the availability of the citizens who will come forward.

Mr. WORK. No question about that.

Chairman PEPPER. By the way, one of the witnesses we had this week said they had arranged to have sessions at night so that it would be more convenient for witnesses to come at night rather than losing time from their work or maybe not being able to get off from work. Of course, the other thing is, the witness having to come maybe two or more times and not getting to testify because of some other delay.

Mr. WORK. That is a very serious problem. Both of them are serious problems. With respect to the latter, we continue to have a serious problem with the multiple appearances by witnesses. That is not only an inconvenience to the witnesses but it is also very costly, as I am sure you know.

Chairman PEPPER. Do you have any night courts?

Mr. WORK. We ran an experiment about 3 years ago now, Mr. Chairman, with night court. My office, however, is open every single

night until 10 o'clock. We keep a district attorney on duty until 10 o'clock every night to receive citizen complaints, to hear from witnesses if they have problems, but the court is not open.

Chairman PEPPER. We don't have any night session?

Mr. WORK. No. When we ran this experiment about 4 years ago, the conclusion was that for a variety of reasons it was not beneficial to the court. One of the reasons, I believe, was that in fact we had very little interest in it. We made the time available for particularly nonjury trials. If a person wanted a nonjury trial, he had the option of having it at night. Unfortunately, we did not get very many callers for that particular service. I think one of the reasons was perhaps it was just nonjury. We felt reluctant to keep the jurors on into the night hours. We have a very high percentage in this jurisdiction of jury trials. Jury trials are the rule in the district, rather than nonjury trials. So I think that may have been a factor and it has not been as successful as it might.

Our small claims court operates at night and pretty successfully.

Chairman PEPPER. That is one of the things worth keeping in mind.

You developed a magnificent system here to give you full information within your own area here, within your court system, as to what is going on. What do you have comparable to the service rendered by the New York system, so favored by Mr. Justice Ross, who is the administrator of the court, and whose job it is to correlate all of the component parts of a court proceeding, to see the witnesses and prisoners and the defense and prosecuting attorneys and the courts and all of the other component parts of the judicial proceeding are present at the same time and available so that the machinery may move ahead? Do you have anything like that?

Mr. WORK. We do in our court system have a court executive, Mr. Chairman, and that court executive was set up pursuant to the Court Reorganization Act that Congress passed in 1970. It has had one important salutary effect that is analogous to the situation you cite. The chief judge in the court executive established an interagency task force that deals with interagency problems. We have never had that kind of a realtionship before. The interagency task force meets regularly and we discuss problems of interaction between all of the agencies and try to make systemwide improvements with the many kinds of problems we have.

Chairman PEPPER. But in New York, the chief judge, the senior judge designates, and apparently they all know he has the support of the court and if somebody doesn't cooperate then the court can take action by way of recommending to some agency that they try to get their people to participate in this or some of them may be within the jurisdiction of the court system itself, so that the court would have authority to do something about it.

We were holding a hearing in San Francisco and the Federal district judge told us concerning a case that was supposed to be tried on a given day, he couldn't proceed because the defendant wasn't there and no other case was set up and the judge was idle on that day.

I know Justice Clark told us he puts more emphasis on having proper administrative support for the court than he does upon naming an additional judge.

Mr. WORK. No question about that, Mr. Chairman. In fact, the same kind of difficulty applies to the prosecutor's office. I think essentially what we are talking about in the criminal trial is a significant staging and logistics problem. You have to get all of these participants there at exactly the same time and I, in the days I was actively appearing in court, had many experiences where I was sitting waiting for one or another one of the participants to arrive there before this whole event could come off.

There is no doubt that it is a significant problem and I think it sounds like a great idea.

Chairman PEPPER. Before they put this system in effect, a lot of times jail authorities would be delayed in getting the defendants there. All sorts of delays would arise.

Is somebody giving consideration to that in the District's system?

Mr. WORK. As I mention, Mr. Chairman, we are trying to deal with that with our executive officer as the head operative agent and one of his assistants presiding. We are trying to deal with it as a committee rather than an individual assigned the responsibility. We are having a fair degree of success. But it is a significant problem and I don't pretend to have any magical answer to it.

Mr. BRASCO. I was wondering if you have any experience in the data system of yours, PROMIS, with respect to being able to schedule the trial of the case, for the purpose of not having witnesses and/or the police officers come down to the courthouse, thinking that they may be on for some court procedure that day, only to find they have to go home and come back the next day. And with respect to witness availability especially, one of the most discouraging aspects and probably one of the most single factors, along with some others, but that single reason given by most citizens is that "I am not going to be involved in that court system; I will lose my job, more than a day's pay." And from a police officer's point of view, he can be out in the street rather than standing around waiting for the court to call him to present his testimony.

Have you had that experience with this in terms of any beneficial fallout?

Mr. WORK. Congressman, we have not. The system does have some relationship and information to offer with respect to these problems but we are not in our office responsible for calendaring in any part of the court, except in the grand jury part of the court. The court manages the calendar in every other part.

But as you say, there is information in a system such as ours that has a hearing on these matters.

Mr. BRASCO. You can tie it in quite easily, could you not?

Mr. WORK. There is no question about that. We have not culled that data out of our system. This brings me to another point I am really interested in making.

There are more than 160 separate items of information about each case in that data base. There are more than 30,000 cases now in that data base. There is a wealth of research potential in there for a variety of problems, and we have applied for a law enforcement assistance administration grant to try to get at some of that research.

We have had a variety of institutions that have come to us that have been interested in helping us get at it. I hope within the next few years we are going to be able to tap it.

But I think you will be interested in our priorities in that regard. We set out in the grant application we have written, our first priority is going to be operationally based research. In other words, research that will help us improve our operations. And the things you touched upon, calendaring, is one of those items we set forth as an example of where this research base could help us.

I think another thing that is important about this is as similar systems are developed in other prosecutors' offices—and here this committee can be of enormous help by endorsing this concept—as other systems are adopted in other prosecutors' offices like this, attention ought to be paid to the potential cross-jurisdictional research, so we have data elements in common, so in effect the computers can speak to one another.

By setting up sort of minimum standards for a system such as this, we will be able to do significant cross-jurisdictional research. I don't think LEAA or any other segment of the Federal Government should be in the business of funding those systems or helping to fund those systems, unless there is the ability to address national crime problems and do the kind of cross-jurisdictional research that prototype systems like this, if followed elsewhere, will enable us to do.

It is hard to explain or to overemphasize how dramatic the effect has been of building this system. I thought when I started out in 1969, I was developing something that was going to help our office. But I really didn't realize the project I was undertaking was the project, really, of rebuilding and rethinking, not only the administrative operation of the office, but rethinking policies, priorities.

Thinking through and updating every stage of our procedures. Weeding out procedures and numbers and things like that no longer meant anything to us and the variety of things that resulted from that. Not only have we improved our conviction rate with respect to particularly these major offenders in our mass-produced environment in particular, but this has led us to develop a much better and more comprehensive training program.

It has made us realize that we have problems in the office of discrepancies between attorneys. As a result, we are beginning to set down and put in writing our training directives. We have already put in writing our screening policy, what we call our case papering policy. We have had to really rethink and bring up to date, because of this system, each one of the steps and all of the processes we go through.

I think that more than anything else, perhaps that this stage, because it is so early in the stage, that getting there, becoming automated, has been a substantial portion of the benefit, because it has made us rethink in a rigorous directed kind of fashion, what it is exactly we are supposed to be doing here in our office.

That has been a tremendously important exercise and one we didn't really realize we were getting into when we began the project.

I think the final thing I would like to say, if I may, is really a word of caution. Building a system like this is a tremendous task. It takes a long time and there are lots of problems. Having had no experience with computers before and only being a line-type prosecutor, I said to myself, tomorrow I am going to have a computer system and I will know everything I need to know and I will have this information at my fingertips.

It is not a matter of tomorrow. We have come to regard PROMIS as a 5-year project and we are only in year three. There are people who look at the system and pull out a case today and say, "Oops, there is an error. The machine made a mistake."

The machine didn't make a mistake. It was somebody who fed the information into the machine that made the mistake. But the system has growing pains and growing problems, and it takes a long time to make a system like this work.

Perhaps as I look back on it, we made the system operational too soon. We didn't spend enough time in the management development phase. For that reason, among my own assistants, the system in its initial stages developed a serious credibility problem, because there were so many errors in the system initially.

I tell other prosecutors' offices when they come to see me about this, one of the biggest challenges you are going to have is convincing your own people there is another way, that a new system ought to be tried. We have found that to be one of our biggest problems.

I think, however, if you will come down and accept my invitation and, believe me, it is earnestly offered on behalf of myself and the U.S. Attorney, and the Department of Justice, if you accept my invitation to come down and see it, I think it will be worth your trip. I think you will be interested in it and I think you will then be able to understand a little bit more about why we are enthusiastic about it. It will not take long. We are only 10 minutes away. I can get you in and out in an hour. We would be deeply honored if you would come down and visit us.

Thank you very much.

Chairman PEPPER. Thank you. We will certainly be interested in it and we will certainly see if we can't work out a visitation sometime soon.

I assumed, coming in while your presentation was in progress, that all of the information you told us about was available to the court. I find from counsel this is primarily for the prosecutor's office.

Mr. WORK. It is the prosecutor's office that feeds the information in here but let me assure you of this. This information is public information. If the court wants to see it, we will provide it to the court. If the defense counsel wants to see it, we will provide it to the defense counsel. There is nothing secretive about the system and the only thing we try to do is this: We try to protect the names of the people, as you will see in my handout to you.

We are conscious of privacy and whenever we have a visitor or something of this sort, we eliminate all of the names. The defense counsel, for instance, can't come in and wander through all of the names of all of the defendants, but he can certainly see anything pertaining to his defendant. Or the defendant can get anything that pertains to himself. We cross out all of the names when we hand it out. Strictly for privacy reasons.

Chairman PEPPER. I would think the court, in passing sentence upon the defendant, would profit by having all of this information. For example, he asks for bail and if he can pull the files of this man he might find out the last time he was on bail he committed two crimes; and it might influence his decision to grant bail.

Also, the probation officer would have great difficulty in collating all of this information you have; in response to the judge's direction he gives him a background report on this man. Do the probation officers have access to your data?

Mr. Work. They certainly do. We make available, in fact, not only this data available but the whole file. Our whole file is more important than the automated data to the probation officer.

Mr. Brasco. It really is intriguing. I think certainly a most worthwhile project. I got a call from my office the other day, from a young fellow who was taking an examination for a policeman in an adjoining county, Nassau County, and he had some problems when he was 18 years old and he would like to find out the disposition. He wanted to have his record complete and sometimes they are so difficult to find.

It may sound strange, but I am sure you know they can have 15 guys going around looking for it and throw up their hands in disgust and say, you just can't get it. I am sure, that in your system you have that information in terms of what was the disposition of a case at your fingertips.

Mr. Work. That is in the future for PROMIS.

Mr. Brasco. You don't have that?

Mr. Work. We are developing that. Since PROMIS began on January 1, 1971, we only have things from that day forward. We did not go back and automate the entire history.

Mr. Brasco. I am talking about the concept. I suspect the workload of feeding the information in——

Mr. Work. The concept covers that, no question about that.

Chairman Pepper. Mr. Work, you have certainly done a magnificent job in setting up this system and getting it into operation. We know you are going to proceed in the perfection of it. I just hope we can get your example adopted, emulated by other prosecuting officers all over the country, and we can establish a national system of similar character so that all component parts of the administrative process for the administration of justice will have access to all of the information that should be available on every matter that comes before any part of that system.

We want to thank you very much for being here.

Mr. Brasco. I am going to send this to my good friend, the district attorney of Kings County.

Mr. Work. Fine. Thank you very much, Congressman.

Chairman Pepper. Mr. Work, counsel suggests I ask if you would like to make any comment on anything said this morning by Judge Halleck.

Mr. Work. Thank you, Congresman; if I may.

I would like to give you a further statistic. Judge Halleck mentioned that his conviction and plea rate was, as I recall it, about 10 percent trials and about 90 percent pleas. Judge Halleck does get a great number of pleas. However, the overall felony plea rate is somewhat different from that and I think the record ought to reflect that.

The overall felony plea rate in the Superior Court of the District of Columbia for fiscal year 1972 was 65.2 percent. For fiscal year 1972, we tried in our felony cases, 26 percent of the remaining cases. That is a substantial number of trials. We try a higher percentage of cases than almost any other major jurisdiction in the country.

We feel this reflects creditably on our system. We don't feel anyone is forced to plead guilty. If he doesn't want to plead guilty he can get a trial in our jurisdiction. As a general rule, and I think it is quite safe to say, a person is not penalized for going to trial in our district.

I should also say, while talking about figures, we are very proud of our conviction rate in the superior court. We are running a conviction rate of approximately 86 percent. Last month it was 87.4 percent of our felonies. We think this is an important figure, especially in light of court reorganization. As you know, the mandate of court reorganization was to increase the number of felony prosecutions. We have more than doubled the number of felony prosecutions but our conviction rate has not, in fact, dropped. We think that is very significant.

Mr. BRASCO. That conviction rate includes pleas and trials?

Mr. WORK. It does include pleas—that is right.

Mr. BRASCO. Would you have a separate one for trials?

Mr. WORK. Yes, we do. Last month, cases won after trial were 81.3 percent. We are very proud of that statistic.

Chairman PEPPER. I thought a very serious matter was presented by Judge Halleck in pointing out the large number of cases where the law enforcement authorities had not executed bench warrants issued by the court. He told us of some instances where homicide and robbery had occurred on the part of somebody who had already been subject to being brought in by a bench warrant.

He added—as he understood it—that the Police Department said it was not part of its duty to serve bench warrants and the U.S. Marshal's Office is so overcrowded with work it takes a long delay to get the bench warrants served. What comment do you make about either of those matters?

Mr. WORK. Yes; I would like to comment on that.

Let me say, first, that the bench warrant problem has been a problem of long standing in the District. The way the bench warrant responsibility broke down initially was that, years ago, the old court of general sessions bench warrants—misdemeanor warrants—were served by the Police Department, and the Federal court warrants were served by the marshal.

I am trying briefly to give you a little history of it. When court reorganization came about, that distinction between felonies and misdemeanor responsibility continued. So the Police Department felt it did not have the responsibility for the felony bench warrants and that continues as of today.

Our Office has taken some steps to try to alleviate this impasse, and this is what we have done. We have taken on the responsibility for putting into the Wales—Washington Area Law Enforcement Computer System—each one of these existing bench warrants. So if someone is stopped for a traffic violation, or if there is a hit on Wales, the person is arrested. That is presently our most fruitful way, believe it of not, of handling bench warrants. And even though it is not the responsibility of my Office to go out and execute it, we are just the prosecutor, we did assume and voluntarily assumed, because we wanted to get this issue off dead center, the responsibility for putting those bench warrants into the Wales.

That part of the system is working quite well and we are quite happy with that, and we hope through a process of working with both the Marshal's Office and the Police Department that we will be able to persuade them to resolve the problem.

Chairman PEPPER. Why can't either the municipal level or Congress simply make it the duty of the Police Department to serve these bench warrants?

Mr. WORK. There is no question that it could be legislated, Mr. Chairman.

Chairman PEPPER. It could be done by the City Council or the Commissioners of the District?

Mr. WORK. I think it could be done, certainly done, by the Council of the District or the Commissioner.

Chairman PEPPER. I tell you, as far as I am personally concerned, I would like this to be made a matter of record, if the District authorities don't make it clear that it is within the duty of the Police Department as well as the Marshal's Office—of course, that would have to come through Federal directive—that the Police Department is obligated to serve these bench warrants, which is part of the administration of justice system, that we will see if we can't get Congress to pass a law directing that they do so.

Mr. WORK. Let me assure you the U.S. Attorney's Office shares your concern. I should say one other thing about it. We have made an informal arrangement whereby certain priority bench warrants are given priority attention, so the problem is not quite as bleak as Judge Halleck painted it to be, and we are working on it.

Chairman PEPPER. Thank you very much, Mr. Work. You gave us extremely interesting and valuable information today.

[Mr. Work's prepared statement follows:]

PREPARED STATEMENT OF CHARLES R. WORK, CHIEF, SUPERIOR COURT DIVISION, OFFICE OF THE U.S. ATTORNEY, U.S. DEPARTMENT OF JUSTICE

Mr. Chairman, members of the committee, my name is Charles R. Work, and I am an Assistant United States Attorney for the District of Columbia. I am Chief of the Superior Court Division of the United States Attorney's Office.

It is my privilege to appear before you today on behalf of the Department of Justice and the United States Attorney for the District of Columbia, Harold H. Titus, Jr., to describe to you our management information system, known as PROMIS (Prosecutor's Management Information System).

THE PROBLEM TO BE SOLVED

In the District of Columbia, the United States Attorney is the prosecutor for common law crimes as well as federal crimes. Like local prosecutors in most major urban areas, the United States Attorney in the exercise of his local jurisdiction must prosecute thousands of cases on an assembly-line, mass-production basis.

As you are all aware, from 1958 to 1969 the number of serious felonies in the District increased approximately 600 percent. During this period, however, there was virtually no increase in the number of judges, prosecutors and defense counsel; backlogs grew and felonies were downgraded to misdemeanor status for trial.

In 1969 the President proposed a comprehensive court reorganization plan to cope with these problems. After careful consideration, Congress on July 29, 1970, passed the District of Columbia Court Reform and Criminal Procedure Act of 1970 (P.L. 91-358). In addition to restructuring the Court system the bill provided for more judges, revamped the Bail Agency and the Public De-

fender's Office. The staff of the United States Attorney was also subsequently increased.

Simultaneously, the United States Attorney at that time, Thomas A. Flannary, saw the necessity for internal management improvements to insure that the new resources would be used efficiently. One of the most important of these improvements was the development of an innovative management information system known as PROMIS (Prosecutor's Management Information System).

With the aid of a grant from the Law Enforcement Assistance Administration a team of prosecutors, systems analysts and a criminologist was assembled.[1] The initial design was completed and the first phase of the system was made operational on January 1, 1971.

THE PROMIS CONCEPTS

As it is used in Washington, D.C., PROMIS is a computer based information system. However, to understand PROMIS, it is important to disregard the computerization attribute momentarily and to examine some of the assumptions, concepts, and policies which are embodied in PROMIS.[2]

Implicit in PROMIS is the notion that the prosecutor must have a way of objectively evaluating his workload. In a small town, a prosecutor can become intimately familiar with each case in his office and know how each compares to the other in terms of the seriousness of the crime and the criminal career of the accused. However, in the large cities, one case becomes virtually indistinguishable from another because of the huge volume of cases and the large number of assistant prosecutors. What PROMIS does is attempt to recreate the small town prosecutor's knowledge of his caseload through the use of modern technology. Standardized rating schemes, developed by criminologists and statisticians, are applied to each case and each defendant to provide numerical ratings that give visibility to the differences among cases and defendants. With these ratings, the chief prosecutor in a large office can do consciously and deliberately what the small town prosecutor does more naturally and spontaneously: he can decide which matters deserve most of his time and concern. That decision, in a big city office, translates into special, intensive case preparation and monitoring for serious crimes and habitual offenders.

The standardized technique for rating crimes and defendants also helps solve another problem of the prosecutor, whether he is from a big city or a small town. These ratings give the prosecutor an objective basis for assuring even-handed justice. He can assure that defendants with comparable criminal backgrounds who commit offenses which are comparable in terms of the amount of harm done to society are given equal treatment.

Another concept which underlies PROMIS is that the prosecutor is one of the key administrators in the criminal justice system. What PROMIS does in relationship to the administrative responsibility of the prosecutor is to collect in standardized fashion, performance data for statistical analysis. By routinely collecting and analyzing this data, the prosecutor can identify problems not only in his own office but in the relationships of the various component criminal justice agencies as well.

In fact, as I shall make clear later on in my testimony, the performance of the criminal justice system can be measured in PROMIS through an analysis of three of its primary units of work: the crime, the accused, and the criminal proceedings.

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[1] The team was headed by Joan E. Jacoby, then Director of the Office of Crime Analysis of the District of Columbia, and Charles R. Work, then Deputy Chief of the Superior Court Division of the Office of the United States Attorney, Washington, D.C. The project manager was William A. Hamilton, then Senior Consultant, Peat, Marwick, Mitchell & Company. Other team members were Sidney H. Brounstein, Robert H. Cain, Joyce H. Deroy, James M. Etheridge, John L. Gizzarelli, Fred L. Lander, III, Soo Lee, Dean C. Merrill, Stanley H. Turner, Frederick G. Watts, and Robert Whitaker. Mrs. Jacoby and Mr. Etheridge are presently the Executive Director and Deputy Executive Director respectively of the National Center for Prosecution Management.

Mr. Hamilton and Mr. Merrill are presently the President and Vice President, respectively of the Institute for Law and Social Research.

[2] See generally Hamilton, "Modern Management for the Prosecutor," 7 The Prosecutor 472 (1971); Watts & Work, "Developing An Automated Information System for the Prosecutor," 9 Am. Crim. L.Q.—1970; Work, "A Prosecutor's Guide to Automation," 7 The Prosecutor 479 (1971); Merrill, "Using the PROMIS Tracking System for Criminal Justice Evaluation," Proceedings of the International Symposium on Criminal Justice Information and Statistics Systems 231 (1972).

A DESCRIPTION OF THE PROMIS SYSTEM

The types of information contained in PROMIS on each case include:

Information about the defendant.—(Name, alias, sex, race, date of birth, address; facts about prior arrests and convictions, employment status, bail status, and alcohol or drug abuse).

Information about the crime.—(The date, time, and place of the crime, the number of persons involved in the crime, and information about the gravity of the crime in terms of the amount and degree of personal injury, property damage, and intimidation).

Information about the arrest.—(The date, time, and place of the arrest, the type of arrest, and the identity of the arresting officers).

Information about criminal charges.—(The charges originally placed by the police against the defendant and the reasons for changes in the charges by the prosecutor, the penal statute for the charge, the F.B.I. Uniform Crime Report name for the charge, and the Project Search name for the charge).

Information about court events.—(The dates of every court event in a case from arraignment through motion hearing, continuance hearing and final disposition to sentencing, the names of the principals involved in each event, including the defense and prosecution attorneys and judge, the outcome of the events, and the reasons for the outcomes), and

Information about witnesses.—(The names and addresses of all witnesses, the prosecutor's assessment of whether the witness is essential to the case or not, and any indications of reluctance to testify on the part of the witnesses).

As mentioned earlier, one of the key features of the PROMIS system is the automated designation of ratings for pending criminal cases. Based on these ratings, priorities are assigned by the computer. The ratings are, in turn, based on an evaluation of the gravity of the crime and the criminal history of the defendant.

The gravity of the crime is measured in terms of the degree of harm done to society rather than in terms of the legal nomenclature. A scale developed by the criminologists, Thorsten Sellin and Marvin A. Wolfgang, which assesses crime gravity in terms of the extent of personal injury, property damage, and intimidation, was modified for use in the PROMIS system.[3]

The gravity of the criminal history of the defendant is assessed by a modified version of a scale developed by another team of criminologists headed by D.C. Gottfredson.[4] That scale examines factors such as the frequency of prior arrests, the number of previous arrests for crimes against persons, the use of aliases, and the use of hard narcotics.

In the District of Columbia Superior Court, the calendar is set and controlled by the court. PROMIS produces an advance list of the cases scheduled by the court for each calendar date, and ranks the cases according to their priority crime and defendant ratings. A special team of attorneys intensively prepares and monitors the cases which are given high priority ratings.

Another key feature of PROMIS is the ability to track the workload of the criminal court system from three separate vantage points.

From the vantage point of the crime or criminal incident.—This is accomplished by including in PROMIS the complaint number which the police department assigns to a reported crime. With this number, it is possible to follow the full history of the court actions arising from the crime even though those court actions may involve multiple defendants, multiple cases, and multiple trials and dispositions.

From the vantage point of the accused person or defendant.—This is accomplished by incorporating in PROMIS the fingerprint-based number which the police department assigns to the individual following his arrest, and which is used again by the department if the same individual is subsequently arrested. With this number, it is possible to accumulate criminal history files on offenders and to note incidents of recidivism.

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[3] See T. Sellin and M. Wolfgang, "The Measurement of Delinquency," John Wiley and Sons, New York (1964). The modifications made to the Sellin-Wolfgang scale were minor.

[4] See D. Gottfredson and R. Beverly, "Development and Operational Use of Prediction Methods in Correctional Work," 1962 (Proceedings of the Social Statistics Section of the American Statistical Association, Washington, D.C., 1962); D. Gottfredson and J. Bonds, "A Manual for Intake Base Expectancy Scoring," April 1, 1961 (Form CDC-BEGIA), California Department of Corrections, Research Division, Sacramento; Gottfredson and Ballard, "Differences in Parole Decisions Associated with Decision-Makers," 3 J. Res. in Crime and Delinq. 112 (1966). Scale modifications were minor.

From the vantage point of the court proceedings.—This is accomplished by including in PROMIS the number which the court assigns to the matter pending before it. With this number, it is possible to trace the history of any formal criminal action from arraignment through final disposition and sentencing and to account for the separate fate of each count or charge.

The inclusion of these three numbers is very significant. The numbers provide an "instant replay" capability to trace the criminal incident, the defendant or the court actions. PROMIS was designed in this fashion so that it would become the central link of Project TRACE (Tracking, Retrieval, and Analysis of Criminal Events), a system designed by the District of Columbia Office of Crime Analysis to provide a basis for communication among the agencies of the criminal justice system and the ability to track offenders from arrest through incarceration.

Another important aspect of the PROMIS system is that explanatory data is deliberately included to indicate the reasons for each event and disposition. This reason data is acquired as a by-product of the collection of data for the system's day-to-day operational support functions. For example, PROMIS not only records the date and the fact that a case was screened out, continued or dismissed, but also records the reasons the case was screened out, continued or dismissed. The analysis of reason data enables the prosecutor to study in much more detail the effectiveness of various prosecution policies and procedures.

MANAGEMENT IMPROVEMENTS INDUCED BY PROMIS

The development of the PROMIS system has led to the adoption of a number of other significant improvements in the management of the office.

One of the primary benefits of developing any information system is that it forces management to describe and define the key office functions the system must support. In the process, weaknesses and redundancies in operations are made visible and can be corrected. For a PROMIS-type information system, this forced exercise in descriptive analysis takes on even greater importance because the system is meant to be used as a tool for actively enforcing office policies and priorities. Thus, not only are functional weaknesses exposed, but also strategies and tactics of prosecution management are subjected to rigorous definition and review.

An example of the benefits wrought from this process is the Special Litigation Unit. A special six-man unit was formed within the prosecutor's office to provide special attention to the high priority misdemeanor cases. This unit provides continuous, concentrated monitoring of all cases identified as having high priority by the PROMIS system. Once a case has been flagged as a priority case by virtue of a high defendant criminal history rating, it is assigned to a member of this unit. That assistant prosecutor contacts the witnesses, interviews them and personally arranges for them to be present on the trial date. He reviews the periodic PROMIS reports on the case to determine whether there are any other pending cases against the same defendant and, depending upon his finding, may also contact the defense counsel to ascertain if a plea can be negotiated. The conviction rate for the priority cases which receive this intensive attention from the Special Litigation Unit is approximately 25% higher than for the misdemeanor cases processed routinely.

Other improvements which have been induced by the process of developing and operating the PROMIS system include:

Paralegal Program.—The PROMIS system exposed some important weaknesses in the recording of precise and accurate explanations of case decisions by assistant prosecutors. Even without a computer-based system, it is imperative that prosecution records contain a full accounting of all transactions and the reasons for the discretionary decisions. With the emphasis in the PROMIS system on recording reasons for all prosecutorial actions, it soon became apparent that this requirement for full documentation was not being met satisfactorily. The visibility that PROMIS gave to this problem led to the creation of paralegal positions in the office. Paralegals have been assigned to the calendar courtrooms to aid the prosecutor, particularly with regard to the documentation of reasons for trial dates, continuances, nolle prosequi's and dismisals. Other paralegals are assisting attorneys in the coordination of continuances, the notification of witnesses, the interviewing of citizens who wish to file complaints, and the preparation of the necessary documents at the intake and screening stage.

Comprehensive Training Program.—The PROMIS system has also given visibility to performance problems. Disposition rates can be displayed in a variety of ways which expose training deficiencies. A natural outgrowth of this exposure has been the development of a comprehensive training program on prosecution skills and administrative and management skills. A careful examination of the training needs has been completed for four types of staff: the management level prosecutor, the line prosecutor, the paralegal, and the administrative support staff. A curriculum design has been completed for each of these staff types and case studies, lecture materials, video tapes and other audio-visual aids are being developed. The curriculum design includes a comprehensive range of subjects from an overview of the prosecution and criminal justice systems to specialized prosecution skills.

Directives System.—PROMIS has heightened the consciousness in the office of policy development and implementation. Consequently, a directives system is being developed to provide a conceptual framework for the determination and promulgation of policy and procedures.

Operationally-based Research.—It is expected that another significant benefit from PROMIS is still to be realized: a research program on the PROMIS data base. The PROMIS system currently contains complete case histories on approximately 30,000 closed cases. In addition, the data base is growing by approximately 1,200 criminal cases per month.

PROMIS II

In February 1973, the United States Attorney for the District of Columbia, Harold H. Titus, Jr., made the decision to upgrade the PROMIS system so that case information could be instantly obtained via terminals placed throughout his office. This new phase in the development of the system has been designated as PROMIS II. PROMIS II is different from PROMIS in that it is on-line, real-time system. That is to say, certain pre-formatted questions may be asked directly of the data base and the answer is flashed back instantaneously on a TV-type screen. Moreover, PROMIS II is designed to be useful not only to the prosecutor's office, but also to the police department.

PROMIS II is presently being operated as a part of a real-time metropolitan Washington criminal justice communications network which includes a number of other systems, such as a wanted persons file and a stolen vehicle tag file, and which is directly linked to the NCIC (National Crime Information Center) system.

The PROMIS data base contains more than 160 separate items of information about each case prosecuted in the D.C. Superior Court. Thus, numerous real-time queries could be designed which would be helpful to the prosecutor and/or the police. The queries which have been developed thus far are:

The defendant query.—This query makes it possible for the prosecutor or the police to determine whether or not a given defendant has any other cases pending in the court system. The fingerprint-based identification number assigned by the Metropolitan Police Department is entered via a terminal and the computer flashes back on a screen the docket numbers and status of each of the defendant's pending cases. With this status information, the police can identify those persons who are arrested for crimes while on some form of pre-trial conditional release. If the identification number is not available, the defendant's name can be used as the basis of the query.

The court docket number query.—This query enables the prosecutor or police officer to instantly apprise himself of the pertinent facts and status of any pending case. For docket number queries, the computer flashes back the following information: the defendant's name and bail status; the charges; the arrest date, time and place; the offense date, time and place; the names of the police officers on the case; the number and reasons for any continuances in the case; the crime gravity rating; and the defendant criminal history rating.

The police officer query.—This query enables the prosecutor or the police officer to determine the number and status of all cases a given officer has pending. By entering the officer's badge number, one can obtain on the screen a list of all the pending cases in which he is scheduled to testify and the next court dates for each case.

The case aging query.—This query enables the prosecutor to monitor delay at each stage in the criminal proceedings. The prosecutor can specify the type of case he is interested in, such as misdemeanor cases, cases bound over to the

Grand Jury, or felony indictments, and then enter via the terminal any aging factor of his choosing. For example, he can specify that he wants a list of all cases which have been awaiting Grand Jury action for more than thirty days.

The witness query.—This query enables the prosecutor or police officer to enter the name of a witness in any pending case and immediately determine the docket number, current status and next trial date for the case.

Other pre-formatted queries are being planned. Another query to be developed in the immediate future will enable the police district commanders to request a list of their personnel due in court on an given day. This will enable the commander to plan and use his staff more effectively.

CONCLUSION

We want to emphasize that we regard PROMIS as a long term project. A system such as PROMIS in an office as large as ours takes literally years to establish. This is not to say that the system will not have any short term payoff; it will. The long term payoff does not come quickly, however.

Inevitably, attempts to substantially revamp concepts, strategies and methods of operation are not accepted with equal enthusiasm by all. There are some who decry these new approaches and insist that the only solution to the problems at hand is to have enough skilled, experienced prosecutors to handle each case carefully and methodically in the style of the idealized small town prosecutor.

We are quick to agree that there is no substitute for skilled, experienced prosecutors and we are emphatic on this point. What we are saying, however, is that in major urban centers it is unlikely that there will ever be enough skilled, experienced prosecutors and thus we must provide supplementary tools such as PROMIS to assure the proper level of performance.

Chairman PEPPER. The committee will recess until 2:15.

[Whereupon, at 1:30, the committee recessed, to reconvene at 2:15 p.m., this same day.]

AFTERNOON SESSION

Chairman PEPPER. The committee will come to order, please.

Let me start with the introductions of our two distinguished witnesses who are to appear this afternoon.

First, Mr. Daniel J. Meador, professor of law, University of Virginia Law School.

Prof. Daniel Meador, in addition to being a fellow Alabamian with me, which we discussed at lunch, has had a distinguished legal career.

After receiving his master of laws degree from the Harvard Law School, Professor Meador was appointed law clerk to Supreme Court Justice Hugo Black. He subsequently practiced law with an eminent firm in Birmingham, and was later appointed dean of the law school at the University of Alabama. For the past 3 years Professor Meador has been James Monroe Professor of Law at the University of Virginia Law School.

Professor Meador has been actively involved in researching, developing, and testing various techniques designed to streamline the criminal appellate process in the country.

Professor Meador has recently authored a book entitled, "Criminal Appeals—English Practices and American Reforms." The stated purpose of this publication is not to advocate the adoption of the English appellate system, but merely to reveal the actual functioning of the English procedures to interested judges and lawyers to enable them to make informed decisions as to what procedures could possibly be incorporated into the American system.

Professor Meador, under the auspices of the National Center for State Courts, is now conducting a demonstration project to determine

the effect that a well-managed, professional research staff would have on increasing the productivity and alleviating the backlog of the appellate courts. This project is currently in operation in Nebraska, New Jersey, Virginia, and Illinois. Professor Meador indicated that while a final evaluation of this program has not been conducted, he does believe that this system will prove to be a vital component to an effective and efficient appellate process.

Our other distinguished witness to honor us with his presence here this afternoon is Judge Albert V. Bryan, Fourth Circuit Court of Appeals, Alexandria, Va.

Judge Bryan has had a long and distinguished career as a member of the Federal bench, beginning with his appointment in 1948 to the Federal district court. In 1961 Judge Bryan was appointed to sit as a member of the Fourth Circuit Court of Appeals, a position he currently retains.

Throughout the course of his career, Judge Bryan has advocated the streamlining of the appellate process.

By the way, it was on the recommendation of another esteemed friend and jurist, Justice Tom Clark, that we first learned about the very fine work of Judge Bryan, and he is accountable for the fact we were able to get in touch with the judge.

It is his firm belief that in order to reduce the time period between the filing of an appeal and the decision of the court that several commonly accepted procedures should be revised or eliminated.

Initially, Judge Bryan would eliminate filing all briefs on appeal, unless opposing counsel deem them absolutely essential to the case. In short, Judge Bryan believes the automatic filing of extensive briefs in every case is a most time-consuming process and should be abolished.

In those cases where written briefs are not filed, Judge Bryan proposes that the appellant be required to file a condensed list of points made against the order from which the appeal is taken, but that such list not contain argument of the various points. Inherent in Judge Bryan's plan is the requirement that the trial judge file with the appellate court a copy of his charge to the jury, or his findings of fact and conclusions of law in a nonjury case. Such a requirement, Judge Bryan urges, would alleviate the need, in most cases, for the trial court proceedings to be transcribed, usually a case of lengthy appellate delay.

Incidentally, we just had Judge Weis of the Third Circuit Court of Appeals testify here yesterday and he was calling to our attention the use of video tape as a method that can be wisely employed by the court.

Judge Bryan further proposes that if all of the papers or exhibits filed or lodged at the trial level are forwarded to the appellate court that there would be little need for any additional written documents to be brought to the attention of the court.

Under the plan advanced by Judge Bryan, oral argument would become a vital component of the appellate process.

May I add, in writing to a good friend of mine, John Brown, chief judge of the Fifth Circuit Court of Appeals, he told me about their having reduced by 60 percent the number of oral arguments. They try to eliminate oral arguments as much as they can.

At that time, the opposing counsel would have a full and complete opportunity to argue their cases, highlighting any facts they think crucial to the determination of the case.

Counsel, have you anything to suggest?

Mr. NOLDE. Thank you, Mr. Chairman.

I also wanted to add that Judge Bryan was the rector of the University of Virginia, and it is interesting to note that the first rector of the university was Thomas Jefferson.

Professor Meador, we are delighted to have you today, with Judge Bryan; both of you are eminent and distinguished authorities. We will be pleased to have an opening statement from you first, Professor Meador.

STATEMENTS OF DANIEL J. MEADOR, PROFESSOR, UNIVERSITY OF VIRGINIA SCHOOL OF LAW, CHARLOTTESVILLE, VA., AND HON. ALBERT V. BRYAN, JUDGE, U.S. COURT OF APPEALS, FOURTH CIRCUIT, ALEXANDRIA, VA.

Mr. MEADOR. Thank you very much.

It is a great privilege to be here and have a chance to participate in the discussions. I am honored, also, to have Judge Bryan sitting here at my right hand. I will have to say that a good many of my ideas and some inspirations for others have come out of Judge Bryan's ideas, to which the chairman has just made reference. So I am indebted to him.

I think I can most usefully contribute to the discussions by outlining an experimental idea that has been put forward now in more than one quarter, but has not been actually tried anywhere. I might say first that I have submitted a brief written memorandum for the committee's use. I will not read that verbatim.

Chairman PEPPER. Without objection, the memorandum that you have offered will be printed in full in the record and you may proceed to sumarize it in any way you wish.

[The memorandum from Professor Meador, above referred to, will be found following the testimony of this panel.]

Mr. MEADOR. Thank you.

The aspect of it I would like to discuss, subject to the committee's pleasure and any questions about other parts of it, is that portion which deals with what is called a unified review proceeding of criminal cases.

This proposal can be found in what will be chapter 6 of a report on the courts that is being published currently by the National Advisory Commission on Criminal Justice Standards and Goals. That report is at the printers now. It should be coming out in another month or so. The same basic scheme can also be found in the book which the chairman cited on "Criminal Appeals, English Practices, and American Reform."

The central notion there is that we should structure the review process in criminal cases so that there is a single review of the conviction and the sentence. This idea is derived, or inspired by, I should say, the English practice. In the English system there is no new trial motion filed in the trial court; there is an appeal available, but there is nothing on the order of the postconviction proceeding. There is no

collateral attack later in the sense that we have it. In other words, there is a single review proceeding.

Chairman PEPPER. Excuse me, Mr. Meador. I learned last week at a conference in England that the defendant goes, if he is sentenced to prison, he goes right on to prison and, as I understand it, he is serving in prison while his appeal is being considered.

Mr. MEADOR. Correct. A very, very small percentage—almost to the point of zero—of defendants, will be on bail or out pending appeal. That is another reason I suppose why there is the great pressure to accelerate the process that is characteristic of that system. The idea of this single review is that the reviewing court, in order to have a single review and to make it fair, as well as final, necessarily must go outside the record made at the trial court.

We go outside of the record in this country now on new trial motions and on postconviction proceedings. We do not go outside the record on the direct appeal. The proposal of the unified review proceeding is simply a consolidation of existing review. It is a blending into one proceeding of everything we now do in at least three different proceedings—the new trial motion, the direct appeal, and postconviction proceeding.

It is a novel idea to American lawyers and judges to think about going outside of the record on an appeal. But I think the novelty of it goes away somewhat if we stop and think that we do go outside the record now, although not on direct appeal. We do it in these other two ways, new trial motions and postconviction proceedings.

In order to implement fully this concept, it would be necessary, I think, for the reviewing court to have a staff of lawyers to assist it because it will be necessary to probe the case, to go beyond the issues that are asserted by the lawyers, later on, a postconviction proceeding.

That is the basic idea. There are details about which some questions might he asked.

If I might say another word about the staff idea, apart from the unified review proceeding the idea of using a staff of lawyers in an appellate court is an idea that is growing in this country. It is relatively new. The Michigan Court of Appeals pioneered this idea. In that court, there are a total of 22 staff lawyers working for the court.

The California Court of Appeals for the First District, which sits in San Francisco, has a central staff of lawyers. There are a few others around with small staffs. This, again, is an idea that derives from the English appellate practice, where there is something known as the criminal appeals office, which consists of approximately 20 or so lawyers working for the court in a central research staff.

What a staff does can vary a good deal. Basically, what staffs are doing so far in this country, in Michigan and in California and a few other places, is to assist the judges by preparing memorandums on the appeals when they arrive at the court, and in some cases draft-Also, they are recommending the oral argument be dispensed with in ing proposed per curium opinions by which the case can be disposed of. certain cases where it is not thought to be helpful, and so on. All of this is by way of assisting the judges, making recommendations to the judges. They are not designed to displace the judges' role. The judges still retain full decisional power.

Now, the project that the chairman mentioned, under the aegis of the National Center for State Courts, has placed staffs in the four appellate courts that he mentioned, in Nebraska, Illinois, New Jersey, and Virginia. This is a year-long experimental and demonstration project. The purpose of it is to determine the utility of staffs in appellate courts, how they can best help judges without eroding the judicial function.

Reports on that will be written late this year, late in 1978, and we hope those reports will contribute to our better understanding of exactly what the utility of the staff is, what are its pitfalls as well as its benefits.

Mr. Chairman, I think that might be adequate for a general opening statement, but I would be very happy to elaborate in response to questions.

Chairman PEPPER. In the first instance what you are suggesting is the defendant will be put on notice that if you have anything to bring up at any time that would impair the judgment which has been rendered against you, you must bring it to the attention of the appellate court while your case is being considered by that court, or you are precluded thereafter from bringing up the subject?

Mr. MEADOR. Yes, sir. Not only would he be put on notice, but he and his lawyer might actually be interrogated, in a sense, by the staff who is working for the appellate court to be sure there aren't lurking issues around that aren't getting out.

An analogy to this could be the omnibus hearing that has been tried at the pretrial stage, in which the judge has a kind of checklist of possible issues he goes down, to be sure he ferrets out every possible defeat that might later surface.

Chairman PEPPER. In other words, he wouldn't be permitted after the case had been finally approved by the appellate court to come back after he had been in prison and bring up a petition of habeas corpus on the grounds he didn't have counsel in the trial court?

Mr. MEADOR. My view of that is that habeas corpus and all other collateral remedies could be drastically contracted if we had a unified review proceeding of this kind. However, for myself, I would not urge habeas corpus be totally foreclosed. I would leave it available for a very few and narrow, extraordinary situations, in which there had been a total miscarriage of justice or some defect which totally undermined the integrity of the whole proceeding. But certainly it would be contracted greatly over where it is now. The level of finality of the conviction would be lifted following the unified review proceeding. The degree of finality would be much greater.

Chairman PEPPER. In the English system, is there any other proceeding permitted at all after the final confirmation of a judgment by the appellate court?

Mr. MEADOR. Only in two ways. There is a very narrow ground for a further view in the House of Lords. That is a discretionary review and is rarely granted. I believe something like three or four cases a year out of thousands will be heard by the House of Lords. So it is almost a nonexistent further review. Besides that, though, there is only the executive clemency. Nothing else judicial is available.

Chairman PEPPER. In the first place, please tell us how do you get the right to an appeal after the British sentence is imposed? Does the trial court have authority to allow or disallow an appeal?

Mr. MEADOR. Most of them come by application for leave. The system is basically a discretionary appeals system which the defendant would activate by filing application for leave to appeal, within 28 days of his conviction. There are a few cases that go up on certifications from the trial judge, no more than a handful a year, though. Basically, 90 percent plus of all of the criminal appeals come by way of leave of court granted on the application or the defendant.

Chairman PEPPER. What sort of a record is presented along with petition for leave and what is the leave itself? How long a doctrine is it and what does it contain?

Mr. MEADOR. This is reminiscent of Judge Bryan's ideas. There is a good deal of resemblance between what goes on there and what Judge Bryan proposes. The defendant will file an application which is an informal document, something like Judge Bryan's statement of points. It sets out very briefly the contentions of the defendant as to why his conviction or sentence ought not to stand. When that is filed, the trial court will immediately send forward all of the documents that are in its files, whatever they are. The papers simply go forward. The court reporter will type up what is called the "Trial Judge's Summing Up to the Jury," which is analogous to his charge to the jury in this country, although it tends to be more elaborate, because the summing up in England is a summary in detail of all of the evidence offered.

It is what he tells the jury in addition to stating the law. That is typed up immediately and sent forward to the appellate court. The staff at the appellate court then, on that basis—the basis of the summing up and the trial documents and the application—decides to what extent a transcript of the evidence might be desirable. Many cases are disposed of without a transcript of the evidence at all.

The trial judge's summing up gives a good picture of the proceeding and the facts. If the staff thinks some testimony is necessary, even the whole record, it can be ordered and is ordered in a fair number of cases.

But it is a court decision, a staff decision, not the lawyers' decision, as to how much of the transcript gets typed up and sent forward.

Chairman PEPPER. Is oral argument heard in support of that application?

Mr. MEADOR. Not as a matter of routine. There is a practice there I dare say would violate the equal protection clause in this country. If the defendant has engaged his own private legal counsel, that counsel will be permitted to make an oral argument on the application for leave. If the defendant does not have his own counsel, the application for leave is passed on by the judges without oral argument.

Chairman PEPPER. Is that the final consideration of that case by the court, or is it kind of like a petition for writ of certiorari, if they grant the petition they send the case up? That is the case before the court?

Mr. MEADOR. Yes. Let me take it in two routes. The application is initially passed on by a single judge. If he denies it, the defendant may, at his option, renew the application, as they say, and then two other judges will pass on it. If they deny it, that is final.

Chairman PEPPER. Three court of appeals judges?

Mr. MEADOR. Yes. Three judges would have looked at it and if they deny the application for leave, that is final. That is the end of the case. If the application is granted, either by the single judge or on renewal before the two others, then it is set for the full-blown oral argument before whatever panel of three judges happens to be sitting on the day it is set. Normally, they will not be the judges who passed on the application, but it will be a random roll of the dice as to what three judges happen to sit.

Then there will be oral argument. Then you have what they call appeal: the application has been granted. It is an appeal fully on its merits, argued before three judges by counsel for the defendant and the prosecution, and decided then and there at open court. That is another important characteristic of that system.

Chairman PEPPER. They decide right there before the court adjourns?

Mr. MEADOR. Yes, sir. The court, in effect, is sitting in conference throughout the oral argument. They may remain huddled in conference up there on the bench, however long it takes them to reach conclusions.

Chairman PEPPER. And they write an opinion: the case rests and they write an opinion later?

Mr. MEADOR. They deliver the opinion orally from the bench then and there. Only about 15 percent of the opinions are ever printed. There is a committee that selects for printing those that have some significance to the law. Most of them do not; that is also true in this country, although we print them anyway.

Chairman PEPPER. That is very interesting. They are able, therefore, to dispose of cases much more quickly and more expeditiously than we are here.

Mr. MEADOR. Yes, sir. The system has a lot more flexibility to it. It isn't in lock step. There are no written briefs, no time is used for the writing of briefs. The immediate decision from the bench obviously expedites the disposition.

Chairman PEPPER. I wanted to ask, also, I have heard some of those arguments but I have forgotten how long the oral argument takes place.

Mr. MEADOR. There is no fixed time. It is however long the judges find it useful. My observation is, from sitting in on them, in the criminal cases the entire proceeding will occupy perhaps an hour to an hour and a half. That is both sides, plus the court's deliberations in an appeal.

Chairman PEPPER. Thank you Professor Meador. Well, judge, suppose we ask you to proceed and then we can make further inquiry.

Statement of Hon. Albert V. Bryan

Judge BRYAN. All right, sir.

Really, what I deal with is the mechanics of the appeal rather than the legality or the scholarship of this step.

For years I have simply had an obsession against the time that is required from the termination of the district court's proceedings until the case gets on the court of appeals' docket. I have submitted to you,

along with my statement, certain amendments I would hope would somewhat cure that situation.

Chairman PEPPER. Without objection, your statement submitted will be printed in full in the record. You may summarize it as you will.

[The prepared statement of Judge Bryan will be found following the testimony of this panel.]

Judge BRYAN. Thank you.

I submitted this to the Federal Judicial Center. That is when I think Mr. Justice Clark heard it. I thought your question was going to be if they are so good, why weren't these suggestions adopted by our own circuit?

Now, my only answer to that is, my powers of persuasion were inadequate, I hope.

Chairman PEPPER. Great ideas sometimes take a long time to get accepted.

Judge BRYAN. My amendments would transfer the case to the appellate court within a few days after the district court has finished with it. My aim is to put the case on the appeals docket for argument within 60 days instead of the present 4½ months, which is permissible and which is the minimum under the present rules.

To give you a step-by-step account of what are the mechanics when you finally get a decision in the district court, the appellant has 10 days for filing his notice of appeal. That is if he is a non-Government appellant. The Government has 30 days in which simply to note it. In either event, that may be extended for excusable delay, so that you can see that it can go up to 60 days before a notice of appeal is even filed.

Then 40 days is the time limit for the transmission of the record from the trial to the appellate court. This may be extended to 90 days.

Then there is 40 days from the transmission of the record given the appellant for filing his opening brief; 30 days is then given for the filing of appellee's brief, but that does not commence until he has received the appellant's brief; 14 days are allowed for the appellant to reply.

Now, in those steps, I want to dwell more on the transmission of the record from the trial court insofar as the record must include a transcript of the proceedings below.

If you add those steps, you get 134 days, or 4½ months, or it may be extended by such extensions as I have already indicated, to carry way beyond the 4½ months.

But the most serious delay of all, and really the obstacle in the way, is the preparation of the transcript of the trial proceedings for inclusion in the record.

On my way over here I met one of the district judges and he asked me where I was going, and he said, "For goodness sakes, get rid of the transcript of the evidence."

The blame for this is not attributable to the trial court, nor to the attorneys, nor to the reporter. It is attributable to the inability of the reporter to make the transcription, inasmuch as there is only one reporter for each judge.

Since the reporter is required to attend daily sessions of the trial court the transcript can only be prepared in his spare time. It is in his

inability to do that, that defers the schedule fixed by the rules. It just isn't practicable to comply with them.

The point I am very anxious to make is that the transcript of evidence be not required at the time the case goes on the docket. As Mr. Meador has just said, it can be dispensed with without harm or hurt to anyone. It certainly ought not to be prepared until after the case is on the appeals docket because only then can it be seen if it is important.

Now, the late Judge Parker of our fourth circuit said it wasn't any use in having the transcript of evidence anyway because nobody looked at it. That has been by experience and I think it is the experience of most appellate judges. It is the rarest thing that you look at the transcript. We certainly don't need it before the argument because you have got in the record at that time the pleadings in the case, and if a criminal case, the indictment. You have in a civil case the findings and conclusions of the district judge. In both cases you have the judge's charge to the jury, in which he outlines generally what the facts are and what the legal issues are and what the conflicts are, so the jury may more readily resolve them.

So my really first point and almost sole point of emphasis is to do away with this requirement of the transcript of the evidence unless and until it becomes vitally necessary. And that will be very rare.

Now, the argument opposed to that would be: what are you going to do if the matter on appeal is a motion to set aside the verdict for inadequecy of the evidence? That trouble is more apparent than real. Because, if the review goes to the adequacy of the evidence, every practitioner knows that does not embrace all of the evidence, including all of the exhibits. The points made on that motion are as to certain particular parts of the evidence—their relevancy, their admissibility, and their general connection with, their germaneness to, the case.

These would appear, these points would appear, in the exceptions taken to the charge. You would note right there what part of the evidence was in dispute. Rarely will it be the content of the evidence. I would say, but rather the point of the evidence and that could be argued without looking at the whole record. If need be, after the argument of the case, the court could send for those parts.

Not only that, there would rarely be difference between counsel as to what was the evidence on a point. Generally, the debate is whether it should have come in at all, and next, what connection it has with the case.

I am just anxious to accentuate, or rather accent, that the transcript should not be called for until after the case has been heard in argument.

Another point of objection is, what are you going to do when there is a change in counsel between the trial level and the appellate level? And that frequently occurs in indigent cases—habeas corpus cases—when the appellant will say he was not represented competently and he wants a new lawyer.

Well, the first answer to that is there should not be a too-ready release of counsel by the trial court. All sorts of charges are made against you when you are representing one of these fellows, and every time one makes some criticism, he certainly should not be entitled to a new lawyer. It is the obligation of the first lawyer to stay in the case until it is prejudicial to his client to remain.

But if a new counsel is brought in, the substitute counsel may obtain a summary of the case very readily by looking at what is already in the record. If it is a criminal case, he sees the indictment. And also in a criminal case, he reads the issues that the judge has presented to the jury, which indicates to him what the case is about. In a civil case, he has the complaint and he has the answer and he has the exhibits and almost everything that will apprise him of the content and substance of the case.

There is really no reason to put the Government to the expense of writing up an enormous transcript that wouldn't be used. Nobody will look at it and I doubt that the new counsel, himself, will look at it. He will have the trial briefs, memorandums that are submitted on the motions to set aside the verdict, or motions to modify the findings. All of that will convey to him the nature and character of the case.

But even further than that, the fraternity among lawyers is such that the first lawyer is perfectly willing to give to his substitute full information of what the case is all about.

So it seems to me that objection is exaggerated.

Now, in my—not mine—but in the proposed rules, the appellant is required to file immediately a statement of the issues. That is not any hardship on him because the present rules require in preparation of the briefs that that very statement be embodied. So it is simply a question of putting it first or putting it last. And that is another paper that would bring to the attention of the appellate court what the case is all about.

I have been asked several times, well, how would the court know what the case was about? The court would know perfectly well from the pleadings and from the statements of the issues, from the exhibits, from the charge, and all of the papers that no appellate judge would be confounded by for a moment. It could look at them and take the case up from there.

Another important step in expedition is in reducing the time for filing briefs. You will recall that the present rules fix 40 days from the transmission of the record as the time for the filing of the appellant's brief.

Well, now, the record is supposedly available within 40 days, so appellants 40 days for briefing do not start until that date arrives. Then there is 30 days for the appellee to file after that expiration, and it seems to me it is a rather prolonged time, but he has 30 days from the time he receives the appellant's brief in which to file this. Then added to that, the appellant has 14 days in which to file a rebuttal brief.

As I say, all of this comes to 134 days. So that the preparation of the transcript and the preparation of the briefs really are the time-consuming steps in this interval.

I am hopeful that the briefs, as Mr. Meador has just mentioned, could be in time disposed of. When a case is appealed, immediately upon its conclusion is the time at which the lawyers are most aware of what is in the case. Their knowledge of it is at the very best at that time. As a matter of fact, they are just burning with the cause. They have argued motions to set aside the verdict, or to grant certain charges, and they have lost.

Now, they are full of that just as soon as they come out of the courtroom. If you meet them on the steps, they will tell you all about it. That will cool after 134 days and then they will need time to prepare the briefs.

My hope is that just as soon as the case comes to an end in the district court, the papers will be sent immediately to the appeals clerk, together with the statement of counsel as to what are the issues. The court of appeals will then be in a position to examine it—that will just be a matter of a few days—and hear argument

But as an alternative, if the first suggestion—the absolute omission of briefs—is a little too radical, it seems to me that you could adopt a system of simultaneous briefs. I have been in cases as counsel that have lasted for months and at the end of the case, instead of having 40 days in which to file an opening brief and then 30 days for reply, for each side was to be given 30 days in which to file a brief simultaneously.

The appellee knows what the appellant is going to argue because he has already heard the argument in the nisi prius court. Appellant knows what the issues are. He can argue his case in his brief exactly like he finished arguing it in the district court.

The appellee is at no disadvantage in that he knows exactly the same thing. He knows what the appellant is going to put in his brief.

As a safeguard, I would suggest in addition to that, each side be given 10 days to reply to the other's brief. With the dispensing of the necessity of printing of briefs, he can very readily prepare one brief in 30 days and another in 10 days, when he is full of the case, as he will be immediately upon the cessation of the trial.

Chairman PEPPER. Excuse me, Judge. Within what time did you recommend that the appeal be lodged in the appellate court?

Judge BRYAN. Just as soon as the clerk can compile the papers that are on file there, and just as soon as the judge files his findings and his charge. All of which will be right in his hand. And just as soon as the appeal is noted, he will hand those over to the clerk; the clerk may require a week or 10 days to compile what he has there, then put it in the hands of the appellate court.

So it ought not to be more than a week or 2 weeks before the court, the appellate court, has everything that it needs.

Chairman PEPPER. And the appellant would file, send up to the appellate court, a simple notice of appeal?

Judge BRYAN. He would have to file his notice of appeal, and then these proceedings would begin after he filed his notice of appeal.

Chairman PEPPER. Along with his notice of appeal, would he file points of appeal?

Judge BRYAN. I give him a few days after that to file them. But the whole thing wouldn't take more than a couple of weeks.

If we can just get over the obstacle of the transcript of the evidence, that alone would accomplish a tremendous curtailment of this time.

I have taken the liberty to outline here what I think would be a fair and reasonable time schedule for these steps to be taken. First, to allow 7 days for filing notice of appeal. I think as lawyers, we have to begin to commence thinking in a few days, rather than 30, 60, and 90 days. Give him 7 days for filing the appeal. It is a simple process. Why give

the Government 30 days, with an extension of 30 more, or 60 days? They know right from the time the verdict is brought in if either side is going to note an appeal.

Chairman PEPPER. What about the motion of the defendant for new trial?

Judge BRYAN. The motion of the defendant for a new trial would have been disposed of.

Chairman PEPPER. By what time?

Judge BRYAN. Before the time you get to the appeal.

If you allow 7 days for the filing of appeal, rather than possibly 60 days, and then 7 days thereafter for filing the statement of the issues, and 5 days more for the judge to file the jury charge or his findings and conclusions, these are very generous, I think, allowances of times. And 30 days for simultaneous briefs, and 10 days for each side for reply briefs. That would bring it to a total of 59 days, which is certainly an improvement upon the 134 days. There may be some extensions here but it is down about 60 days.

I am thoroughly convinced, although I am quite partisan on the subject, that it can be done, even if it may be a radical idea. Most lawyers are not used to making radical changes, but it seems to me that the time has come when we have to think along those lines.

Chairman PEPPER. What about the oral argument in the appellate court.

Judge BRYAN. In the fourth circuit we allow 30 minutes to a side.

Chairman PEPPER. Did you allow oral argument as a matter of right?

Judge BRYAN. As a matter of right, unless it appeared immediately from the initial papers that there was really no substance to the case and that it was not entitled to argument. Then we put it on what is called a screened docket, and it would be presented to three judges and if they come to the same conclusion, an order is then entered, either affirming or reversing, and the case does not go on the call for oral argument. It is only those cases that can get through the screening that come on the argument calendar.

I am delighted to answer any question that you may have.

Chairman PEPPER. Judge, as I mentioned earlier yesterday here we had Judge Weis, who gave instances of the valuable use of the videotape. He had an exhibition here on a TV set of the use of one of these videotapes in respect to a deposition that was taken by the prosecuting attorney interrogating the defendant in a case.

The defendant's lawyer was there and the defendant was notified that the machine was operating, and the videotape was being made. He pointed out how that could be used to enable the court—that was, of course, the trial court primarily: but it could be used in the appellate court, too—to pass his own opinion as to whether or not that statement was voluntarily made, and the like.

He would have a chance to see the person making the statement, in addition a confession was being questioned. The videotape exhibited the prosecuting attorney and the police official and the defendant's attorney. In that case, there was not a defense attorney in the room, but he previously agreed that the interrogation might be had and he gave the statement.

Then he suggested the uses of it, that it might well be you could make a tape recording of a whole trial and the court could just look at it, take the testimony. He pointed out how you could save all of this transcribing time. All of that would be on videotape and it would be available immediately.

Judge BRYAN. It would be a tremendous improvement.

Chairman PEPPER. The question came up on the appellate court, for example, that some particular part of the evidence was very pertinent. It could be turned to and they could see it and hear what the testimony was.

In other words, he was proposing to make use of the best techniques we now have available mechanically to aid the court also in determining and expediting procedures.

Do you know of any instance where your court has ever considered that sort of thing?

Judge BRYAN. No. We have considered the possibility of recording the case on tape, as the proceeding. Not with TV. The difficulty there has been to indicate who was talking. The reporter has to sit there and say, now, Mr. A, and then he would be interrupted suddenly, and Mr. B would come in, and you just couldn't really intelligently follow it.

But with the video, you would see who was talking and I would think it would be a great improvement. That would overcome the big obstacle that has been worrying the judges, and that is the preparation of this transcript of evidence. That would be dispensed with. But I don't know if that will ever reach that point.

Chairman PEPPER. When you were speaking about the briefs, did you have in mind printed briefs?

Judge BRYAN. No, sir. I just meant it would be typewritten briefs, just so they were clear and understandable. We have that rule now. You need not have your brief printed. That saves a lot of time and would save that span that is now allotted for the filing of briefs. So much of that is taken up in the printing.

Chairman PEPPER. Well, there are two aspects of what both of you gentlemen have said that occur to me. One was, the district attorney for Los Angeles County appeared before this committee in the latter part of 1969, at some of our early hearings. He confined his testimony to the frustration that the district attorney had about a case under our system ever becoming final. It took a long time to get the appeal lodged and then more extensive time to get it disposed of, and then when you thought the case was finally all settled, then along come some more collateral attacks upon the validity of the judgment and the like.

He was strongly emphasizing the necessity of trying to finalize the disposition of the case, the final adjudication of the case.

Then the other thing was: Whereas in England you don't have the question of bail because the defendant, if he is sentenced to prison, is incarcerated immediately. You don't have the bond question.

Reducing the bail problem, itself, has considerable difficulty about it. There have been differences of opinion about what you ought to do about bail. But it is imperative that if you don't have to wrestle with the problem of what to do about bail, and you keep these people from

being liable to the commission of other offenses, you reduce this time between the adjudication of the case in the trial court and the final disposition of it, so the defendant will go on to prison.

Under our federal system and in several of our States, after the court of appeals, I believe you can take—it has been a good long while since I handled a case—I believe you have 90 days to file writ of certiorari for the Supreme Court, and that takes some more time. You have more time for that. So a lot of times defendants use all of these time allotments as a way of delaying going to jail, going to prison.

Judge BRYAN. You put your finger on the very point that has spurred my interest in this, and that is the public's reaction. They read about a trial, a heinous offense, and it is very important, and there is a verdict of guilty, and then the last paragraph in the paper says, "Defense counsel has noted an appeal." Then the public thinks that is the end of it. Then they never hear of it any more. It is going into oblivion. It is most discouraging.

If that case could be gotten into the court of appeals within a short time, 30 or 60 days, the public would not be so critical of our processes.

Chairman PEPPER. Well, now, could the appellate courts, if we could simply file some of these procedures that you gentlemen have suggested here, keep relatively current on their dockets and things?

Judge BRYAN. I think they could, but at least you keep the cases from being stale. There is nothing worse to work on than a cold case. I think that the judges would make extra effort to be just as expeditious as the process.

Chairman PEPPER. I think Judge Brown of the Fifth Circuit Court of Appeals told me that his court tries to get the final opinion out in a case before that court as near 30 days after the case is ready for consideration in the court as possible, and they seldom go beyond 45 days. They try never to go beyond 45 days from the time the case is ready for consideration in that court.

Is the fourth circuit relatively current with its docket, Judge?

Judge BRYAN. Yes, we are. The median time in the fourth circuit from the notice of appeal to argument is 143 days. The median time from notice of appeal to decision is 191 days. So they decide the case in the difference between 43 and 91—within 48 days.

Chairman PEPPER. Well, now, it is difficult for me to understand how anything so rational and so desirable as you gentlemen have just presented here today should take so long to get favorable acceptance in the American Bar Association and Judicial Conferences, and the Congress and various public authorities who deal with these. Everybody is talking about crime and the polls show it is considered by most people as the No. 1 problem in the country. And yet these things relate directly to dealing directly with the problem of crime, and why is there so much inertia about taking a more judicial look at it? What would you say, Mr. Meador?

Mr. MEADOR. In the last year or two I have run into that problem in the various projects and researches I have been trying to do. I do notice, repeatedly, in different parts of the country, in different types of courts, a national pattern that judges and lawyers are simply extraordinarily reluctant to try something really new. They tend to want to see it already working somewhere else. So the question is who goes first with something. Nobody wants to do it first. This is why I have

developed the idea that the most practical way to bring about a lot of these changes may be through the provision of money. If enough money is made available through some kind of funding or grant scheme to a court or to a prosecutor or public defender's office or all of these together, perhaps the temptation and the availability of all of those funds will more readily persuade some of the groups and lawyers and judges to try things, at least experimentally.

There is also a reluctance to think about experimenting in the judicial process. Experimenting is a novel notion to lawyers and judges. There is a legitimate concern about not wanting to play fast and loose with a person's rights in a criminal case. Nonetheless, I think there is room for carefully designed experimentation which will not prejudice anyone's rights and yet will reveal to us whether something will work or not work.

I wonder, Mr. Chairman, if I might take just a minute or two to elaborate on a comment of Judge Bryan's?

Chairman PEPPER. We would be glad to have either one of you comment on the proposals made by the other, if you would.

Mr. MEADOR. Judge Bryan's review of his proposals, as I said earlier, strikes a very sympathetic chord with me. I might point out to the committee that his notion of lawyers on fire with their case at the close of the trial and therefore in better position right then than any other time to come forward with the appeal has been picked up by Judge Shirley Hufstedler of the U.S. Court of Appeals for the Ninth Circuit. She has come along with a proposal for a very accelerated review process in which the lawyers who conducted the trial would appear promptly before the reviewing court, usually without a transcript, and present an oral argument.

This has many similarities to some of Judge Bryan's ideas. There are two places where her ideas are set forth. I might just cite for the committee's information in the record. One is in 44 Southern California Law Review 901, and the other is in 46 Los Angeles Bar Bulletin 275.

The other comment I wanted to make has to do with the transcript. In my work over the last year or two around the country, I have indeed found that what Judge Bryan says is certainly true, that one of the biggest points of delay in the appellate process of the criminal cases is the production of the transcript. I generally share Judge Bryan's notion that many, many appeals could be very fairly disposed of without a transcript. My view of that is reinforced by what I see to be the practice in England. However, I should add here, that when I have broached this idea around the country with judges and various groups, I find there to be a good deal of opposition to that. Many judges and lawyers seem to have some deep-seated sense of insecurity in proceeding with an appeal without a full transcript. Whether or not they in fact are going to need it, they seem to want it there to reassure them that they are dealing fully and fairly with the case.

Judge BRYAN. It is a fetish with them.

Mr. MEADOR. It is a kind of security blanket. Because of that, a number of judges and lawyers say that rather than try to construct a system in which we can get by without all of the transcript, a better approach would be to provide whatever resources and money are necessary to get the transcripts produced quickly. In other words, they

argue: Let's just accept that the majority of American lawyers and judges want that transcript, and therefore let's just provide whatever resources it takes to get it, if it is hiring more court reporters, more typists.

A new idea has been developing here that may provide some solution to this, and that is the computer. I don't know whether the committee has been exposed to the idea of computerized production of transcripts.

Chairman PEPPER. We haven't discussed that. If you have any comment, we would be glad to have it.

Mr. MEADOR. I have seen demonstrations of this, and the committee might consider looking at the demonstration. Here is a place where some funding might achieve a real breakthrough. The process has been perfected fairly well, as I understand it. The process employs the regular court reporter with a stenotype keyboard, that type of keyboard. The data from the stenotype keyboard is fed directly into a computer bank. There is a translation mechanism in there: a vocabulary is set up in the computer. A transcript is available immediately on printout. There is a system for correcting errors in it, which can be performed in a matter of minutes, the error-correction process. So an hourly or daily transcript can be had. A transcript of a very lengthy trial can be had at the close of the trial within less than a day's time. There is one company and maybe others working on it and it has been developed fairly well. I think in the funding, it is expensive.

Chairman PEPPER. I was in a case one time, a big civil case, where it cost $1,000 a day to get a transcript of the record during the night so we would have it to use late in the night and the first thing the next morning. Think what a saving it would be if such a thing were made available.

Mr. MEADOR. A demonstration of this was made last August at the American Bar Association meeting in San Francisco. It was sponsored by the section of judicial administration.

Now, another aspect of the transcript, another approach to the transcript problem, is being taken in the southern district of New York, U.S. district court. There, at the close of a trial, if a guilty verdict is returned, and if the U.S. attorney is of the view that an appeal is likely, he immediately orders the transcript the day the guilty verdict is returned. He orders afull transcript without waiting to see whether the defendant will in fact take an appeal. He makes a prediction an appeal is likely, and it turns out his prediction is accurate to a very high degree. This means the transcript preparation process gets launched immediately and the court of appeals there gets the transcripts usually within 30 days. That is another approach.

There are some statistics on that in a report, a document which I could supply the committee if it desires to see it. This document is a brief report on criminal appeals made by a newly created entity called the Advisory Council on Appellate Justice. This is a body of judges and lawyers and law professors that acts as an advisor to the Federal Judicial Center and National State Court Center on appellate matters. If the committee desires, I can supply a copy of that report.

Chairman PEPPER. We would be pleased to have you do it, unless we can conveniently get it from the Library of Congress.

Mr. MEADOR. I doubt it is readily available. We can send a copy with no difficulty.

Chairman PEPPER. Counsel tells me we already have this.

Anything else?

Mr. MEADOR. No, sir; that concludes my comments at the moment.

Chairman PEPPER. Judge, have you anything to say about any of the suggestions made by Professor Meador?

Judge BRYAN. Yes. What he said brought to mind, we have a rule. I have forgotten exactly how it reads, that a transcript must be asked for if it is to be sought, within a certain time. I don't know if it is as prompt as Mr. Meador has experienced. But even with that, you have one person that can get it out. That same person has to go into court day after day, and he or she, when do they have a chance to get it out.

The funding of it would, of course, help to have at least two reporters. It would cut down this obstruction of transcript that we now are confronted with.

Chairman PEPPER. I wouldn't want to displace all of these very competent court reporters we have, but they pointed out here yesterday it costs relatively little to make these video tapes. Just assuming you set the thing up in the room or set it up here so it would be recording what was going on in the course of the trial, for example, and then that could simply be set up, that video tape, and you could have one of those reproducing machines in the appellate courtrooms. If the lawyer says so and so and so an so is relevant, I guess there would be some way somebody could turn it to that. He could give notice about that, what part he thought of the court proceeding—and take example and play it—that was obviously intimidated during the time he gave the confession and the like, and the lower court was in error. And he could show it, how the man looked.

The last thing I would like to ask is, Do you think this matter should be left to the courts and to the agencies that are already working toward the process of expediting the criminal justice system structuring or should Congress in the Federal area, the legislatures the State areas, try to cut through the reluctance of the courts and lawyers to do these things and to try to provide for it by legislation?

Judge BRYAN. I think the present chief justice is very, very concerned with it. He would welcome any views this committee formulated.

Chairman PEPPER. I know the chief justice has taken a great interest in trying to improve the system, and as you say, I am sure would welcome any proper procedures that we expedite.

What do you think, Professor Meador? Have you tried to get some regulation to accomplish some of these things?

Mr. MEADOR. Well, that is a little difficult to answer in general, or in abstract. The kinds of proposals Judge Bryan makes could better, I think, be handled through the rulemaking power of the courts themselves, if they will do it. The problem there is how does that machinery get activated. How does the inertia get overcome? My own disposition would be to try to get action wherever it could be gotten. Certainly in those matters that take funding, the Congress or the State legislatures would have to act, and as I said a moment ago, it may be provisions of funds will get us to a breakthrough better than anything else.

I don't know quite the kind of legislation I would have in mind that would provide funds, but I am sure something could be devised that would make funds available possibly to the State as well as Federal courts for various kinds of experimental procedures.

The LEAA through its block grant program is doing some of that. There is money flowing to the State courts through that channel, and we are getting some innovative programs and some efforts taking place there.

Any restructuring of the machinery obviously would take legislation. For example, the experimental unified review notion I outlined at the beginning would probably take legislation because it restructures the channels of review.

Chairman PEPPER. Well, this is the final passage from a bill we have on immigration. Gentlemen, I want to apologize to you that we didn't realize there were going to be as many amendments as offered on the floor this afternoon, and the other members, I know, had expected to be here to hear most of you. But this is one record our members are going to read, because we have to make a lot of recommendations to the Congress about it.

I just wanted to ask, finally, are you getting more responsiveness from the judicial conference and the other judicial agencies about these innovations, Judge Bryan? Are they beginning to be more attentive to such suggestions as yours?

Judge BRYAN. I can't say that they are. I do know that the Chief Justice has endeavored to develop interest in the subject. And getting back to your earlier question, a lot of these things may require more flexible action than legislation could provide.

Chairman PEPPER. I agree with you that it would be desirable to have it by rule of court and then you could notify the rule as experience dictates.

Judge BRYAN. But some action from Congress would certainly help it.

Chairman PEPPER. Maybe we can stimulate and encourage the process.

Gentlemen, I do want to thank you very much.

Mr. NOLDE. Professor Meador and Judge Bryan, we are very impressed with your ideas expressed today. I am sure that putting them into effect would tremendously improve on our appellate process.

One of the things that seems to bother judges in proposing to eliminate briefs and transcripts, from the cases being decided on appeal, is the question what does the judge need to have in front of him upon which to base his decision on appeal. Would you address that issue?

Judge BRYAN. I covered that in this memorandum. I think he does have enough basis upon which to decide the case, without lengthy written briefs. He has everything that the lower court had. Then he has the points in issue that gives him the contents of the case, and then in the arguments he will see what is stressed and what is to be considered. Then at the end of that, he has his tape recording after argument that can refresh his mind.

Mr. NOLDE. Professor Meador, do you have an opinion as to the British system on that point?

Mr. MEADOR. It could be structured in various ways, but for illustration, he would have the defendant's statement of points, or statement of issues that Judge Bryan refers to, which I said a moment ago is analogous to the application of leave to appeal filed in England. This would be not a totally bare bones listing of points or issues, but might have a paragraph accompanying each one, which would set out in a nutshell the defendant's argument of what his theory was. In other words, there would be a few sentences of explanation; a capsule argument in effect would be accompanying each point.

This document would not be over two or three pages in total length. So the judge could see the essence of the arguments that were being thrust upon him. Then he would have all of the other papers that Judge Bryan mentions. Then he could have the oral argument, at which the matter could be developed.

Now, in my ideas that I have developed here, I would introduce a lot of flexibility by having a staff lawyer there to make suggestions and recommendations to help the judges. For example, if upon examining the statement of points that had been filed, and looking at all of the other papers, it appears that some issue was such that a written brief is desirable, a point needs more elaborate or further development, and the court needs the help of the lawyers at greater length, a brief can be ordered. The lawyers could be instructed to file briefs.

It seems to me it is important to have a flexibility about it. The problem with the present system is that it is sort of a lock-step system, having no relationship to the complexities or difficulties of the case. The simplest case goes through the same long, drawn-out elaborate procedure as the most difficult, complex case. So I would introduce flexibility, dispense with briefs when they aren't really needed, order them when they are. Then you can order them filed simultaneously by identifying the issues to be addressed, which would save more time.

Mr. NOLDE. I suppose where briefs are filed automatically the tendency is for lawyers to file 60-page briefs and nearly always go into every detail of the case.

Judge BRYAN. Then you have such a duplication. You have it in the briefs and then you have it laid before you orally, and most lawyers follow their briefs verbatim.

Mr. NOLDE. Under the British system they don't file written briefs?

Mr. MEADOR. No written briefs at all.

Mr. NOLDE. And it seems to be working?

Mr. MEADOR. Yes. You do have to keep in mind in evaluating that, they have a smaller body of law to work. They do have fewer complexities in that they don't have a Federal system, for example, where you have the constitutional interplay. So you do have to keep those things in mind. But even so, there is enough there to warrant some modified experimentation with it.

Mr. NOLDE. You wouldn't feel it would place an undue burden upon the person making oral argument to be a very effective oral advocate.

Mr. MEADOR. I think it would improve the quality of oral argument if the lawyer knew this was his one and only time to communicate with the court, that he had to develop his case there. I think a lawyer would pay more attention to it.

Mr. Nolde. And you feel our bar could rise to the occasion?

Mr. Meador. I think so. I think lawyers in the main do what is expected of them.

Judge Bryan. The explication that is given to the circumstance that there are no briefs, is that the appeals court in England does not limit the time or argument. That is said to make up for the absence of briefs.

Mr. Nolde. Speaking of pressures, does the fact that defendant in England remains in prison pending appeal contribute to expediting the appeal process?

Mr. Meador. I think it does to an extent. It also removes what I think we have in many of our courts, and that is an artificial incentive to appeal. I don't have data to prove it. We are collecting it now in the appellate justice project. But I have a suspicion a number of appeals are taken merely to prolong the day of incarceration. The availability of bail pending appeal is an artificial inducement to an appeal in many cases, I think.

Mr. Nolde. Would you recommend in our country that defendants go to jail immediately after sentencing, pending appeal?

Mr. Meador. I am not prepared to recommend that fully. My approach is to try to expedite the process greatly. I haven't come to a conclusion in my own mind about what I want to recommend about bail or no bail pending an appeal.

Judge Bryan. One instance, to get at my thought on it, a friend of mine who was the proprietor of a motel was attacked one night by two men who threw him to the floor and drew knives on him and so on, and they were arrested. He met them on the street 2 or 3 days after that. They had been bailed immediately.

Mr. Nolde. Regarding the central research staff, which seems to me a fundamental aspect in the British system, what is the primary reason we haven't been able to put such procedure into effect here? I know they are doing it in Michigan. Is it because of a reluctance on the part of judges to try new things, or a lack of funds? It would seem that this would be an obvious improvement which we should be accepting almost automatically. If we can get some professionals to come in and do screening, why not just go ahead and do it if you have the money?

Mr. Meador. Certainly a lack of funds is an obstacle and maybe not a minor one, but more fundamentally, I think, there is a legitimate concern here about the erosion of the judicial function, or at worst, abdication of it by the judges. There is that specter around.

My hope is the appellate justice project of the National State Court Center will contribute toward a greater understanding of the proper role of staff and will delineate how staff can be utilized without eroding the judicial function. That is an important and difficult question, and I don't have firm conclusions myself about it. Judges though for years have used individual law clerks. They no longer worry about abdicating their function merely because they have a law clerk working with them, so why not a central research staff providing certain kinds of assistance?

Mr. Nolde. The judge should really concentrate his own time on the most important aspect.

Mr. Meador. I do think we need to be careful about too fast a movement, too much of a movement in that direction, until we know a little more about it, and I hope the project will shed light on it.

Mr. NOLDE. How is the project working?

Mr. MEADOR. The Michigan judges like it very much. This hasn't been scientifically and objectively evaluated. The judges believe they get a lot of valuable help. They do not think they abdicate their function. They also think it increases their productivity and expedites the time.

Mr. NOLDE. Judge Bryan, do you have a comment?

Judge BRYAN. No. My concern is just to get some movement.

Mr. NOLDE. Are you worried about all of the technicalities?

Judge BRYAN. Get this thing rolling, so to speak. You know all of the committees, and we have had a lot of committees. As you mentioned a minute ago, it just doesn't seem to take hold. I really think it is due to the conservativeness of our judges. As one of them, I know I am pretty slow to take on new ideas.

Mr. NOLDE. Professor Meador, what is your position on plea bargaining?

Mr. MEADOR. You mean am I for it or against it?

Mr. NOLDE. Yes.

Mr. MEADOR. I am somewhat on the fence personally. I suppose I should state, just to keep the record clear, that the courts task force, which I chaired, formulated a set of recommendations for the improvement of plea bargaining, which were similar to those of the American Bar Association in its "Criminal Justice Standards." However, the parent body of the courts task force, the National Advisory Commission, took a position clearly against plea bargaining, advocating its total discontinuance and abolition within 5 years from now.

In the meantime, it said that the recommendations of the courts task force for improving it were all good, and they should be followed but simply as interim measures looking toward the ultimate demise in the practice. The view was that it was so inherently fraught with evils and unfairness and disadvantages to society, the only cure for it was to abolish it completely.

I have never firmly enough made up my mind on that issue to take a position myself. I see the arguments. I don't work intimately with prosecution and defense work. I feel I am not well enough informed to have a firm position on it. Certainly, I think from what I do know, the process needs drastic improvement at the very least. I think the various recommendations that have been made by the ABA and the courts task force are all good.

Mr. NOLDE. Gentlemen, what is your opinion on the effect rule 50(b) has had in actual practicality in speeding up of the trial process? Has that really done any good; have the courts really come up with plans that are actually working to speed up the appellate process?

Judge BRYAN. Just what is 50(b)?

Mr. NOLDE. Rule 50(b) is a Federal rule which requires district courts to come up with a plan within 60 days to expedite the trial court process.

Judge BRYAN. I haven't seen any effectuation of it.

Mr. MEADOR. I don't have any information about that either, enough to be of any help. I don't know what effect it had. I haven't had occasion to inquire into it.

Mr. NOLDE. Do you have an opinion on the speedy trial statutes which are now being considered, which pose a mandatory 60-day pe-

riod within which to bring a case to trial after arrest, subject to dismissal?

Mr. MEADOR. Again, if I can cite the court report, that report takes a position that 60 days should be the norm in felony cases from arrest to commencement of trial. However, it goes on to say that it is simply saying this is how the system ought to function, it ought to be so organized and so staffed that this is what happens generally. It expressly stops short of saying anything about the sanction if it doesn't happen. The report does not recommend there be a dismissal.

On that issue, again, it is highly controversial. There are arguments both ways. I do not feel well informed enough about day-to-day criminal trial work to have a firm view myself.

Mr. NOLDE. Judge Bryan.

Judge BRYAN. I don't think you can lay down any fixed rule. I think if the judge has control of his docket as he should have, that he is the one who should and can control it.

Mr. NOLDE. Our problem is they haven't.

Judge BRYAN. I don't think legislation is going to make them do it without loss to the public interest.

Mr. NOLDE. Well, of course, implicit in that is the necessity of additional resources being provided for funding for more prosecutors, more judges, more court facilities, more court resources to prevent injury to the public interest where defendants are turned loose.

Judge BRYAN. If you answer it that way, it seems to me it might work.

Mr. NOLDE. That is an important caveat.

Judge BRYAN. Yes. But I think judges have got to show a little backbone on this situation.

Mr. NOLDE. Judge Bryan, your proposal, I take it, although on its face is applicable to civil as well as criminal cases, would seem to be designed primarily to speed up the criminal cases on appeal.

Judge BRYAN. Yes. That is what I was more concerned with, because that is what the public looks to. They don't look to an important civil case, no matter how interesting the constitutional point is, or anything of that sort.

Mr. NOLDE. What constitutional questions might have already been raised or could be raised in connection with your proposal?

Judge BRYAN. In connection with this? I think it is not vulnerable to constitutional attack. It is a matter of procedure just so that nobody is prejudiced by it. If prejudice is shown, there is room for expansion of the rule. But if a man knows he has got 30 days in which to note his appeal, he is not going to note it until the 29th.

Mr. NOLDE. Right.

Professor Meador, could you give an opinion on the constitutionality of Judge Bryan's proposal?

Mr. MEADOR. I see no constitutional difficulty at all. It seems to me a convicted defendant in a criminal case should have, and perhaps under the Constitution has, a right to present his appeal to another forum. That embraces a right to communicate in some fashion to the forum, to the reviewing forum, the reasons why he says the conviction should not stand. Whether that be done orally or in writing, I do not see to be of constitutional dimension.

Also, I do not see a constitutional dimension to the problem of how much of a transcript you have, or what kind of papers you have, so long as there is a channel of communication to the appellate court about what went on below, and what the appellant's arguments are, so the reviewing court can meaningfully pass on them. If that is satisfied, then I don't see a constitutional problem. I think there is a very wide leeway and flexibility, in structure and procedures, without violating the Constitution.

Mr. NOLDE. Do you feel this would fully comply with the requirement of due process of law?

Mr. MEADOR. Yes, sir.

Judge BRYAN. As I recall, there was no appeal in England in the criminal case until 1891.

Mr. MEADOR. And not in the Federal court in this country until about the same time. In England, it was 1908.

Judge BRYAN. I don't think the right to an appeal is a constitutional right.

Mr. MEADOR. Even if it is, my view is it is satisfied so long as you allow the man a means of communicating what he complains of, and communicating enough information about what went on below, so the court can pass on his contentions.

Mr. WINN. Some of us have been quite disturbed in the discussion about the inconsistencies of sentencing from even one courtroom next door to the other one, from New York or Washington, D.C., to California. I wonder if you would care to discuss that just briefly and give us your opinions on it. What can we do and what can be done to try to get more consistency in our sentencing?

Judge BRYAN. I think there have been discussions with which you are more familiar than I, to have a commission after a conviction, and having the extent of the punishment determined by the commission. I am not thoroughly in accord with that. I think the local judge is really in the better position than anyone to see what the quantum of the sentence should be, what is fair.

There are circumstances that would indicate a sentence is cruel and those same circumstances would say the man has gotten no more than he deserved. But all of those are factors with which the trial judge is familiar, and it doesn't carry through in the printed record to whoever is going to reexamine it.

You know very well how varied the verbal word is from the written word. You ask a witness a question and he will say, "No," with some sort of a nuance and then you take another witness and he will say positively, "No." That nuance doesn't show on the record at all.

Now, I think the same is true in deciding what is an appropriate punishment. Another way, of course, would be to let the sentences be reviewable, and that is the closest remedy that I can see to it.

Mr. WINN. How would you do that? What system?

Judge BRYAN. It would come upon appeal. As it is now, if the district court judge gives a sentence within the limits that Congress has fixed for it, there can be no appeal from that. The answer is: Now he has a right to give that sentence; and we cannot interfere with it. I think Congress, your body, has given a good deal of study to whether there should be that review.

Mr. WINN. That just drags it on?

Judge BRYAN. That just drags it on.

Mr. WINN. The procedure ought to go further, which is what you are trying to get at, and most of us agree.

Judge BRYAN. Some years ago you passed an act which allowed a judge to pass—and is still on the books—the maximum sentence and then he refers it to the appropriate body, the parole board.

They will come back with a recommendation after study. He does not have to accept that. Ordinarily, he will accept it, or he can say if it is a 5-year sentence and they recommend 3 years, he can say, well, I will sentence him to 5 years, but suspend the balance of the 2 years. It is something I think that primarily should be left to the trial judge. He sees the man and he sees the persons who have testified against him, and he has got cozier knowledge of it than anybody else has.

Mr. WINN. Do you think the human element then of the judge to the defendant is extremely important?

Judge BRYAN. Very important. I think it is really vital.

Mr. WINN. Do you think there is anything to the theory that a certain percentage—it would probably be very small—of criminals go to certain areas of the country to commit their crimes, or to commit further crimes, because the prosecutors are lenient, judges are lenient, the court system is weak, or there is not enough room in the institutions to put them in jail? Do you think this theory has any credence?

Judge BRYAN. Yes, I do. I think, to put it around the other way, they stay out of certain States because they know there that their punishment will be more severe.

Mr. WINN. Their communications system is pretty darn good, isn't it?

Judge BRYAN. Yes.

Mr. WINN. Particularly among the real pros. They have been in and out of institutions and they talk about, "Don't go to this area, don't go to that area, because that judge is tough, or the prosecutor is a tough one."

Judge BRYAN. It is undoubtedly true that they know where and at what stateline to stop.

Mr. WINN. How would you say that Washington, D.C., fits into that picture?

Judge BRYAN. I don't know, really.

Mr. WINN. I am not trying to put you on the spot.

Judge BRYAN. The general reputation of Virginia is if you get over there, you are going to catch it.

Mr. WINN. In Virginia?

Judge BRYAN. Yes, I think they beware of Virginia when they can.

Mr. WINN. Washington, D.C. has been referred to by some elements in the crime field as the melting pot of all of the troublemakers in the country. When they get in trouble in their home area they go to the District of Columbia because there are so many of them there, they can't handle the court caseload, their institutions are full, and so you get a pretty liberal treatment.

Judge BRYAN. That could get around very quickly.

I remember as a district judge, I had the Eastern Shore of Virginia, which is the peninsula coming down, and we would have criminals coming down from New York City that were used to committing far

greater crimes than the country people on the Eastern Shore of Virginia were used to. With a few pretty severe punishments, that ceased. So I believe that is a prevention. On the other hand, you don't want to be so cruel that your desire to supress a crime or to prevent a crime overreaches justice in the case.

Mr. WINN. I suppose this would be true in some cases where the prosecutors and the courts and the judges sort of set themselves up as if we are enough, we are really tough, we won't get the flow into our area if it is near a big city.

Judge BRYAN. Yes. A lot of them have the idea very, very severe sentences are deterrents.

Mr. WINN. What is your feeling on that?

Judge BRYAN. I think that varies. I don't think you can deter a homicide arising from domestic difficulties through severe sentences. The fear isn't there. I think you can deter bank robberies and things of that sort. But when it comes to personal considerations, it just doesn't count.

I remember a case that I prosecuted years ago. I don't know if you are familiar with Alexandria or not, but in the middle of the town was the George Mason Hotel and this husband came up and shot his wife right through the head, standing in the lobby of the hotel. Well, right on its face it looked as if it was certainly a cold blooded, premeditated, first-degree murder case. But when the evidence came out, it showed there had been a great deal of bickering between the husband and the wife, the in-laws had joined in, and they had formed sides. So that no amount of punishment there would deter such a crime.

Mr. WINN. Then your philosophy would be, again as you stated in your prepared remarks, swifter sentences and not particularly more severe sentences?

Judge BRYAN. Yes. That is a tremendous factor in deterring. It is the certainty of punishment that deters.

Mr. WINN. Another one of our concerns is the bail system, which seems to have about as many arms as an octopus and seems to be involved in many cases under the table as much as on the table. I wonder, in the District of Columbia they have a bail agency. In some places the bail firms are right next to the courthouse, right across whatever the location might be, and those people have been accused of political payoffs. What can we do to clean that up? I come from Kansas City, which doesn't have the greatest reputation, certainly in the past, for clean politics in the Kansas City area. But what can we do to have a more efficient and cleaner operation, more honest?

Judge BRYAN. Yes; that is a difficult question. Now, that is the professional bondsman.

Mr. WINN. Yes. Bondsman.

Judge BRYAN. It isn't so here, but there are places where a professional bondsman is just a godsend.

If you were driving through some very strange State and had an automobile accident and the police charged you with manslaughter, you have either got to go to jail or give bond. And if there wasn't a professional bondsman there you would go to jail.

In large cities, I just don't know how it could be handled, except if you required proof by the bondsman of solvency and not just simple

proof, but sound proof of it, you would probably be getting into the bonding business a better class of person.

Mr. WINN. That is pretty hard to do because a lot of the bondsmen in some cities are front men in some cases for the syndicate.

Judge BRYAN. Who can prove their solvency. If he comes up to give bond, he is examined and he qualifies.

Mr. WINN. That is right.

Judge BRYAN. You have a big problem there. I wish I would give you some helpful answer that you don't already know of yourself.

Mr. WINN. I don't know. I am just concerned about it because I have seen some examples in the past from other cities—where the bondsmen have been accused and charged and indicted for payoffs with the night clerk or whoever is involved, the different people that might be involved, and I think the public, maybe the more sophisticated public that probably can afford to put up their own bond, is well aware there is sort of a stinking mess in the bail system in this country.

Maybe it is not as bad as the press would lead us to believe. I don't know.

Judge BRYAN. No, but the public has that idea, undoubtedly. It is sort of a low-class business.

Mr. WINN. Thank you very much, Judge. I am sorry I missed your earlier testimony, but I will look forward with interest to reading your prepared remarks.

Judge BRYAN. I feel flattered to be invited to appear here.

Mr. NOLDE. I have one more question. Was there a study by the Federal Judicial Center of the constitutionality of your proposal?

Judge BRYAN. No.

Mr. NOLDE. Was an informal review made of your proposal?

Judge BRYAN. No. Actually, I am trying to excuse my lack of persuasiveness. It was quite a large group that were listening to different subjects and nobody really felt or had the initiative to go into questioning of the subject. I don't suppose I had more than two or three questions.

There were just too many for concentration.

Now, the administrative office has recently circulated these suggestions among the executives of the 11 circuits. I don't know what response they have gotten on that. They are particularly interested in the saving of funds that would result from omitting these transcripts.

Mr. NOLDE. As far as attorneys representing defendants both at the trial and appellate level, of course, it is obviously better to have the same attorney. Would you make it mandatory in the general run of the cases to have the attorney at the appellate level be the same one as the trial attorney?

Judge BRYAN. Yes. I think that is a fair imposition upon the trial attorney, that he expect to carry the case through. The change is only permitted when his client raises—and they do it all of the time—dissatisfaction in the way he is being represented. Now, I don't think that a judge ought to take that right on the face of it, that he has been inefficient, because it is quite a slur on the lawyer if that representation should be accepted. That is the reason so many lawyers don't like to take those assignments, because they know they are going to be criticized by their own clients and they don't care to be subjected to that.

So if the judge is a little stiff on releasing an attorney—just like he would be in a civil case, wouldn't allow it in the middle of a civil case, the attorney to withdraw, because it might cause a mistrial in the case—but I think he could exercise that same power by looking into this question of inefficiency and if he comes to the conclusion it is unfair accusation, he can refuse to make the change.

Mr. NOLDE. Thank you, Judge Bryan and Professor Meador.

We have been honored to have you today and we are delighted to hear of your innovative proposals.

[The prepared statements of Professor Meador and Judge Bryan follow:]

UNIVERSITY OF VIRGINIA,
SCHOOL OF LAW,
Charlottesville, Va., May 2, 1973.

Memorandum

To: Select Committee on Crime, House of Representatives, Congress of the United States.

From: Daniel J. Meador, Professor of Law, University of Virginia.

The National Advisory Commission on Criminal Justice Standards and Goals is publishing a series of reports spanning all segments of the criminal justice system. Collectively these reports are designed to provide a strategy for the reduction of crime in the United States over the next ten years. The Report on Courts is one of this series; it was prepared by a Courts Task Force, of which I served as chairman. While not comprehensive, this report is addressed to the more pressing problems of delay, inefficiency, and unfairness which currently afflict the judicial process in criminal cases. The report contains many standards and recommendations for improving the courts' performance. Many of these, if implemented, would substantially accelerate a final determination of guilt or innocence; others would upgrade the quality of justice, even though they might have no direct impact on efficiency.

This Select Committee should review carefully the Report on Courts, as it contains a rich array of ideas for new procedures, experimental programs, and research. The report is available, as of this date, in galley proof. The published volume will be available in the near future.

The following are set out as an illustrative sample of proposals in the Report on Courts which have a direct bearing on the expedition of criminal cases and which merit consideration by this Committee:

1. Eliminate the requirement of grand jury indictment in felony cases. (Standard 4.4)

2. Create a new offense of failure to appear, for cases of "bail jumping," with a penalty the same as the penalty for the offense with which the defendant was originally charged. (Standard 4.7)

3. Establish a system of priority scheduling in trial courts so that certain cases can be moved to conclusion with minimum delay. (Standard 4.11)

4. Restrict voir dire examination of prospective jurors to the trial judge. (Standard 4.13)

5. Experiment more widely with the video taping of trials, with edited video tapes shown to juries. (Recommendation 4.2)

6. Increase utilization of computers in court administration and operations, including computerized production of transcripts for use on appeal. (Standard 11.1)

7. Experiment more widely with automated legal research, with remote terminals in judges' chambers, prosecutors' offices, and public defenders' offices. (Standard 11.2)

8. Experiment with a unified review proceeding which would consolidate into a single review all of the review which currently takes place on new trial motions, direct appeals, and post conviction proceedings. (Standards 6.1, 6.2, 6.3, 6.4)

The idea of a unified review proceeding is also discussed in a recently published book, Criminal Appeals: English Practices and American Reforms (University Press of Virginia, 1973). This book is based on a study of criminal appeals in this country and in England which I did under a grant from the Law Enforcement Assistance Administration. The proposed unified review proceeding was suggested

by the English practice, but it is not an exact copy. The basic idea is to have a probing review of the case, not confined to the "record." A professional staff of lawyers would be provided the appellate court to assist the judges in ferreting out all defects, whether raised by the lawyers or not, so as to settle finally the validity of the conviction.

If the unified review procedure should prove successful, the Report on Courts recommends that collateral review, both state and federal, be contracted, so as to increase the finality of convictions. (Standards 6.5, 6.6, 6.7, 6.8)

Other ideas for expediting judicial handling of criminal cases are suggested in Criminal Appeals: English Practices and American Reforms. For example, the trial and appellate processes might be rendered shorter, fairer, and more professional by adopting the English custom of a trial bar which rotates interchangeably in prosecution and defense work. (See pages 114–116). This could be done experimentally in this country in a given city or county, where there is a steady volume of cases, by establishing an office of Criminal Justice Attorneys. Each lawyer in the office would represent the prosecution for a while—three or four months—then he would represent the defense (in indigent cases) for a similar period. Such a continual rotation might develop a better atmosphere of detached professionalism and prevent ideological or emotional attachments to a "side" or a "cause." In turn, this would make for expedition.

The use of a central staff of lawyers in appellate courts is another idea gaining momentum in this country. A staff is a key feature of English criminal appeals (See pages 28–43). More experience is needed in American courts to determine to what extent a staff can increase an appellate court's productivity and expedite the cases, without impinging on the judicial function. The National Center for State Courts is currently conducting an Appellate Justice Project designed to gauge these and other aspects of an appellate staff. Under this project, staff lawyers are working experimentally in appellate courts in Nebraska, Illinois, New Jersey, and Virginia. Reports on these experiences will be submitted in late 1973.

Experimental and pilot projects are needed in the courts in order to test new ideas. Judges and lawyers tend to be reluctant to adopt new procedures until they can see that they work. At the same time judges and lawyers are reluctant to experiment. Thus reform efforts are stymied. Perhaps the most promising way to promote experimentation in the courts is through funding provided for that purpose. The availability of money for a court may prompt the court to try a novel proposal which it would not otherwise consider. This may be the best practical way to bring about badly needed reforms in the judicial process.

PREPARED STATEMENT OF HON. ALBERT V. BRYAN, JUDGE, U.S. COURT OF APPEALS FOURTH CIRCUIT, ALEXANDRIA, VA.

RULE AMENDMENTS TO SPEED THE APPEAL PROCESS BY SHORTENING THE INTERVAL BETWEEN THE NOTICE OF APPEAL AND THE ARGUMENT

My objective is to lessen sharply the lapse of available time under the Federal Rules of Appellate Procedure between the notice of appeal and the docketing of the case in the appeals court. Presently, this period permissibly amounts to approximately a *minimum* of 4½ months.

I. I think it is reasonably practicable to reduce it to 60 days. Itemized, the steps and days now consumed in the intervening period are these:

(a) 10 days for filing notice of appeal by an individual or corporation, and 30 days for an appeal by the Government, but in either case it *may be extended* for an additional 30 days for excusable neglect.

(b) 40 days for the transmission of the record from the trial to the appellate court—this *may be enlarged* to 90 days.

(c) 40 days from the transmission of the record is given the appellant for filing the opening brief.

(d) 30 days for filing of the appellee's brief, not to commence until after receipt of the appellant's brief.

(e) 14 days for the appellant to file a reply brief.

Total—134 days or 4½ months, or 154 days for the Government, without extension.

The most serious delay occurs in the preparation of the transcript of the trial proceedings for inclusion in the record. Seldom is the transcript readiable in 40 days. Blame therefor is not attributable to the trial court, the attorneys or the

reporter, but rather to the reporter's inability to write up the transcript promptly, because of the heavy burden carried by each reporter and because the trial judge has only one such employee. The reporter is required to attend sessions of the court daily and, consequently, must take care of the transcribing only in spare time. The English courts, reportedly, have the same difficulty in expediting appeals.

Of overriding importance in the amendments now recommended is the deferment of the call for a transcript until there appears to be a need for it. Judge Parker, a prominent jurist lately of the Fourth Circuit, said that a transcript was of little use for no one looks at it. This is the experience of many appeals judges. Forty days or more would be saved in the appeal process if the transcript were not required.

If the case were argued without the transcript, nothing would be lost. Even should the argument develop a necessity for it, which would be infrequent, then the transcript, or so much of it as appeared needed, could be obtained after argument. Only in two situations, to be explained in a moment, has it been suggested that the lawyers could possibly be deprived of any essential to the appeal.

The sole situations just mentioned as militating against this proposal are two: (1) when the point on appeal is the sufficiency of the evidence and (2) when there is a change of counsel between the trial and the appellate level.

There is an immediate and practical answer to both of these apprehensions. If the review goes to the adequacy of the evidence, every practitioner knows that this does not refer to the whole of the testimony or exhibits. Always there are only two, three or special points of vulnerability imputed to the evidence. These would appear in the exceptions to the requests to charge, or to the jury charge itself, or in the requested findings and conclusions or in those actually granted in a non-jury case, or in the judge's opinion when one is rendered. The *bases* of the alleged infirmity are seldom debatable; the question is not so much the content of the evidence, but rather its admissibility, its relevance and its purpose.

With respect to the second objection—the change of counsel—the answer is that the release of trial counsel should be more sparingly accorded. Moreover, substitute counsel may obtain a summary of the case from the indictment or the complaint and answer, from the charge to the jury, or from the judge's statement of findings and conclusions, or his opinion. Additionally, opposing counsel will generally stipulate the background and context of the alleged failure in the evidence. At all events, no lasting prejudice could result because the court ultimately could require the needed transcript, full or partial.

In summary, the point is that the rules should not demand a transcript of the evidence prior to the argument of the case.

II. The proposed rules require the appellant to list, immediately following the notice of appeal, the issues on the appeal, just as is now required of the appellant's brief by Rule 28(a)(2), Federal Rules of Appellate Procedure. With this outline, plus the indictment, or the complaint and answer, any depositions and exhibits on file, and the charge of the court or its statement of fact findings and law conclusions, the appeals court will be fully apprised of all claims and defenses. The issues will be shaped and laid out by the statement of them. In these circumstances rarely would recourse to the transcript of the evidence be essential. Certainly not before the argument.

III. Another step in expedition could be achieved by reducing the time for filing briefs. Actually, briefs might be entirely dispensed with. If the case is argued shortly after the trial's termination, the lawyers are then in a more advantageous position to argue than at any time—certainly more so than after the expiration of several months. They would have the evidence at their fingertips, having just argued motions to set aside the verdict or modify the findings, etc., when there are no briefs. Counsel are then fired with their cause and will never again be so well prepared for the appeal presentation. The appeals court would suffer no deprivation; it would have the benefit of all the papers which were before the lawyers and the oral argument, with the tape recording of it for later refreshment. As it is now, the presentation is duplicated, first in laborious briefs and then in oral argument.

If briefs are not wholly omitted, simultaneous briefs should be seriously considered. The parties would file their respective opening briefs at the same time and each side would file a reply brief. It is suggested that 30 days be allowed for the first briefs and 10 days for the reply briefs. As briefs need not be printed, there would be no necessity for greater time for their preparation. Such a procedure would cut off as much as 40 days from the appeal interval.

CONCLUSION

The suggestions incorporated in the amendments now offered, including the use of simultaneous briefs, would effect a curtailment of appeal time from 134 to 59 days. The time schedule would be as follows:

(a) 7 days for filing notice of appeal.
(b) 7 days thereafter for filing the statement of the issues.
(c) 5 days for the judge to file the jury charge or his findings and conclusions.
(d) 30 days for simultaneous briefs.
(e) 10 days for reply briefs.
Total—59 days.

PROPOSED AMENDMENTS TO RULES 10, 11 AND 12 OF THE FOURTH CIRCUIT AS REVISED AND SUBMITTED TO SEMINAR IN WASHINGTON, D.C., ON FEBRUARY 26, 1970, AT THE FEDERAL JUDICIAL CENTER

RULE NO. 10. COMPILATION AND TRANSMISSION OF THE RECORD

I. Appellant shall, within 7 days after the filing of a notice of appeal, file with the Clerk of the District Court a statement of the issues presented for review, such as he is required to include in his brief by Rule 28(a)(2) of the Federal Rules of Appellate Procedure. It shall consist of a condensed list of the points to be made against the order from which the appeal is taken, but shall not include argument of the point. A single page of legal cap size typed in double space should suffice. An excusable omission from the list will not preclude reliance upon the point.

II. Each District Judge, for the expedition of appeals, is requested to file with the Clerk within 7 days from the time the judge is advised that a notice of appeal has been filed, the following papers:

A copy of his charge in a jury case, or his findings of fact and conclusions of law in a non-jury case.

III. Except in reviews of decision of the Tax Court and in reviews or enforcement of Agency orders, the record and docketing of the appeal, unless otherwise ordered by the court, shall be at the times and in the manner as follows:

(a) No transcript of the stenographic report or other means used in recording the proceedings at trial, or agreed statement as permitted by Rule 10(d) of the Federal Rules of Appellate Procedure, shall be required of the parties before the appeal is docketed, or be required thereafter, unless before or after argument of the appeal, the court shall require a transcript, or any party may elect to supply a transcript or the parties may desire to supply an agreed statement, provided, however, that in any event the court may shorten the time for filing of a transcript or the agreed statement, and may hear the appeal argument, but *may* defer decision, pending receipt of a requested transcript or agreed statement. Rules 11(d) and 11(a), Federal Rules of Appellate Procedure.

(b) The Clerk of the District Court, *immediately* upon receipt of the notice of appeal, shall inform the District Judge thereof, and without awaiting the filing of the transcript or agreed statement, the Clerk shall forward to the Clerk of the Court of Appeals the following items:

(1) A photostatic or other immediately available copy of the docket entries.

(2) All of the papers and exhibits filed or lodged in the action in the District Court, without copying them.

(3) Four copies of the appellant's statement of the issues, and four copies in a jury case of the charge of the Court, and in a case tried without a jury of the Court's findings of fact and conclusions of law, and at the same time the Clerk of the District Court shall forward copies of these papers to counsel of record.

(4) A transcript of the proceedings, or agreed statement under Rule 10(d), Federal Rules of Appellate Procedure, if either has by then been received by the Clerk of the District Court.

RULE 11. BRIEFS

(a) Unless otherwise ordered by the court, the parties may agree to argue the appeal without briefs or on simultaneous briefs; or any party may waive the right to file a brief. In the absence of any such exception, briefs shall be prepared and filed in the form and within the time prescribed by the Federal Rules of Appellate Procedure.

(b) Briefs need not be permitted. Typographic, typewritten or other good copies from reproduction machines will be accepted, if they are clear.

(c) A copy of this Rule 11 shall be sent by the Clerk of the Court of Appeals to counsel as soon as he receives the papers enumerated in Rule 10, III(b)(3).

RULE 12. APPENDIX TO BRIEFS

Unless the court upon motion or sua sponte shall dispense with an appendix in a particular case as permitted by FRAP 30(f):

(a) Appendices to the briefs shall be prepared and filed in the form and within the times prescribed by FRAP 30(f) but unless directed by the court or desired by the party, no part of the *testimony* shall be included.

(b) If there is a disagreement between the parties as to the testimony, the court may receive, or order produced, after the argument a transcript of the testimony to settle or verify the contentions.

[Whereupon, at 4:40 p.m., the committee adjourned, to reconvene at 10 a.m., on Tuesday, May 8, 1973, in room 2261, Rayburn House Office Building.]

STREET CRIME IN AMERICA

(Prosecution and Court Innovations)

TUESDAY, MAY 8, 1973

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON CRIME,
Washington, D.C.

The committee met, pursuant to notice, at 10:15 a.m., in room 2261, Rayburn House Office Building, Hon. Claude Pepper (chairman) presiding.

Present: Representatives Pepper, Rangel, and Winn.

Also present: Chris Nolde, chief counsel; Bob Trainor, assistant counsel; Thomas O'Halloran, assistant counsel; and Leroy Bedell, hearings officer.

Chairman PEPPER. The committee will come to order, please.

We are very pleased to have sit with us this morning one of the distinguished Members of the House of Representatives, highly respected by all of the Members on both sides of the aisle, one who has honored us by sitting with us this morning to hear some of the witnesses. We hope he can stay through the whole session.

I would like to call upon my distinguished colleague and friend, Mr. Mitchell, if he will introduce our first witness this morning.

STATEMENT OF HON. PARREN J. MITCHELL, A U.S. REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. MITCHELL. Thank you very much.

I am delighted for this opportunity to be here with you. Unfortunately, I will not be able to stay for the entire session this morning. I have a 10:30 appointment. I am very much concerned about the Senate hearings on the confirmation of the new Secretary of the Army.

Before introducing the witnesses, I want to take this opportunity to pay a tribute to the chairman of this committee. I think far too often we fail to recognize men who have dedicated themselves to the areas of human rights and human interests. I know that this distinguished chairman, as both a Senator and a Member of the House, has dedicated his life to the whole principle of human equality and to the securing of the best that a society can offer to human beings.

Let me just take this opportunity to thank you personally and publicly for the magnificent record you have compiled.

Chairman PEPPER. Thank you very much, Mr. Mitchell. I appreciate your remarks.

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Mr. Mitchell. It is my very distinct honor to introduce two gentlemen, and I will introduce them both at the same time because I have to leave. These two gentlemen from Baltimore represent, I think, the finest and the best in the legal judicial tradition of this country.

I am referring to Mr. Charles Moylan, a very distinguished jurist from the city of Baltimore. It is almost unnecessary to speak about his professional capacity, because he has a national reputation.

What I would like to do in introducing him is to point out the human quality that he had when he was with the State's attorney's office and returns as a judge on the bench; the quality that enabled him to transcend racial and economic lines so he moved freely and with confidence throughout our Baltimore communities. At a time when there is great racial polarization, I would like to point to the fact that Charles Moylan has the respect of the black community because he has integrity, and honesty, and he is a very decent, wonderful human being. I am delighted to present him to this committee.

The second gentleman, a longtime friend and outstanding man in the city of Baltimore, is our State's attorney, Mr. Milton Allen. As you well know, a few years ago, in a historic election in Baltimore City, the city, the citizens of the city, elected the first black State's attorney to head a large urban office. That man elected was Milton B. Allen.

I campaigned with him, supported him fully, and believed in all of the commitments that he made when he was running for office. I am delighted to report that he has lived up to those commitments.

Mr. Allen has been an aggressive advocate. Mr. Allen has been really a tower of strength in the judicial system in the city of Baltimore and the State of Maryland. Like Mr. Moylan, he has won the widespread respect of the entire Baltimore community. The only thing that I can say in closing, in presenting Mr. Milton Allen to this committee, is that he, too, represents the quintessence of excellence that we seek to find in the judicial system of our country.

With those brief introductory remarks, Mr. Chairman, I am delighted to present these two witnesses to you.

Chairman Pepper. Thank you very much.

Mr. Mitchell, we appreciate your introduction of these two distinguished gentlemen.

As you and I know, these hearings are to exhibit to the country and to the Congress the most innovative thinking, the most innovative procedures and programs to be found anywhere in the country in certain critical areas having to do with the administration of our criminal justice system. We started with the police and we had 13 outstanding police departments of the country to come here and tell us about the imaginative and innovative programs which they have employed in curbing crime.

Then came the innovative programs and practitioners, and personalities in the field of juvenile crime and in the field of correctional institutions. One of the sad aspects of the whole program that we have in this country for the administration of justice is the correctional system. So we had people who were especially knowledgeable in advanced thinking in the area of juvenile crimes and delinquency, and correctional or penal institutions.

Then, in the last phase, we are having selected individuals that we consider outstanding in the country, who have done something imagi-

native, creative, and constructive in the field and in the functioning of prosecuting atorneys, and in courts. We have had outstanding courts officials and prosecuting attorneys. We have chosen Mr. Allen and Judge Moylan because, in their respective fields, as I said to my distinguished friend, Mr. Mitchell, we thought they have been outstanding and can give an example to the Congress and the country on how we can further curb crime by imaginative and constructive pregrams such as they have been offering.

We are very pleased to have them.

Thank you for being with us, Mr. Mitchell, and stay as long as you can.

Mr. Counsel, will you call the first witness.

Mr. Allen and Mr. Moylan, would you please come forward, and your colleagues.

STATEMENTS OF MILTON B. ALLEN, STATE'S ATTORNEY FOR THE CITY OF BALTIMORE, STATE'S ATTORNEY'S OFFICE, BALTIMORE, MD.; ACCOMPANIED BY HOWARD B. GERSH, CHIEF, VIOLENT CRIMES LIAISON UNIT; AND HON. CHARLES E. MOYLAN, JR., ASSOCIATE JUDGE, STATE COURT OF SPECIAL APPEALS, BALTIMORE, MD.

Mr. ALLEN. Thank you, Mr. Pepper.

This is Mr. Gersh from my office. He is the man in charge of one of the innovative programs we have in my office You may wish to ask him some questions about how he operates the section.

I would like to say first that I am grateful to find that this committee is considering all aspects of the criminal law picture in these United States.

Chairman PEPPER. First, let me thank you, Judge Moylan and Mr. Allen and Mr. Gersh, for being here with us this morning. We appreciate your coming. We know we will profit from hearing you.

Mr. ALLEN. We appreciate the opportunity to speak to a committee such as this, because I think all three of us are very interested in the heightened activity in the criminal justice field. I am delighted the committee is looking at it from all aspects because street crime simply can't be considered in isolation; and we so often fall into that bad pattern.

It is very similar to the people who think more policemen, more jails, and harder judges will solve crime. Of course, it won't. Street crime is intertwined inexplicably with so many phases of the criminal law picture, including the fact our society apparently has lost the ability to deal with the entire criminal law picture.

The prosecutor system, which is one of my pet beefs, with its apparent inability to cope with crime because of its fascination with part-time, youthful, inexperienced, underpaid prosecutors—part time—is probably one of the largest contributing factors to the failure to curb crime in this country.

The prison system, of course, which much of the time turns out a more highly skilled criminal at the other end, is a contributing factor. The basic unfairness of certain parts of our American system in which

we have not really supplied the criminal statistics, and we find ourselves unable to deal with the thinking criminal contributions.

The overly complicated criminal justice system in which we find ourselves in a situation, after a series of Supreme Court decisions which were forced out of the Supreme Court, in large part by overzealous policemen, unskilled prosecutors, and insensitive judges, such as the Mirandas and Escobedos, and the Mapps and the Browns, and so on, contribute a great deal.

The inability of our criminal justice system, the inability of our States to cope with organized crime and white-collar crime, and consumer fraud and ecological crime, is another contributing factor.

The lack of integrity at the top level of our Government contributes a great deal. There are no simple solutions to it, except a gross revision of the entire system. There are good ideas and good plans and good systems. We have in Baltimore presently existing two good plans that we think work.

The first one is one that we call liaison for violent crimes, which was instituted, thought of, about July of last year, started around September, and really became active around January. Funded through LEAA, the first plan was to have six prosecutors, six highly skilled prosecutors, to work around the clock with policemen in the serious crimes. By being limited in numbers, we confined ourselves to homicide and certain other serious crimes, rapes, and these have involved robberies.

The idea being to get a prosecutor in at the very early stage so that the prosecutorial problems that would arise later would be avoided.

These men make themselves available, although we only have four instead of the six we should have had, make themselves available around the clock; they work as much as 30 hours a day with a rough case, and they process the case from the very beginning with an eye toward successful prosecution. We have become very statistic oriented in this country and very often we are carried away by arrest statistics, when the emphasis should be, it seems to me, on successful prosecution, because in my view nothing damages the system more than an unsuccessful prosecution.

Every time a defendant is arrested and, as he calls it, beats the system, you have lost another notch, you lost more credibility, and you lost more belief in the system.

Now, these men deal with the police, with confessions; they deal with them on search-and-seizure warrants; they deal with them at the grand jury level, taking witnesses before the grand jury. They give immunity, they plan strategy, they generally supervise the case from a prosecutorial angle.

They handle bail, they deal with lawyers, they get lawyers in the case early, and by this specialized function they have been able to surmount a great many problems that haunt the system. They have been able to shortcut some of the timewasting procedures: the preliminary hearing procedure, the grand jury procedure, which usually adds a month or two in there to the time. They have been able to get lawyers at an early stage through cooperation with the public defender's office. And getting lawyers, under the new requirements of the court, has proven a problem in many States.

We have seen cases where a man was able to avoid getting a lawyer for 7 or 8 months, thus getting his case stale and difficult to try.

We have found this system works. The prosecutors like it, the police like it, it is practical, it is fair, and it has a potential for building respect for the law, order, and justice. It also has a dividend in that we are able to get out of the system, at an early stage, innocent defendants, persons who are innocent who are arrested, rather than keeping them in jail 7 or 8 months and then find we don't have a case.

I can cite you some examples of how the system works and the good it has done. For instance, very recently, we had a "Murder for Hire" ring in Baltimore that had been highly successful in disposing of undesirable people for fees of $600 to $1,500. The police knew who these people were but they simply could never get enough to make an arrest.

My unit got with them and they developed a strategy and we got to the contact man between the hirer and the killers. We took him before the grand jury, we got a lawyer, we cracked the case. We made an arrest and within 29 days we had a conviction.

That does law enforcement a lot of good.

In another case, a very similar strategy worked.

Chairman PEPPER. I am glad you had a speedy trial like that. That is what we ought to have all over the country.

Mr. ALLEN. We aim for 60 days. It is not easy to do, to get a trial in 60 days. But you can do it in this isolated unit because we have men right on top of it at all times.

We had another situation that could not have developed but for this unit. We used a unit in the grand jury and, as a result of the work, the homicide unit was able to make a mass arrest. Valid research revealed the following: Three escaped murderers, three murder cases, 60-some guns that were in one house, the solution to an absolutely clueless murder of a security guard, a double-contract murder in New York that was connected with narcotics that we solved here in Maryland.

And an extra dividend, a very complicated, very quiet, unknown, substantial narcotics operation that is still being developed.

We used the same approach very recently in another case in which a key witness in a fairly minor case had mysteriously disappeared a few days after he testified before the grand jury. Absolutely disappeared from the face of the earth. We used a very similar approach and were able to resolve the case. We found out where the witness went and who sent him there. In addition to that, we got an extra dividend in that case in what has become known as Baltimore's *Missing Heroin* case, something that puzzled and bothered us for some 5 or 6 months. We think we have an answer.

There have been many cases of this nature that we have been able to develop and make cases where there was no case, by virtue of the close cooperation between the prosecutor and the police. Oddly—odd to me because I came, I was originally a defense lawyer. Judge Moylan and I fought many a battle when I was on the defense side, and I was really surprised to learn that Mr. Gersh's operation had attracted so much attention nationwide.

He has received letters from all over the country about the system. I think he is going to write something for the "Notre Dame Lawyer" about it.

I thought this was the way it was done all along. But apparently the policemen and the prosecutors work separately. The police do their part and 4 or 5 months later the prosecutor does his and they may not work together. They may not be on the same wavelength.

We have another unit called Narcotics Strike Force that operates on the same principle. I am reasonably sure it is the only State narcotics strike force that has had any real success. I think they started one in Michigan about the same time, but ours has had, I think, a marked degree of success. This works with a larger force. We have seven prosecutors and seven policemen. These people, we have a "Hot Line," we advise police of warrants, we gather intelligence, we cooperate with law enforcement in other parts of the country, and we operate legal phone taps.

There have been inquiries about that unit. We had a group from Indiana just 2 weeks ago to go over our system. They want to adopt something similar in Indiana. This group has been successful not only in Baltimore but in the information they developed that goes out all over the country. Much to our surprise, about 6 months ago, we—through something we developed in Baltimore—were able to crack a coke case smuggling operation in California, of all places.

As a result of that, we got the largest haul of cocaine they ever got in California. These, of course, are specialized units. I suppose there are six men in this unit, seven men in Peter Ward's unit, who are able to accomplish these things by bearing down on the problem. But I think, to have good prosecution, you must have this type of operation at all levels of police-prosecutorial relations.

The law is much too complicated at this point to ever go back to the old system. We must have prosecutors at the start and right on through, which means it is going to cost money. And it means the Federal Government must take an interest in prosecution over the country. We still have more part-time prosecutors than full-time prosecutors. We still have gross underpayment in the field. I don't know of five offices in this country where you have good pay scales. We still cannot compete with the private bar.

To give an illustration, in my city, the public defender's office, which just started last year, start their salaries at $5,000 higher than I do. I start at $10,000, they start at $15,000. So I can't compete. I can't begin to compete.

Now, the cities, of course, don't have money to professionalize prosecutors' offices. But at this stage of development of our law, when the prosecutor's office is really the key to successful law enforcement—I regard it as the key—and for very little money and by setting minimum standards from the Federal level, you could professionalize the prosecutors' offices all over the country in 10 years.

Chairman Pepper. Are you getting any LEAA money?

Mr. Allen. Yes, sir. Almost half of my staff is financed through LEAA. The liaison program is LEAA, the narcotics unit is LEAA. Judge Moylan, before he left, started the district court system. Believe it or not, we were trying 35,000 cases a year in district courts without a prosecutor. How they did it, I don't know. I never will find out. But Judge Moylan made one of the initial grants when he was prosecutor, and we got prosecutors in the districts.

He started another program which I am carrying on, a pretrial program, designed to get prosecutors associated with the case early.

That is still in existence and it has been revised to get them into the case prior to indictment, which we think is the next best thing to have, for them to have an active charge in the case.

I am hopeful that this committee—I don't know what your aims might be—but I am hopeful it doesn't end up in more laws and stiffer sentences which don't solve anything. I am hopeful they come up with minimum standards for court systems. We have a good court system in Maryland. We have a three-tier system that is fairly new.

Chairman PEPPER. Excuse me, Mr. Allen.

I draw the inference from what you just said that you don't think that stiffer sentences, longer sentences, are necessarily the answer to the problem.

Mr. ALLEN. Absolutely not.

Chairman PEPPER. What do you think is a more effective approach?

Mr. ALLEN. I really think we have to have an entire revision with Federal guidelines of the entire justice system, including the courts. Maryland has a good court system but there are many States that don't. We still have magistrates and justices of the peace all over the country. You need three-tier systems.

I think Maryland is extraordinarily good. We fortunately have two or three very good administrative judges who are really going after this thing.

You must have changes in your prosecutor system. The part-time prosecutor is passé. He no longer can serve this complicated justice system. Whatever is needed to bring the prosecutors' offices all over the country up to par must be done if we are going to have good law enforcement.

You simply cannot deal with the modern complicated case with a prosecutor 2 years out of law school.

Chairman PEPPER. Mr. Allen, I inferred from what you said that the relative certainty, or a greater certainty, of apprehension and a greater certainty of getting some kind of a sentence that will put you in prison is probably more of a deterrent than the lengthy and long-term sentences.

Mr. ALLEN. Absolutely.

The certainty of punishment and the certainty of proper and fair punishment—proper and fair results, I think—is the greatest deterrent we can have. But our system is not able to deliver that. We can't deliver it because, No. 1, we have good police forces in many cities and many States, but not nationwide. And with the way people flow back and forth between cities, counties, and States, you simply must have it nationwide. It does little good to have a good police force in Maryland, or Baltimore, when they just move across the line to Washington.

Chairman PEPPER. Mr. Allen, to bear out just what you said, my wife and I were preparing to go for a long weekend over on the shore and we had a station wagon parked in Washington outside of our apartment. Our best things in there, several thousand dollars' worth of our best things. A little while and everything was gone.

I got in touch with the local police immediately and they came up there, and I finally said, "What are you going to do?" They said, "We

are going to check the pawnshops around here, the usual sources that we have."

A little while later, a few days later, I said, "Did you ever get any leads?" "No."

"Did you check Baltimore?" "No," they didn't check Baltimore. What could have been simpler than anybody just putting all of that stuff in a car and taking it over to Baltimore and running it through a pawnshop or fences there?

We had here last week some representatives of the prosecuting attorney's office here in the District of Columbia. He was telling us about a very fine computer system they have which covers very thoroughly everything that is going on in the District. They find the fellow sometimes being on trial in one court had a case in another court in the District they don't know anything about.

But we brought out just what you said. Have you got that kind of system for the whole country at all?

Mr. ALLEN. No, sir.

Chairman PEPPER. You are so right. We have got to establish in the FBI or some central place, information to give you. If you have a man before you in Baltimore, you can check through that computer and find out everything about that man's record all over the country. Wouldn't that be valuable?

Mr. ALLEN. They have been talking about that for years, but nothing is going to happen until the Federal Government puts enough pressure or enough money in to do it.

Chairman PEPPER. Right.

Mr. ALLEN. We have eight district courts, or nine district courts in Baltimore, plus nine criminal courts, and there have been cases where people have been tried in two or three courts under a different name and we never know who we are trying—because we have no method of getting information back.

Chairman PEPPER. This system is based on fingerprints, so if there is an alias involved it wouldn't make any difference about names.

Mr. ALLEN. That is right. That case like your case might never be solved because the chance of a defendant escaping punishment, escaping getting caught, No. 1, and escaping punishment, No. 2, are very good. That is one of the contributing factors, the fact he has a very good chance of getting away with it. That type of crime, the sneak thief crime, as well as the other type, like holdups.

You don't see people use masks very much any more. The reason is because he knows he has a good shot of getting away with it, maybe 95 to 5, I don't know. So that is why he doesn't take much trouble to disguise himself. Everybody sees him and even takes his picture, but he still gets away, because we simply do not have the equipment to deal with it.

Even if he is caught, the crowded court calendars, the inefficient prosecutors, the young fellows who are doing the best they can, but they are not pros, they are not professionals. The court system that is slow and ponderous gives them a good chance to escape, even forget the right fellow. So there is no certainty of punishment any more.

Organizations like this organization, bodies like this body, have to take a drastic step to revise the entire system. Minimum standards at every stage where it is vital for police, for prosecutors, for courts, and

an acknowledgment. A lot of trouble we have got just because many years ago a series of tough decisions began to come down and we have never been able to adjust to those decisions.

Take one, for instance, the *Miranda* decision. We have never been able to adjust to the fact, at 3 o'clock in the morning, the policeman says to the fellow, "If you don't have a lawyer, we will see one is appointed for you"; the fellow says, "All right. I am ready to talk: get me a lawyer." What is the policeman going to do at 3 o'clock in the morning? Nothing. So he waits until the next morning and it is too late then.

There are any number of situations where we simply have never adjusted to the new Court decisions. I don't know how long ago *Miranda* was—at least 6 or 7 years ago. But still, in Baltimore, we can't do anything unless we happen to know the man's lawyer, which happens very seldom. But the average street criminal doesn't have a lawyer. He says, "OK, get me a lawyer and I'll talk." He knows we can't get him a lawyer.

Take the Wade series. In Baltimore, we have abandoned lineups because we don't know how to handle Wade. When I say "we," I mean the whole system. We don't know how to handle the Wade series and the problems they raise.

We have a case 3 months old up there, an identification issue, and it was never a lineup. Why? Because they couldn't get a lawyer to line up. Why? I just couldn't do it.

So we got a case where identification is crucial, and the man comes—by now his hair is longer and he has grown a beard, and has different clothes on, and it is 8 months later and you might have trouble identifying him. So you lose a lot of cases like that because of the inability of the system to adjust to the change in case law and statute law.

I would urge the committee to think strongly in terms of not only innovative approaches—they will help in one area here and there—but overall, looking at the entire system, to professionalize it and bring it up to the present-day level of achievement we need to have in order to progress in this system.

Thank you very much.

Chairman PEPPER. Thank you very much, Mr. Allen.

Mr. Counsel, what is your pleasure?

Mr. NOLDE. I think we could hear from Judge Moylan and then have questions.

Statement of Hon. Charles Moylan

Judge MOYLAN. Thank you, Mr. Counsel and Mr. Chairman. I also appreciate the opportunity to come down and appear before this committee.

I would say at the outset, Mr. Chairman, although I have enjoyed the relative tranquility of an appellate bench for the last 2½ years, I suspect for purposes of this committee's hearing my credentials are more as State's attorney in Maryland's Baltimore City, as the predecessor in office of Mr. Allen, rather than an appellate judge.

Chairman PEPPER. We would like to hear you in both capacities. We are interested in what the courts can do to speed up the disposition of cases, to move the system more effectively forward.

Judge MOYLAN. I have some thoughts in this area. I would say that as a predecessor of Mr. Allen, in office for 12 years, that between Mr. Allen and myself we can speak for the State's attorney's office of Baltimore City from January 1958 right up to date, with one brief hiatus. I think our philosophies are very similar.

I, first of all, concur very heartily with you, Mr. Chairman. I think the major deterrent to crime in this country today is by no means the length of the sentence, the severity of sentence in a rare and bizarre case where a criminal is actually caught, convicted, and sentenced, but rather if we could ever achieve the sureness and swiftness of some punishment in the vast majority of cases.

I have seen over the last 12 to 14 years two major impediments to that sureness and swiftness of the criminal justice system. One was a problem I shared and I battled along with Mr. Allen, and neither one of us, successfully, has answered that challenge yet, although I commend him on the major efforts he is making, and that is the effort to professionalize the role of the prosecutor.

And I mean the workaday assistant State's attorneys, assistant district attorney, who is actually there in the pits in the court.

When I went to law school, as relatively recently ago as the mid-1950's, the criminal law was considered very much of an intellectual backwater. It was a course taught in the first semester of the first year. The professors were disdainful of it, the public at large and bar associations were disdainful of it. And although we may in some instances have suffered from some of the decisions of the Warren court, in one respect I think that court was a blessing to law enforcement, of the criminal law, because it took what had been an intellectual backwater and made it really the dynamic frontier of what is going on in the law.

And today, with the constitutional law and the criminal law overlapping, it is not only one of the most challenging, but one of the most complex areas of law that any attorney has to deal with.

Chairman PEPPER. Judge, if I may interrupt, I found about the same attitude toward the criminal law when I was at Harvard Law School from 1921 to 1924. My recollection is that criminal law was a half-year course.

Judge MOYLAN. I am sure that is all it was, Mr. Chairman. And yet today it is very different. The attention that is given by the Harvard and Yale Law Review, by professors all over the country. It is an exciting area that young men are willing to go into today. Yet, I can also harken back to when I went to the State's attorney's office as a young assistant, just out of law school in 1958, the attitude of the judges then was, "Well, Charlie, it's a good opportunity. Get in there and make what you can out of it in 2 years, but," and to a man they said, "don't stay too long."

The idea was then to be assistant State's attorney and assistant prosecutor in any of our jurisdictions, it was a good training ground. It was a postgraduate course in trial practice. It was very part time: no one was going to stay for longer than 2 years.

In talking to my counterparts and now Mr. Allen's counterpart in the National District Attorneys Association, all over the country, with a few exceptions, the light that has hit every elected prosecutor, even if he could go out and hire and recruit good people, they are going

to stay with him for an average of 2 years. He is going to turn over almost an entire staff every second and third year.

When you talk about turning over a staff of 80,100 lawyers, you really are crippled before you start. It takes a year or so before the man acquires enough experience to be truly productive, and by the time you have a capable functionary in that office, he is coming in and saying, "Boss, can I have 5 minutes? I just got an opportunity. I told you I would stay with you 3 years, and if you insist I will, but I have the golden opportunity of my life. Are you going to hold me to it?"

And, of course, you can't, even if you could.

Chairman PEPPER. I have a law office in Miami Beach, Fla., and I had a letter written to me, primarily written to me as a Congressman. This young man was graduating in June from the University of Miami Law School, magna cum laude, and the mother was writing me to see if I could help him get a job somewhere practicing law in the Greater Miami area, where he wanted to live.

I imagine he never thought about going into the prosecuting attorney's office, except, as you say, maybe for 2 or 3 years' experience. Yet, that is the kind of young man you ought to have. It is that kind of mentality.

Judge MOYLAN. Completely. That is what we need today with the law being as complex as it is, and yet for several reasons the system is crippled almost before it starts. Ten years ago, of course, the idea a man was going in for just a year or so, even during that year or so, he would be very part time. He would begin building his private practice and was giving at best 4 or 5 hours a day in his job as prosecutor, which is full-time employment to read the latest decisions and try to keep up with the changes in the law.

The thing that crippled us then and is still not eliminated nationwide is the idea the prosecutor's office was always a political forum. You had to belong to the party of the man who was the elected prosecutor. You had to live and vote in that particular jurisdiction. Mr. Allen has made great strides in eliminating that as a consideration, and yet you have to fight an entire system.

A few years ago, as an elected Democrat, I dared to hire a few good qualified young Republicans, although I didn't even know it, I didn't even ask them. It was heresay to the organization, the muldoons around town where, for the preceding 50 years, if you didn't have the recommendation of the local ward boss or local district boss, you didn't even aspire to going into a prosecutor's office.

When we compounded the heresay by hiring not only those of independent or opposite party status, but who didn't even live or work in the city but in surrounding counties, the cries went out from both parties alike.

But the big difficulty is salary. We found in Baltimore City the thing that hurt us so much was not just the starting salary; we have to get it up to where we can compete with the best, but we have got to be competitive with the competing agencies. Raising our salaries a little bit for the young new prosecutor would do us no good whatsoever if we were not competitive with the U.S. attorney's office, the State attorney's office, State solicitor's office, with the better private law firms.

I think what our local governments, State, municipal, and county, have got to recognize is that if this business of bringing the criminal to the bar of justice is important, and if it is as complex as it unquestionably is today, you have got to get out there in that competitive market, decide what it takes to compete for the top graduates, for the "Law Review" people, to get them initially to compete with the better law firms. Once you get them initially, you have to be able to offer the increments to hold them.

When we do take the battle to our own city council in Baltimore, the idea would be, "Well, as long as you can pay attractive salaries to hire initially out of law school, why worry about the raise you can take them to a year later or 2 years later, because you don't expect to hold them more than 2 years, do you?

And with that prevailing attitude, no incentive was given to keep a man in the system.

In my experience in traveling nationally, there are two areas I commend to the committee's attention, but I suspect they have already testified before you. One is Los Angeles, under the excellent direction of Joe Busch.

Chairman PEPPER. We had him last week.

Judge MOYLAN. I know Edward Younger, now attorney general of California, revolutionized that office some 10 years ago.

Chairman PEPPER. We had Mr. Younger in 1969, when we started, in the first year of this committee's life.

Judge MOYLAN. He could certainly offer a lot because they pioneered what a prosecutor's office ought to be nationwide.

The second example that really shines in my mind is Detroit in Wayne County. What happened just in the last 5 years in Detroit has really brought them up on a par with Los Angeles, and I think the two together represent the best salary structure in the country. Not simply in terms of initial recruiting, but also in terms of taking the men up, the 2-, the 3-, the 4-year veteran, to where they can move up in that chosen subdivision of the legal profession, just as they could move up in any other area of government, or indeed in the private sector.

William Cahalan, the county prosecutor I believe his title is, in Detroit, I was having dinner with him several months ago and he indicated that out of a staff of 110 attorneys in Wayne County, 80 of them, who have 5, 6 years experience or more, 80 of them are at a salary level of $20,000 a year or above.

Chairman PEPPER. Good.

Judge MOYLAN. With that type of enlightenment, they are holding, Los Angeles and Detroit are holding their people 15–20 years, and not turning them over every 2 years the way most of us in the United States suffer.

Both Joe Busch and William Cahalan offered a second thought. They thought in holding their people it was not simply the salary, though salary was unquestionably a significant consideration, but also the fringe benefits. They were oriented to holding people for years and, as a result, be it contributory by the State, the Blue Cross/Blue Shield, good pension programs, the job vesting some sort of tenure, of security, to be on probation for a year or so, but to feel if you then commit yourself on that third or fourth critical year to a career in

the office, you will not 12 years later be bounced out simply because there has been an electoral change at the top.

There was job security and both Los Angeles and Detroit feel that is a factor in holding good people.

So this is an area I think with national correction, prosecutors' offices—the prosecutors know this is the way they have got to go with their local supporting legislative bodies and county commissioners and city councils, that need to know that that is what is needed.

The second thought—and I don't want to trespass on the committee's time—is something that occurred to me during my years in the prosecutor's office, and my experience on the bench simply confirmed it, that the greatest impediment I have seen nationwide to a sureness and the swiftness of the criminal justice system has been the congestion that makes it literally impossible nationwide for the system to handle the vast caseload that has fallen upon the shoulders of that system today.

Although neither Mr. Allen nor I can claim any innovative credit, I can at least offer one experiment that Maryland may have to show to the rest of the Nation. It is really not an innovation on anyone's part, but a historic accident, and that is this: as we look around the country, one of the scourges of the system, a full 90 to 95 percent of the cases never come to trial. They are swept under the rug or dealt with summarily, in what is called the plea-bargaining process. You take 5 to 10 percent of the cases in a lucky jurisdiction to the trial table, and in the system we talk about, a full 90 to 95 percent are bargained away, and in a place like New York City, bargained away in a bargain-basement fashion. Not simply where you compromise a potential 20-year felony, let us say, of armed robbery down to a 10-year maximum felony of unarmed robbery that may be a legitimate compromise, but to compromise it all the way down to a 1-year misdemeanor of simple assault, I think is criminal in and of itself.

In most of our big jurisdictions, the cities, at least the metropolitan counties, simply cannot handle the caseloads. The defendants know it, the defense attorneys know it, and almost any kind of a shoddy offer of a guilty plea will be accepted, though for a 20-year armed robbery you are taking 6 months for the misdemeanor of simple assault.

I was shocked when I took office some years ago now, to go up and figure I would learn from my senior counterpart in New York City. In talking with some of the people in one of the best offices in the country, traditionally, Frank Hogan's in the County of New York, Manhattan, I was shocked to learn, despite the quality of the trial, they indicted in Manhattan in the late 1960's some 8,000 to 9,000 felony indictments per year at that time. I said, "How do you dispose of them?" And he talked about the cases they took to the trial table and, lo and behold, my jaw dropped when I learned they were trying between 80 and 120 cases per year out of 8,000 to 9,000. That over a decade they had been trying.

I don't mean to single out any one jurisdiction, it was typical of the large cities. They would go to the trial table with between 2 and 3 percent of the cases per year and plea bargain away 97 to 98 percent.

Now, in Baltimore City, in Maryland, we have never had to do that. Where the figures nationwide would be 80 to 90 percent of the cases disposed of on plea bargain, 10 to 20 percent of the cases taken to the

trial table in Maryland, with the exception of the Washington suburbs of Maryland, would seem to follow the national pattern rather than the ancient classical Maryland pattern, we have typically taken to the trial table 85 to 90 percent of the cases and only plea bargained away 10 to 15 percent.

Chairman PEPPER. I imagine you have the highest percentage of trials in the country, don't you?

Judge MOYLAN. I think we do by far, Mr. Chairman, because we have a system that is unique among American States. And I understand in all of the common law jurisdictions of the North American Continent north of the Rio Grande, we share the experience only with the Province of Ontario. They seem to have inherited the same accident that we did.

But that accident is what makes it possible to take 85 to 90 percent of the cases to the trial table. Even the 10 to 15 percent which end up guilty pleas are not really bargained away: it is simply the defense attorneys virtually forced the guilty plea upon us. They are coming in and throwing down their hands: they are capitulating, not literally, not really bargained.

The thing that has made that possible is not that we work longer hours, or our judges work longer hours, but rather we have had from the earliest day of the proprietary colony under Lord Baltimore, a system where the typical Maryland defendant and typical Maryland defense attorney will exercise his election of saying "Court Trial" instead of "Jury Trial."

I went through the experience 10 years ago, and Mr. Allen, coming over this morning, tells me he subsequently has gone through it, of having our colleagues from around the country look at us as if we were some type of freaks when we tell them we try most of our cases to the court and not to the jury.

We, of course, have in our constitution, as well as the national one, the right to a jury trial, but the mere right to the jury trial does not mean everyone or 99 percent of the defendants have to exercise that right.

Chairman PEPPER. It can be waived by any defendant?

Judge MOYLAN. Further, Mr. Chairman, we try to shy away even from the phraseology "waiving it" with the idea that implies the superior, the accepted trial mode is waived, and you then accept a secondary or lesser trial mode.

We prefer to think of it as an election between two equals.

Chairman PEPPER. I see.

Judge MOYLAN. And we have for 300 years and the most definitive tracing of it, I would make reference to an article by a former chief judge of Maryland, Carroll Bond, back in 1925, in the American Bar Association Journal referred to the Maryland practice of trying criminal cases by judges alone, without juries. Where he traces this through colonial times, and it is just the accepted practice in most of our cases.

As State's attorney of Baltimore, I did a survey 3 years ago of the cases that came through the Baltimore office between 1952 and 1969. During that period, in the early part of the period, we were having our grand jury hand down indictments in felony or felony equivalent cases in some 4,000 cases per year. Toward the end of the 17-year

period, we were up between 8,000 or 9,000 cases. So we are dealing with 8,000 or 9,000 felony cases a year.

Over that 17-year span guilty pleas accounted for some 14 percent of trial dispositions. During that 17-year span some excess of well over 100,000 felony cases, 86 percent of the cases were disposed of at the trial table in actually contested trials.

Again, during that 17-year span the percentage of jury trials of those thousands per year ranged between 1 and 3 percent.

We had a couple of tough judges on the bench, and we were up toward the 3 percent. With the softer judges on the bench, down closer to 1 percent. But during all of that span we ran between 1 and 3 percent jury trials and, conversely, of course, between 97 and 99 percent court trials.

Mr. Allen did indicate to me that in the last couple of years it has gone up and probably the contested trials, the percentage of jury trials, is closer to 10 percent today. But even though it represents to me a shocking increase, to the rest of the country, it might be the God-send that would save the system.

I would point out further—and I hope the Supreme Court, if the case ever get to them, will be cognizant of the fact, although they may be disdainful of the court trial versus the jury trial in looking at most American jurisdictions, they should look at Maryland in terms of what the court trial represents there. Because in most American jurisdictions, submitting to the court is tantamount to throwing yourself upon the mercy of the court. It is in all the technology a guilty plea or a nolo contendere plea. Where, in Maryland, our court trial is really a hotly contested trial.

I have over the years, and with Mr. Allen on the other side of the trial table, taken cases to the trial table, capital cases, first-degree murder cases, rape cases, kidnaping cases, before not one judge, but sometimes panels of two and three judges, where we were battling everything from insanity pleas to the admission of evidence, to the admission of confessions, consuming sometimes 2 to 3 weeks at that trial, fighting every step of the way, tooth and nail, and yet court trial, not jury trial.

At even long, 1- or 2-week trials, of course, represented before the jury 4, 6, or 8 weeks. But even the hotly contested cases, be it short or long, inevitably has to consume approximately one-fourth or one-third of the time without the jury that would be involved before a jury.

It is this historic accident that has made it possible for us to take our cases to the trial table traditionally instead of plea-bargaining them away in a plea-bargaining basement.

And how long it would take to inculcate a habit in defense attorneys in 49 other States and 13 other Canadian Provinces where they haven't been doing it that way, where we have, Heaven only knows. But short of that, there may be some alternatives that one could do, even where jury trials are taken.

What the Federal System, I understand, has done and what we have done in Maryland, that is, at least abbreviate the jury selection process, don't consume, as so frequently done in California—and it always shocks us—2 to 3 weeks just to pick a jury. That you don't have to go through a voir dire examination with the defense attorney and prose-

cutor each getting an individual crack, almost unlimited biographical, psychological exploration of each potential juror almost endlessly, with hundreds and hundreds of jurors.

Our system, and I understand the Federal one, is you propound the questions, letting the judge propound them collectively for both attorneys, after they have been worked out in chambers.

Furthermore, that you direct the questions to a jury panel en masse and not individually. Furthermore, even with that truncation, you limit the questions to those things, as in our State, would go to establish challenge for cause and do not allow this voir dire selection process to be an extensive biographical and, indeed, almost psychoanalytic fishing expedition.

It may be as the Trial Advocacy Institute would indicate, the Lee Baileys and Henry Rothblats expound in 2 or 3 days' trial advocacy seminars, this is the perfect way to try a case. It may be, if we are dealing in a system that has only one case but, as I indicated in a recent opinion, talking about the Maryland system, I indicated that in macrocosm, perhaps three court trials represent more fundamental fairness than one lengthy jury trial, plus two negotiated guilty pleas. You have to look at the whole system.

Chairman PEPPER. I wonder what actual difference it makes in the result of a case that they have those 3-week-long voir dire examinations of prospective jurors? I know they try to find out the slightest predeliction on the part of the juror in one direction or the other, disposition or something. But human nature and the influences of one's colleagues upon one's own judgment and decision, and the like, I doubt if it makes a great deal of difference to either side.

Judge MOYLAN. I would think not.

Chairman PEPPER. Whether they selected the jury 1 day or whether they take 3 weeks to select the jury.

Judge MOYLAN. Because if you have two equally good attorneys, it is a balance of terror, what one man wants and vice versa, and you finally end up with the same resolve.

Furthermore, again for the trial of the century, maybe it is fine if, again, we were up at Harvard in an Ames Club competition, to go ahead and let it go on endlessly. But if, looking at the system as a whole, what it represents is the so-called perfect trial for defendant A, means defendants B, C, D, E, and F will never even get to the trial table, then something is slightly out of joint with the entire system.

Chairman PEPPER. That is right.

Judge MOYLAN. That really would be all I could cover. Again, we cannot claim any innovation.

Chairman PEPPER. Mr. Allen used the word "pretrial." I believe we are having Judge Spears. I wondered if we could apply more to criminal cases the pretrial techniques we use in civil cases. What is your opinion?

Judge MOYLAN. I would think so. During the days, not when I was State's attorney and was sort of kicked upstairs to be the principal administrator, but back in the "fun" days at the trial table, I used to like to sit down, and if the judge were enforcing it, it could be done in every case, with the defense attorney, and say, "Look, let's don't spend hours contesting that which really is not in contest. Let's see what we can agree upon."

Chairman PEPPER. That is right.

Judge MOYLAN. And if we agreed the woman who was burglarized did indeed live at that house and owned it for 30 years, let's don't take 20 minutes developing what is not contested. Let's zero in on the issue and slide as quickly as possible through all of the noncontested areas and then concentrate on what is really in issue.

Chairman PEPPER. Do the judges ever have those pretrial conferences between prosecuting and defense attorneys now?

Judge MOYLAN. I am going to defer to Mr. Allen. We tried several years ago. We were thinking in those lines and made several efforts—I am afraid abortive efforts—to get that going.

Mr. ALLEN. It has been tried twice without success. Judge Miles tried this many years ago, just one judge, on an experimental basis and abandoned it. Judge Cole tried it last year with good success in his court, but he couldn't convince the other judges it was a good thing.

It is a good thing, but you have to be able to manage the criminal bar, No. 1. You have to get them there. And then you have to have a judge who is willing to do that.

You know, judges have a remarkable independence when they get that robe on, and with some of them it is hard to order them around. If you get the judges to do it, and get the defense lawyers to come there, but you have to have rules to do this. You have to change your whole procedure.

In Detroit, they do have a forced pretrial, but without the judge. There is a judge in charge but it is handled with some highly skilled, professional State's attorneys, who have something like 15–18 years' experience and get paid almost $30,000 a year. Three fellows out of the whole Wayne County handle pretrial and there is a pretrial judge. He very seldom sees the combatants but they must come to the pretrial, the defense lawyer. He comes by summons on a certain date set by a judge, and when he comes there he deals with the prosecutor, the defense lawyer, and sometimes the policeman. Every case is pretried in Detroit.

I have never seen the Los Angeles system, but the Detroit system, to my mind, which they have been working on for about 12 years, is as close to a perfect prosecution system as I can imagine, in my opinion.

I understand Los Angeles has a similar system, but they do have a pretrial. They do have a plea-bargaining session, but I don't think it is like some of the other jurisdictions where you plea-bargain in self-defense. You either plea-bargain or you can't try the case. I think they make an intelligent plea bargain out there reasonably on the facts of the case.

Pretrial would help. But you have to get the States to do it and give them another judge or two more judges and that sort of thing, because they are going to tell you, "We can't afford to do it; we don't have the time and the money."

Judge MOYLAN. It takes manpower and a little judicial arm twisting because you are dealing with two different defense philosophies. Where the defense attorney really wants to get at the truth, you can narrow the issues. But, of course, the vast majority of defendants would not want the truth in the case to come out, and a good solid technique there of the defense attorneys is, "No, we are not going to make anything easy on the State." They are going to rely on the overcrowded

system somewhere to collapse, that the policeman, the witnesses, the attorneys, the judge will not all show up on the particular day; the case will be postponed. Postponed a second time, the third, and to be purely the negative debater—"Go ahead, put your case on, and I will try to shoot holes in it opportunistically wherever you fail to touch a nail."

Mr. ALLEN. Mr. Pepper, Judge Moylan brought a point to my mind. We must not assume the defense lawyer or defendant wants a real fair trial. We mustn't assume that. The defense lawyer and the defendant want to take advantage of every hole and weakness in the system.

Now, we are talking about speedy trial, but I have represented criminal defendants all over the eastern part of the United States, and in every field and I never met one who wanted a speedy trial yet.

Mr. NOLDE. Mr. Allen, your violent crime liaison program is an outstanding program. Is there any reason why this couldn't be implemented in other major city prosecutor's offices?

Mr. ALLEN. There is no reason at all, Mr. Nolde. We worked very hard on this. We worked about 6 months before we really got started in it. It could be used, it could be expanded to other fields of activity. Because of our limited number and financing problems we only deal with homicides and a few other special cases.

We find it is workable. I would recommend that if it is used in other cities that the unit have its own investigators hired by the prosecutor's office to make extended investigations beyond the police investigation.

We don't have such an arrangement. We apparently can't achieve it in Baltimore at the present time.

Mr. NOLDE. Why is that, Mr. Allen?

Mr. ALLEN. Well, our police commissioner feels that the prosecutor shouldn't have his own investigators. That is sort of an interfamily misunderstanding. I think the authorities are with me on the issue, however. Those people who have spoken out about it, the National Advisory Council on Criminal Law, I believe it was, on the courts, that met here January 1, and the ABA, both set out the thought and the theory that an effective prosecutor's office must have its own investigators and under its own control.

Of course, those successful offices around the country like some of the offices in New Jersey, Michigan, and California, do have their own investigators for the whole office, but for a specialized function you must have them because the police theory in this country is entirely arrest oriented. They have such a huge volume of work that once they make the arrest, it is pretty hard to get them involved in extensive investigation.

Some of the investigations we have undertaken have taken months and months. You simply can't get police from other duties involved in such an extensive investigation. If we have to go out at 12 o'clock at night or 3 in the morning, we have to call the man and go out.

In addition to that, the State's attorney's office—the police have no subpena powers; we do. So we can get witnesses there and talk with them. We can do a lot of things and we can use the grand jury, we can use immunity, and so on. In an extensive investigation, beyond just arresting the guy as he leaves the scene, you have to have the extraordinary powers of the prosecutor's office to really get into a deep investigation.

For instance, all of the investigations I have outlined here, plus some more I can't think of right now, have been over an extended period of time that would not have been uncovered had it not been for this unit. I would recommend to any State that has the money and can hire the people—incidentally, these people don't try any cases either because they just don't have time. They don't try any cases and devote full time to this enterprise.

They prepare the case and give it to the trial section. I recommend to any jurisdiction they try something like this. I will give them all the data they might need.

Apparently, it is not done anywhere else as I know of right now. You can develop cases that should be developed. Everything I outlined to you and cases I haven't even told you about are cases that would not have achieved that point of perfection had it not been for this unit working on it.

Mr. NOLDE. What you have said makes a great deal of sense. I am unable to understand the argument against your office having its own investigators. Why is there this apparent reluctance?

Mr. ALLEN. I think the reluctance exists probably in many police departments. You know, traditionally, the police department has been the investigating agency and the State's attorney has been the trial agency. Of course, that theory does not recognize the present status of the law and the present intensity of involvement in criminal cases.

We are dealing with experienced criminals in many cases, people who think before they commit crimes, and the limited tools of the police department, which is the right to arrest, interrogate, and inspect scenes, take pictures and tests, and so on, simply is not adequate any longer for the intense, involved investigation. It is a question of tradition. You have got to have legislators and people pulling the strings who are powerful enough to understand this and make the proper rulings.

Because nobody likes to surrender something they think is their power. The attorneys, the prosecutor-investigator is an anathema to police departments, particularly a strong police department. It is something that is coming and something that is here, and we must live with it to have the effective prosecution, but something the police don't particularly like.

It is something we have got to face. We have outgrown the old system.

Mr. NOLDE. Your drug strike force also utilizes police officers. I understand that the police department reassigned their top men out of the unit.

Mr. ALLEN. They only took one man out, the lieutenant. That was a lieutenant and six officers under him. That force is designed very much like the liaison for violent crimes, and they were doing extremely well until this happened. But I think it illustrates the problem that I am trying to——

Mr. NOLDE. Why did they pull their top man out of that unit?

Mr. ALLEN. I don't know if I can quite answer that.

Mr. NOLDE. What reason did they give?

Mr. ALLEN. We were having another confrontation with the police department about a case in which our lines of authority crossed, which it naturally crossed, and we summoned certain records to the grand

jury for examination, which is our right and the proper thing for us to do. Directly after that, these men were pulled out without notice and the reason given was, "Career development."

Now, that is the only reason that has ever been given.

Mr. NOLDE. That is a reason, I gather, you find hard to accept?

Mr. ALLEN. Well, I have my personal belief, but that was the official reason given—career development. I will have to accept that as the official and proper reason.

But the effect of this—and I only say this to indicate the necessity for one's own investigators—was to stop the strike force effort. We had a grand jury paid $220 a day; they met once or twice a week, and this man was such a powerful investigator that immediately after he left, the investigative effort collapsed and we couldn't get it going again.

Thankfully, he is back now and we hope to finish up with our grand jury maybe in June. We do expect to get indictments, important indictments.

But that is simply an illustration of the reason why an effective prosecutor must have somebody he can control; he can hire them and fire them, select them and do anything he wants with them, and they are absolutely loyal to him.

Mr. NOLDE. Were the police afraid your investigators might start to investigate police operations?

Mr. ALLEN. I don't know that, but it is conceivable. It is certainly conceivable that a normal investigation running its course might touch anybody. It is not unusual for an investigation to implicate police or lawyers or other professions.

I don't know if that was the prime reason. I think it was simply a result of this collision we had about summonsing records. Of course, if my duty calls for me to summons records, I am going to summons them, because that is my duty. Or to call a certain person before the grand jury. I have to do that, too. I can't stop doing it because it is going to hurt somebody's feelings. I either have to be the State's attorney or not the State's attorney.

These collisions and misunderstandings are going to occur because it is necessary to summons before the grand jury—and these records, or get records. A lot of people are not going to like it. I don't guess anybody likes to come before the grand jury, but that is the system we use. I imagine people will be irritated every now and then, but we can't avoid that.

Mr. NOLDE. What did the "Missing Heroin Case" involve?

Mr. ALLEN. That was a very peculiar case that has caused a lot of consternation around Baltimore. It involved one of the largest seizures that have ever been made in Baltimore, by an operation called the stop squad. They seized some 6,000 bags of heroin of a very high quality. I don't remember the exact number, but whatever the number was, when they finally tried the case and they counted the contraband, they found it was 50 bags short, apparently. Fifty bundles short, not bags; 1,200 bags. That caused a great flurry of activity, and all of the officers involved were questioned and put under lie detector and two of them were suspended.

Then, of course, again a search for what they called the "missing heroin" to determine what, if anything, happened to it. That is still

an open case, and it was in connection with that case we summonsed certain records of the grand jury.

Just recently we developed an important piece of information that would indicate what happened to that missing heroin. But this is 4 or 5 months after it happened.

They found, during the course of this, that there was no method by which you could guarantee the quality of seized merchandise after the seizure and after the test, because they don't have any way of making subsequent tests, and if a person could find some method of substituting, he could do it, and that is apparently what happened in this case.

After the material was tested by the chemist, somebody found a method of substituting a noncriminal merchandise for this contraband and apparently disposed of the contraband on the open market. We hope that case is drawing to a solution. But it caused a lot of consternation and has been in the paper often.

I suppose it has been very embarrassing to the police department. We hope that it will be resolved sometime in the very near future.

Mr. NOLDE. How long was the narcotic strike force in operation?

Mr. ALLEN. October 1971. It was a 3-year grant by the LEAA and was designed in its third year to increase in size to about 10 people, 10 lawyers. Hopefully, after the first year, we would be able to get indictments on some of the major figures in the narcotic traffic. The idea was to develop material over a period of a year by investigation, talking to informers, control vice surveillance, and develop conspiracy indictments against the major narcotics organizations in Baltimore.

I think we are going to have a degree of success at that. That is the best I can tell you at this point. While we were at this, another unit, called DALE, which came into being several months after the strike force came into being, also made arrests in the same areas but, of course, with reference to the narcotics traffic, I don't think you can have overabundance of police activity in that area.

We do have two or three major units working in Baltimore and maybe that is the reason the crime rate is going down a little bit. Let's hope so, anyhow.

Mr. NOLDE. So there were signs of success?

Mr. ALLEN. I think we have done as well as we could, working under the conditions we worked under. I think it would have been better if I had my own people working for me, my own investigators. But that is neither here nor there. I am hopeful in the future, with more enlightened thinking on the subject of the major prosecutor's office, the modern prosecutor's office, that officers will have their own investigators. I think I am about the only large city that doesn't have them, really. Most of them have—even a small force—most officers have them and they are very successful.

Gold, in Brooklyn, has 24, and apparently they have a law there that allows him to select his own from the police department, and once they are selected they become his investigators. No more responsibility to the police department. They still pay them, but they are on his staff.

In Chicago, the young man there whose name I can't remember has his own crew. He had a crew like mine. They belonged to the police but they worked for him. But as soon as the Republicans got in, they

were taken from him and now he has his own and he is very happy with them.

I don't know of any other officers, but every major city I have had any major contact with, they have their own and they do very well with them.

Mr. NOLDE. What success has your violent crime liaison program experienced since its inception?

Mr. ALLEN. I think we are too early to give you statistics, but we have about maybe a dozen major cases that we have been able to develop. Mr. Garsh may be able to give you a bit more information on that. We have about a dozen major cases, and we are satisfied that these cases are of such a nature that none of them could have been developed without that liaison. Because they all involve grand jury, they all involve power of subpena, they all involve sometimes depositions. They all involve immunity, and there is something that if you allow a case to develop in its normal fashion, it just doesn't happen.

Mr. NOLDE. Could you describe for us the purpose of that program and how the program is intended to operate? As I understand it, you identify the important cases and concentrate your resources on expeditiously moving them through the system.

Mr. ALLEN. Basically, the police, we work with the homicide unit or with the CID unit which is the criminal investigation department. And they call us when a case breaks and he either sends someone down or goes himself. On the recent murder, involving the murder of a policeman, we had three people involved and they worked half the night on it. They developed the case properly and an arrest was made on the scene. The case was processed within a matter of days. The indictment came down something like the fourth day and, as Garsh points out, the lawyer involved in the case was held in contempt on the fifth day or something like that. It means if you get a prosecutor who has the eventual responsibility of prosecuting that case into the case early and all of the bugs that develop in the case, you keep out of it.

Like improper identification with the statement, problems with certain seizure, your problems of giving witness immunity, problems of taking the witness before the grand jury at an early stage, or problems of taking depositions from reluctant witnesses, or witnesses who are going to disappear on you. Those are prosecutorial problems of fairly recent origin because of the present-day complication of the law. They are prosecutorial problems. But you don't have a case unless you develop these things properly.

So, it is 3 or 4 months later on when we get the case under normal conditions and it is too late to do those things. So, therefore, your case goes out the window.

I want to explain how this unit works. We had a murder aboard a ship in a harbor. We had jurisdiction, the Federal Government had jurisdiction, and, of course, Germany had jurisdiction. Now, if we rushed out and arrested this man like we normally do, and prosecuted him in our jurisdiction, it would cost at least $100,000, maybe more, maybe half a million, to bring the people from all over the world there. It would be 6 months from now to try a case in Maryland and we have interpreters to deal with and so on. It would have been a heck of a case.

This young man beside me conferred with people in Germany and the people on the steamship line and, eventually, he brought two detectives here from Hamburg, Germany, and he arranged to have the prisoner taken back to Germany for trial. This pleased us a great deal because, first of all, we saved the money, which is probably more money than the whole liaison team could cost us a year. We got the case out of our jurisdiction. And that to me is something that would never have been done without this force. Where the poor man would have been arrested, by now been indicted, and we would be worried about how to try a German in our courts, when all of the witnesses were all over the world on a freighter. We may never have gotten the thing tried. That is another case, innocent, the guy is in jail, he can't get out because he is a foreigner and can't post bail. We can't get the case tried because we can't get the witnesses together. Maybe a year from now, he is still sitting there.

We get in a case early and we apply the prosecutorial skills to it where they are needed. We give advice to the police because, as Judge Moylan was pointing out, getting a case that is any part of a legal problem is not easy any more, getting the case prepared. The simple matter of identification of the defendant is now a complicated matter. Confessions, you know the problem with that. And they have been known to call up the public defender and get him down there for a lineup. Which means that the case moves forward as it is supposed to move forward rather than dropping a very important part of the case—identification.

They are expediters, I suppose. Expediter, prosecutors, investigators. And this is the type of thing that has to be done with your good cases if you want to move them. Of course, a good case can collapse. We don't care what kind of an arrest they made or anything like that, but time can erode a good case to such a point it is no good because the investigative procedures and the trial procedures are so intensely complicated now, you must have a prosecutor in the case early.

Take the simplest case: Like you arrest a man running from the scene, but you don't have that in most cases. The case recently made, they worked for something like 4 months and finally made an arrest in the case. A very bizarre murder case and a case involving a very gross fraud. That could never have been developed without the policeman and one of Gersh's men working side by side for 4 months to get this thing developed. We finally made an arrest about 2 or 3 weeks ago.

But I really think that the theory could be applied to other areas, like armed robbery, for instance, which are no easy matter any more. You know, nobody ever uses a mask any more. They go on because identification is such a problem and the police have such trouble with the identification process that it is not a simple matter anyway. You simply don't come into court and say, "That's the guy that robbed me," and expect to get a conviction. I advocate very strongly the application of this theory in a lot of areas in prosecution and law enforcement.

Mr. NOLDE. Mr. Gersh, do you have anything to add to Mr. Allen's remarks?

Mr. GERSH. Mr. Nolde, some of the significant things we can point to, since we started our operation we have not had a single search warrant that we have drawn, been found to be illegal by any court.

Mr. NOLDE. When did you start?

Mr. GERSH. The grant started in July of 1972. It took until September to staff it and until January to work the bugs out of it. So, since January, I would say we have been operational to the fullest extent we can expect to with our limited manpower.

The problems that we looked at and tried to solve were, No. 1, the expediting of the case through the court. What we did in that instance was to make arrangements with the court through the chief judge of the Supreme Bench of Baltimore City to have trial dates that would be reserved, that would be reserved, that would be used by no one else but our unit, so that when a man was arrested, theoretically, a police officer could say, "I have arrested you and you are going to trial on a certain date." In actuality, what it was, because of the delayed dockets in our courts and overcrowded dockets, even if we brought the case to the grand jury quickly, by the time the lawyer got in the picture and we then wanted to schedule a trial and the man wanted a jury trial, there might be a 3-month delay before the first jury trial would be available.

So what we have done is reserve trial dates, so we can move trials much faster. We have an average time now from arrest to grand jury indictment of 1 week, where prior to the preliminary hearing process it might be as much as a month. From the arrest to trial we want to get down to 60 days. We are now down to about 75 days, which is still quite an accomplishment, we feel.

Mr. NOLDE. What is the average time from arrest to disposition in the usual case?

Mr. ALLEN. Approximately, about 6 months, I would think now in my jurisdiction.

Mr. GERSH. Also, what we have done, we have taken the file, the file in any case that this unit is handling, and we have color coated the file. We actually put it in a bright red file so any assistant in our office who handles that file knows it is a priority file; he is to resist all postponements in the case. The idea is to get the case tried and concluded as quickly as possible.

Mr. NOLDE. This would apply to all homicides and violent crimes?

Mr. GERSH. What we have done is we are working through the terms of our grant at the invitation of the officer in charge of the case. And as a practical matter now, we get involved in every homicide in Baltimore City. It might be interesting for you to know that last year in Baltimore City we had some 350 prosecutable homicides. That is exclusive of any self-defense, justified or other types of killing that would not be prosecuted.

We also get involved in armed robbery where we are asked. We got involved in some other bizarre cases where the police have asked us to get involved, such as one case involved the tremendous cache of explosives and weapons. We got involved in surveillance with the police through the search warrants, made the arrest and got the conviction. The case came to trial somewhere around 45–50 days after arrest, and the man was sentenced to 5 years.

We were involved in a kidnaping case. We were involved with one extensive fraud case because the police asked us to get involved with it. Even though it wasn't a violent crime, they asked us and we went.

We have drawn up one or two wiretap orders involved with homicide investigations and they were upheld. We also found that some prosecutors' offices in the metropolitan area have asked us for advice. The Carroll County Prosecutor's Office asked us for help in a bank robbery case, and the Howard County Prosecutor's Office asked us for help in a solicitation of murder case. We also were involved in a case that involved a double homicide on two young teenage girls on the Eastern Shore of Maryland. The State police called us and said they had information the weapon was in Baltimore City. So we drew up the search warrants and went out with the State police, recovered the weapon, the case was tried last week in Annapolis, Md., and this was a successful conviction. A search warrant was properly drawn and upheld by the court.

Some of the other objectives that we have been able to do, one is just the close cooperation between the police and prosecutor. From my experience, I found one of these problems always is communication. That communication gap has been narrowing. We have absolutely no problem between the working police officer, the working detective and the working assistant from our end. We work at the call of the police department.

Several weeks ago, we had, as Mr. Allen mentioned, the homicide of a police officer. It was on a Friday afternoon at 3 o'clock. The police called us and the police were rounding up a number of witnesses. This homicide took place in an open street, in the daylight. There were many witnesses. One of my assistants went to the police headquarters building where witnesses were being taken to be questioned and he was present there. Another assistant went directly to the crime scene and with the officers preserved the crime scene. I, myself, went to one of the district police offices that was acting as headquarters for the investigation.

This took place on Friday afternoon. We worked through the night. Monday morning we indicted. Monday afternoon the defense lawyer filed a motion for a bail hearing, and we were ready to go and we had our bail hearing. You see we took additional witnesses into the grand jury and the next day we had a problem with the defense lawyer and he was cited for contempt.

That case was, from the State's point of view, in the prosecutable position within 3 days after the homicide. Whenever the defense is ready, we are ready to go on that case.

Mr. NOLDE. I take it that this procedure required the cooperation of the defense bar or the defenders office and the judges?

Mr. GERSH. One of the problems in criminal prosecution today is seeing the defendant has a lawyer. The professional defendant will use this as a stalling tactic, because as the case grows old the advantage of the case goes to the defendant. The witnesses disappear, their memories grow hazy, they get intimidated; so a professional defendant will do everything possible to avoid speedy trial, something that I think that is advantageous to the prosecution.

One of his ways of stalling is not to have a lawyer and he cannot be tried in most courts. We make arrangements with the public defender in these given cases immediately. If a man does not have a lawyer, the public defender will get in the case and we supply the public defender with copies of all of the reports and all of the information that he

would normally have to go through in a discovery process to get. We volunteer to give it to him immediately so he can make the judgment. We save him the time and work and it speeds up the process and he is ready to defend in a much speedier fashion.

Also, if a man is not guilty, if he is innocent, it gets him out of the system much faster. Also, some of the things we have discovered, we never even thought about, that didn't enter into the picture, are now beginning to show. We find that there are more pleas in these case and we never even considered that.

We also find, because our unit is in a position to grant immunity or work out deals where necessary, other units of the police department are coming to us. As a result of that, we have a situation in Baltimore where we had a series of robberies that got the nickname of "Bonnie and Clyde" robberies because it was a woman involved with a series of men that were switching off pairs and committing armed robberies. A police officer in one of the districts, the police in Baltimore, arrested the woman. When she was arrested, she said she wanted to give some information and what could the police do for her in return. They contacted our unit and we were talking with her when she described one of the holdups and the description of the holdup that she described to us was so similar to a murder we were investigating. Then we started to ask questions about the murder.

Now, the homicide detective had no idea what was going on in this district with this woman. The district officers had no idea of the homicide investigation, but we were told about both. As a result of that, we did clear a homicide. In that case there were 10 defendants who were arrested, at least 6 of them have been tried and convicted by this time. And 65 burglaries were cleared, a host of armed robberies, and the homicide.

Mr. NOLDE. Have you had an increased conviction rate subsequent to the initiation of this program, or is it too early to tell?

Mr. GERSH. It is too early to tell. I would suspect that we do, but I haven't any statistics with me at this time. I would be happy to work them up and supply them to you.

[The statistics had not been received at time of printing.]

Mr. GERSH. We had another situation, also, just again a side issue, an interesting thing where a defendant was arrested in a robbery case and he took the position, because he was a recidivist type of felon, he had been in and out of jail many years, he didn't want to talk to police officers, and he said, "I will not talk to the police." So the police asked us to come down. We handled the interrogation of this particular prisoner. We took a 30-page statement from him. He told us about several shootings several armed robberies, one homicide in Baltimore, two homicides in New York, narcotic traffic between New York and Baltimore, and then gave us information about the whereabouts of three escaped murderers. We corroborated all of his information we worked with the police for about 30 straight hours, drew search warrants, went with them on the raid, arrested the three escaped murderers and an additional bonus, we got 65 weapons we didn't know about.

This would have never come about unless there was someone other than a police officer who talked to him.

We also found the police bar come to us right away. They now know who to talk to in a homicide. They know there is an assistant immediately available who has some knowledge about the case. You don't have this lag of months before there is someone in the prosecutor's office who is a position to talk about the case and work out something with the case. These benefits we didn't consider in setting up the program, and we find they are working out very well.

Mr. NOLDE. Judge Moylan, I would like to get your ideas on some of the suggestions put forward to eliminate the appellate delays, particularly with regard to the elimination of written briefs. Do you feel judges would be able to expedite the appellate process by not having written briefs filed in every case routinely?

Judge MOYLAN. It is an extreme measure. Again, as a relatively rookie judge, I feel a bit less competent in this area than addressing some of the other problems of State's attorney emeritus.

Frankly, in Maryland, with Maryland being a small State, we have not yet felt the full impact of appellate case congestion that many States have felt. I am on an intermediate court, and it is an intermediate court which is just now in its 6th year of life. This court has provided relief from what was rapidly becoming a congested appellant docket with our former single appellate court, the court of appeals. At the moment, we have not really been hit by the flood. It may be when that day comes, as unquestionably, it some day shall, we will have to go to some of these resorts, the screening processes of taking cases not as a matter of right to the appellant, but with some discretion, some screening discretion being exercised by the appellate court. It may be we will have to resort in some cases, if not all, to oral argument as opposed to the written briefs. But, frankly, in Maryland, this is purely speculative at the moment because we are not faced with difficult congestion at the appellate level.

Mr. NOLDE. Does the delay in getting the transcript constitute a major factor in creating appellate delay?

Judge MOYLAN. It is a factor. One thing that seems to be slowing the system down is waiting for the court reporter in the trial court to type up the transcript. I think the difficulty there is, the court reporters are a dying breed, they are hard to come by, and various lower courts around the State, if not indeed around the Nation, have not been able to get enough of them, where a person can be in court one day, and off typing up the next, or in court one week, and off doing his typing the following week.

The difficulty is that he sits in court taking down his shorthand or stenotype notes all day long for the full working day, and then is expected to go ahead and type up the transcripts or dictate to a typist the transcripts, purely on moonlighting—not, indeed, moonlighting, but on an afterhours basis.

I think our difficulty is we don't have enough court reporters. We are expecting them to fit all of this in their spare time, and there just is not enough spare time.

Mr. NOLDE. On jury selection, do you feel that that constitutes a significant delay to have the extended voir dire that is permitted?

Judge MOYLAN. I think it does nationwide. Again, it does not in Maryland. Not only are we not plagued by the problem of the large

percentage of jury trials that our counterparts around the country are plagued with, but even in the relatively few jury trials we get, we have abbreviated the jury selection process about as far as I think it can be abbreviated. Typically, even for a more serious case, a jury can be picked in Baltimore City and in most of the areas in the State of Baltimore within 30 minutes, an hour and a half at the outset. We are never involved in what to me is almost farcical jury selection processess of, I will mention California just for the sake of example where weeks and weeks, if not indeed months, can be consumed in putting 12 people in the box to hear a case. In Baltimore, it would really be unheard of for that process to ever consume more than an hour or 1½ hours

Mr. NOLDE. In Maryland, do you feel that the system is functioning efficiently without jeopardizing the constitutional rights of the defendant?

Judge MOYLAN. Completely. I think even within the context of an individual case, it is working well without curtailing defendant's right. I think even if some curtailment were involved which, in Maryland, it is not, it would still be worth it in macrocosm because of my belief that half a day in court for three defendants is better than a full day in court for one defendant and no time in court at all for the remaining two.

Mr. NOLDE. What about the use of a grand jury? Do you feel that is called for in the normal run-of-the-mill criminal case, or is that another wasteful tool in terms of time?

Judge MOYLAN. Yes and no. I think the grand jury can effectively be eliminated, not as an investigative arm, but as a screening process if a local prosecutor is given the manpower, quantitatively and qualitatively, to do the screening and preparatory job that in many jurisdictions, Baltimore among them, in the past at least, falls upon the grand jury by default. I think the prosecutor could do it more quickly, he could do it better, but he has got to have veteran-trained prosecutors able to make high-level decisions to go ahead and make those decisions for him.

I would just make it clear that in saying that, I am not suggesting the elimination of the grand jury because I think even if this screening process were taken away from them, even if this process which may involve 98 percent of their quantitative functioning were taken away, the grand jury would still serve a very valuable purpose qualitatively for the investigation of the more serious and more sophisticated cases.

I think it has a role investigatively, even if the typical, routine screening process were eliminated.

Mr. NOLDE. Mr. Allen, do you have a thought on that subject?

Mr. ALLEN. I agree with the judge. So far as an indictment function, deciding on what to indict or not indict, I think the grand jury is useless. I think the grand jury is the most possible investigative tool we have. I sponsored a bill at the last three sessions of the legislature to eliminate the indictment function, or the screening function, and allow the grand jury to deal strictly with investigations.

But I failed the first two times miserably, and the judge and I and Mr. Gersh were just deciding whether we failed the third time or not. They did pass a bill, but it may have done more harm than good. But, I have advocated this even before I was the State's attorney. Charley and I used to argue all the time about the grand jury. He

agreed with me at that time, but there was nothing you could do about it because you don't have any prosecutors down at the legislature. You have a lot of defense lawyers down there. They are adverse to almost anything that the prosecutor wants to do to speed up the process or make it simple for prosecutors. Because that gives them another bite of the apple. Maybe the grand jury will throw one case in a hundred. It is an archaism, the grand jury system, and we don't need it for indicting purposes. We need prosecutors who must be entrusted with the eventual trial of that case, to look at the case and tell, give an honest, fair, educated judgment as to whether the case should go to trial or not.

Mr. NOLDE. In other words, the grand jury really is a waste of time?

Mr. ALLEN. You have 23 citizens who are only there for 4 months, and what can they tell about a case? You can't teach them law in 4 months. A lot of lawyers have been around 24 years and still don't know the law. So you are not going to teach them anything in 4 months. But, let a trained prosecutor look at that, examine the policemen, and make a decision as to whether we should go this way or that way or whether we shouldn't go anywhere at all. That is the modern approach.

The grand jury is all right when you have two or three cases a month. But we send 10,000 cases to grand jury a year in Baltimore City, and we send 20 and 30 in a day. So all they are doing is listening to the policemen read off a report; "OK, indict."

Mr. NOLDE. A rubber stamp?

Mr. ALLEN. That is what some people call it.

Judge MOYLAN. Let me interject. This is one myth I would like to put to rest. I don't think the grand jury is in any sense the rubber stamp of the prosecutor. I think there is an appropriate argument there, it seems to me, but in truth, it is probably nearly totally, independent of the prosecutor, just as prosecution minded, or even more prosecution minded than he is. If the prosecutor wants to indict, you can be sure the grand jury is going to indict. But I suspect it is equally true in the case where the prosecutor would wish not to indict, the grand jury would indict.

Mr. ALLEN. That is true.

Judge MOYLAN. In my experience as State's attorney, there was never an occasion we wanted an indictment we didn't get one. There were cases when we said, "Look, we can't win these cases; he is probably guilty but technically we can't prove it," but they didn't like his looks or what he did, and they said, "We are going to indict him anyway, and let the judge throw it out later on."

Or on occasion, we would go in where a policeman had made a charge of a college student, junior or senior perhaps, with absolutely an impeccable record, picked up for possession, not for selling marihuana, but for possession of a single cigarette, and you knew that the act of indictment alone, whatever happened at the trial level, might well ruin a career for the young person, and you would go in and sometimes attempt to be compassionate with the grand jury, but the typical grand jury did not want to hear that.

I think they only seemed to be the rubber stamps. They are of completely independent motivation, as, or even more, prosecution minded than the prosecutor himself.

Mr. NOLDE. Would you tell us how the system really developed where the vast majority of criminal cases are heard before the court as opposed to before the jury? Why are defense attorneys willing to have their cases tried by the court, where in most places, the defense attorneys feel they have a better chance before a jury?

Judge MOYLAN. All I can say is, it is a practice, a habit, a custom, if you will, that in terms of the reason, the reason for it is lost in the mist of prerevolutionary history. The best tracing of it I have ever seen was an article by the former Chief Judge Carroll Bond of the Maryland Court of Appeals, 1925, in a decision he wrote called *Ross* v. *State*, in that court. An article he did for the American Bar Association Journal, and in that he traced the practice to the courts of the Lords Baltimore, the Lords Proprietor of the Palatinate Colony of Maryland, tracing the practice all of the way back to the 1650's and 1660's. And it has come down to this day, simply as a normal way of doing business for prosecutors, judges, defendants, and defense attorneys in the State of Maryland.

With the increasing awareness of the criminal law and what goes on in criminal cases, we are seeing a slight erosion of that in the last decade, and with the invesion of Prince Georges and Montgomery Counties by outlanders who come to us from other parts through the Federal city, we are seeing those two counties take on national characteristics rather than traditional Maryland characteristics. But it is simply a traditional way of doing things and the Marylander who travels abroad is indeed shocked and surprised to find out what is going on elsewhere, just as those elsewhere are surprised at him.

I can give nothing more than historic accident or custom for the origin of the habit.

Mr. RANGEL. Is there any relationship between the economic level of the defendant who goes on trial by a judge alone and one who demands and procures a jury trial? In New York, the poor generally go before the judge because the lawyer advises him that he can't afford a jury trial in the time involved. Is there any connection at all?

Judge MOYLAN. Mr. Rangel, I think there would be a slight connection, but not completely. It was such a traditional way of doing business in Maryland, that I think through the 1930's, the 1940's, the 1950's, many defense attorneys representing the most affluent clients would feel that it might be counterproductive to inflict a jury trial, which was a rather exceptional thing until recent years, upon the system that really was not expecting a jury trial in anything other than a capital, rape, or first-degree murder case.

Mr. RANGEL. Do you notice any differences in sentences on defendants as to whether or not they were found guilty by a judge, as opposed to those defendants that had put the State to the expense of a jury trial?

Judge MOYLAN. No; I don't know. In my days as State's attorney or a young assistant State's attorney, I think one tended to look with some surprise and a little bit of antipathy, I suspect, to an attorney who would suddenly ask a jury trial in a routine case 10 years ago, where nobody expected it, and I think the glares around the courtroom by

the court clerks and the prosecuting attorney and the policeman on duty, might have been intended to indicate to the defense attorney, "OK, go ahead and do this if you must, but we hope you are going to get it when it comes time for sentencing."

But I think despite the fact in one sense the feeling or threat was there, I think that by the time the judge actually got to the sentencing stage he didn't really carry through with that.

I don't think it was any uniform or overt policy of punishing the person who took the jury trial that kept the system going. I really think it was just that we existed from the 1650's through the 1950's in a little bit of isolation and it was just as natural for the Maryland attorney to think typically of the court trial as a way to handle the routine case, and jury trial as a rather exceptional thing.

Mr. RANGEL. I would like to really study that because it still could be consistent that if, traditionally, historically, there had been the feeling of coercion, it really made no difference what caused the tradition. Like you say, a good defense lawyer would feel, or should feel, obliged to tell his client that if he did ask for a jury trial that he should expect a more severe sentence than if he were found guilty by a judge?

Judge MOYLAN. I am not sure that would happen because the one difference between Maryland and the other States is that in most other jurisdictions, where the jury trial is the routine rather than the exception, the election, the waiving of the jury trial, or, as we call it, the election of the equally attractive alternative, the court trial as opposed to the jury trial, is in most jurisdictions, tantamount to throwing in the sponge. It is all but a guilty plea. It is a guilty plea in everything but name only. It is throwing one's self upon the mercy of the court.

Mr. Allen and I, on different sides of the trial table, were involved ourselves in many hotly contested, hard-fought cases, typically fought out before a court. Sometimes they were first-degree murder cases, capital cases, 10 years ago, and serious enough that we would try them not before one judge alone, but ask for a panel of three judges and go ahead for a week or 2 weeks and battle out the admissibility of confession, physical evidence, the insanity plea, and fight every step of the way. In cases such as that I don't think there was any feeling of intimidation that caused the court trial rather than the jury trial.

As the chief judge back in 1925, whom I never knew, of course, pointed out: There are many cases where tactically, it might be preferable to take the court trial rather than the jury trial if you had a defense which was not a popular or meritorious offense, but a good, typical defense. And if you had a defendant, who because of a record or because he was charged with some particularly inflammatory or inflaming type of offense, sexual exposure to young persons, the pushing of narcotics to teenagers, something like that, you might indeed fare far better with a court trial than with a jury trial.

Mr. RANGEL. I assume you testified on the question of plea bargaining. Based on our experience, not only from my own hometown but in connection with other testimony we received, the option of a defendant as to whether or not he goes before a court or before he goes before a jury deals with the question of plea bargaining. Is this accepted by the district attorney's office with defendants if they plead guilty to a lesser offense?

Judge MOYLAN. As I was indicating this morning, another one of the things that is unique about the rather quaint "Free State," I suppose, is we have never had to rely upon plea bargaining nearly to the extent that the 49 other States have.

Mr. RANGEL. What percentage of your criminal cases are disposed of without a trial?

Judge MOYLAN. Very few. I was the predecessor of Mr. Allen in office, and my last year in office I did a survey—from 1952 to 1969. In that 17-year period, involving some hundreds of thousands of cases, we went to trial on 86 percent of the cases and 14 percent were disposed of by guilty pleas. And even in that 14 percent, they did not represent significantly negotiated pleas, but simply the guilty pleas that came either because you had convicted a person of three armed robberies, and there was no sense taking to the trial table the three to four remaining armed robberies.

Mr. RANGEL. Have any studies been made as to why—is this true throughout the State of Maryland?

Mr. ALLEN. In most of the State.

Judge MOYLAN. It is true in the State of Maryland except for the suburban Washington counties, which by virtue of the Federal City, are taking on more of the typically national characteristics rather than the traditional Maryland characteristic. The only studies I am aware of are, really, historically, the 1925 article by the then Chief Judge Carroll Bond. Also, his decision in a case called *Ross* v. *State* in that same year. 177 Maryland 577, where he traced the history.

What I am plagiarizing from at the moment is my own decision of about a month ago, in which I repeat and amplify that history and tradition, bringing it up to date, particularly based on my own statistics that I gathered as State's attorney, plus one very brief article—and, again, I am guilty of payola, quoting myself—that was printed in the Nebraska, 17, the Nebraska State Bar Journal, 138, a 1968 article called: "Trial of Criminal Cases Before the Court Without a Jury."

Mr. RANGEL. Is your statement in the record?

Judge MOYLAN. No; it is not, although I would be glad to furnish this opinion, which is irrelevant in 60-percent part, and perhaps relevant in 40-percent part.

Mr. RANGEL. Thank you, Judge.

[The material referred to had not been received at time of printing.]

Mr. ALLEN. I wanted to say something in answer to Mr. Rangel's question.

Actually, Maryland is a very peculiar State, Mr. Rangel, and plea bargaining in Baltimore City is really different from the plea bargaining as we know it around the country. People plead guilty, but it is not necessarily plea bargaining as we know it around the country. I would guess that our pleas are maybe 10 to 15 percent of all of our cases. We try most of our cases.

Mr. RANGEL. To get rid of the semantics, what incentives would a person have to plead guilty, when at least, according to tradition, he had the option to go before a judge?

Mr. ALLEN. If he pleads guilty, maybe he had several cases and he pleads guilty in one, several robbery indictments. Now, that might be called a plea bargain but when we plead down from robbery to, let's say, an assault, the kind of plea bargaining we are always talking about,

he might be guilty in two cases, where we know he is going to get more than 40 years anyhow, and we might accept that as a plea bargain. They are plea bargains but they are kind of hard bargains. While he might plead guilty to second-degree murder, where we secretly feel that it is probably a good second-degree case, but it might get manslaughter if we tried it, and the defense attorney secretly feels he knows it is second degree, but he feels it might be first degree if it is tried. So, we parlay a bit and call that plea bargaining.

Mr. RANGEL. That is why I must read the traditions of Maryland. It seems to me we had some judges who said they don't make deals, and if you question them long enough, excluding the witnesses here today, you can find the defendant can walk away with his own feeling in terms of sentence. It is a lot easier for him to plead guilty rather than go to trial. Traditionally, the defendants don't go to trial, they have that option where they may walk away with no sentence.

If I walked in the district attorney's office and you said a hard bargain, minimum 40 years, it seems like I would be obligated to demand a jury trial.

Mr. ALLEN. It depends on the charge. If a man has five armed robberies and we have him cold and he can get 100 years, 40 years might not be so bad.

Mr. RANGEL. It is a different jurisdiction.

Mr. ALLEN. It is different. We claim we don't plead in self-defense because we have to do it, we are forced to do it because we try our cases. When we take a plea the man can either plead or try his case and it might be to his advantage to plead.

Mr. GERSH. It might be interesting for you to know, in Baltimore that is not a policy. We will plea bargain with an attorney from strength when he comes to us and ask for a plea. We do not look for the attorney then to plea bargain and we prepare every case for trial. I would say that where pleas are entered, probably the majority of those pleas are entered at the trial table, when we sit there and are ready to go and the man wants to enter a plea.

When we accept a plea it is generally because we know the weaknesses in the case, or because the man is pleading to the first count of the indictment, or because there are other cases pending that, in our opinion, it would not be practical to try. But this is the difference between our jurisdiction and other jurisdictions.

I think the basic reason is because of the lack of the jury trial. Because, in the lack of the jury trial, we can try a case. In Baltimore City last year, we disposed of approximately 6,000 felony cases and 35,000 misdemeanor cases at the trial table. And when we talk about misdemeanor cases in Baltimore City, we don't talk about cases that in other jurisdictions call for 6 months or a maximum 1-year penalty. We talk about cases that are misdemeanor by classification of statute, but sentencing may be very high.

All narcotic cases in Maryland, with the exception of distribution and manufacturing, are misdemeanors and are punishable by first-time offense of 4 years. But they are disposed of as a misdemeanor trial. A fault which carries quite a high penalty, a common law penalty, is a misdemeanor. So, we are talking about a different type of animal when we talk about plea bargaining and trials in other jurisdictions.

Mr. RANGEL. You probably have something else going for you in terms of tradition that most jurisdictions that have a very high degree of plea bargaining don't have. You find police have a tendency to overstate their case and the district attorneys' offices have a tendency to overindict, so like labor and management, they can reach some kind of negotiations.

Mr. ALLEN. We are trying to develop a realistic system, charge a man with what you can prove and go ahead and try. That is what we are aiming for and maybe by the time I am out of office we will have achieved that. Charge a man with what you can prove and go ahead and do it.

Judge MOYLAN. I know, as bizarre as we must seem to other parts of the country, Mr. Allen's initial reaction parallels mine of a few years earlier, that we sort of looked upon the rest of the country as bizarre. Shortly after I became State's attorney I traveled up to New York City to really, in a sense, learn from the masters. At that point, Frank Hogan's office was the direct successor of Tom Dewey, and was looked upon around the country as the "Garden of Eden" of prosecutors. And when I got up there and learned, not only in the county of New York but in the other boroughs, as well, indeed throughout the State of New York, and I later learned it was epidemic throughout the country, that 97–98 percent of the cases were disposed of, bargained cases, not from 40-year sentence felonies down to 20, but all the way down to simple assault cases. I came home on the train then feeling if we ever did in Baltimore what was done in the best office in the country we would be impeached and ridden out of town on a rail within a month.

Mr. RANGEL. We don't have your high tradition.

Mr. NOLDE. Judge, should a judge participate in plea bargaining, or should he stay out of it?

Judge MOYLAN. Let me confess ignorance. I went from the prosecutor's office immediately to the appellate bench and never spent a a day of my life on the trial bench. It would be presumptuous.

Mr. ALLEN. The judges are split on it, and they argue very vigorously about ther relative positions. There is one faction on our bench that says the judge has nothing to do with it, and another faction says equally strongly he must participate if he is going to make an intelligent decision.

Mr. RANGEL. Another faction says: "I assume all of the responsibility, but I don't know anything about it."

Mr. ALLEN. That is right. I don't know the answer, frankly.

Mr. NOLDE. Mr. Allen, what problems do you have hiring and paying assistants?

Mr. ALLEN. I don't have any problems in hiring. I can get all kinds of people, but I only pay $10,800, and they are willing to come but they aren't willing to stay for what I can pay them. After they get in their 18 months or a year and learn their way around, and find they can't go far, because I don't have a lot of well-paying jobs.

Mr. Gersh heads an entire program that is the first in the country, and until very recently we paid $18,000 a year. Until very recently. You simply can't hold good people at that salary scale. The majority of my people get from $15,000 down. I guess maybe 50 percent get $10,800 up to $14,000. Of course, when they get in that area they are

there about 2 years and they really are good prosecutors where they get started in their prosecuting career and they leave.

What I am doing there, instead of prosecuting cases, I am training lawyers for the bar. Charley did that for many years. He had the same problem. It is like pulling teeth to get the city administration to understand that if they want a strong law enforcement system, they must, first of all, have strong prosecutors: and you have to have pros. I have a few pros on my staff, but there are only about 20. I should have about 60 so that we can handle cases promptly.

We lose cases every now and then, I am sure, because of inexperience. Because we have to face, let's say, the public defender's office that tries 40 percent of the cases. I have to send my men against people with maybe 5 or 6 more years experience, maybe 10 years more experience, and who make $7,000 or $8,000 more a year working part time.

So the image of the prosecutor's office as a training ground for the bar has to be changed, because the situation is entirely different than it was 10 years ago. Entirely different. It is a professional thing, and you can no longer sit there and let the police tell their story, you tell your story, we rest our case. You can't do that any more. It is a complicated, highly technical, very professional operation, extremely difficult. And with the police reactions to many of the cases, it is even more difficult. It is hard as the devil to try a case without a lineup. You have to really maneuver around.

It is hard trying cases before the new computer juries. I call them television juries because they have been imbued with Raymond Burr and Owen Marshall, and they see the prosecutor going out and gathering all of this evidence, fingerprints, guns, and so on, and they come into court and re-present the identification witness who saw the crime and they want to know, "Where is the gun; where are the fingerprints?" You have to learn to try cases all over again before the television jury. You have to explain to them why you don't have a gun or fingerprints and why they should believe certain witnesses and so on.

It is a new ballgame with a modern jury. You have to have a different type of prosecutor if you want to have successful prosecution. I said this morning that I view the prosecutor's office as a key to the justice system. He is the man who determines what cases come up and what people end up going to jail, very often. You have to have a strong man there. You can't have these kids who are fresh out of law school trying to learn how to practice law.

Mr. RANGEL. What percentage of your criminal cases are minority members?

Mr. ALLEN. Very, very large. I would say in the felony level, 85 percent; misdemeanor level, maybe 60 percent.

Mr. RANGEL. What percentage of your district attorney's staff, which enjoys more of a quasi-judicial function than most jurisdiction, would be minority members?

Mr. ALLEN. Of my prosecutors, I have only five or six black prosecutors.

Mr. RANGEL. Out of what?

Mr. ALLEN. Out of 86. I think I have six.

Mr. RANGEL. Do you have an affirmative action program?

Mr. ALLEN. Yes, I have an affirmative action program. I don't know if we have the first or not. First of all, we don't have very many black lawyers around.

Mr. RANGEL. Not for $10,000 a year.

Mr. ALLEN. I can get white lawyers but not black lawyers for that much.

Mr. RANGEL. They can afford the luxury of getting experience sometimes.

Mr. ALLEN. Maybe that is it. There is another thing with young black lawyers, and I almost had a fistfight in Atlanta about this. I was in a roomful of young black lawyers telling them how valuable it is, if they want fairness, to go in the prosecutor's office if they want to do something for the unfairness visited upon black defendants. I finally won the argument, convinced them, but their initial approach was: "I am not going to take any part in putting black folks in jail." Inevitably, that is what I hear from young black lawyers.

But if you talk to them for 5 minutes and they realize that if they really want to be fair and contribute something to prevent that sort of thing, the place to be is in the prosecutor's office. I tell them, as a defense lawyer, how long is it going to take you to right the wrong of one defendant. Maybe 2 or 3 years. I can right the wrong in 2 minutes because I don't have to try a case where a man is improperly charged. I can exercise my discretion. I can free more people who were wrongly charged, or improperly searched, or improperly arrested in 5 minutes than I could in 20 years as a lawyer.

Mr. RANGEL. I can't agree with you more, but it seems as though with your tradition of lacking a jury trial, I would expect to at least find a wider segment of the population participating. It has been my problem in representing Harlem and East Harlem, the greatest difficulty between the defendant and the police officers, representing the so-called establishment is a question of the mores or the traditions of a particular community. What may look like a crime by someone who is not familiar with that community may indeed be just people exchanging greetings in another community.

But the problem of recruiting minority groups in the area of law enforcement, at least in the city of New York and other major cities, has been the fact the private sector for the first time has offered more opportunity, and certainly the opportunity to enter at a higher income.

Mr. ALLEN. The economic aspect is probably one of the real reasons, rather than the philosophical outlook. I remember when I first came in office, I made a very strong bid for a lot of the black lawyers around town who just recently came out of school. I must have had 50 applications from young whites who wanted to apply. They were just flooding the office. I sent for a couple of fellows I knew who came out and one young man came in. We were offering $10,800 of course, and I asked him what about salary. He said, "I have to have at least $20,000 to start." I said, "I hardly get more than $20,000 myself." That was the attitude.

They are being offered these nice opportunities in the big firms and they are taking them. Of course, in Baltimore, you only have about 40 black lawyers. They can make so much money outside—and money is the thing. If they are interested in money they are not going to come into the prosecutor's office.

Judge MOYLAN. I experienced the same thing, frankly, even in governmental ranks. Competition is almost cut throat to the point we were wooing a young black lawyer about a year before he was ready to graduate from law school, also a high school senior who is a good basketball player is being wooed, because you had an attorney general's staff of 80-some people that were falling over backward not to appear lilly-white or almost so. You had the State attorney's office of 70; the State solicitor's office of 60; and local U.S. attorney's office, and the wining and dining and recruiting was really pretty bad and those who turned out to be the lowest in the ability to pay on the totem pole really were left at the church door.

Mr. RANGEL. As the one black member of the Crime Committee, I integrated the whole committee.

Mr. ALLEN. Mr. Rangel, a young man from your State, named David Mitchell, a very bright young lawyer, I practically shanghaied him into my office because I brought him here from New York as a student and paid him a tremendous salary in my office when I was practicing. Of course, when I went over to the State attorney's office, I sort of demanded he come with me. He came and has been a very good prosecutor and has lived there about 2 years. He told me the other day he was going to the public defender's office, Friday of this week, in fact. He is developing into a fine lawyer, but he is leaving because he is making about $18,000 and he can go over across the street and make $19,000 and practice law, which he can't do with me.

Another one I shanghaied was Michael Mitchell, Congressman Mitchell's nephew. He has been there and I tried to extract a promise from him a week or so ago that he was going to stay, but he is a real bright, sharp young man and they are trying to get him. The public defender is after him, and this person is after him, and so on.

But good lawyers are in demand. They are going to take him away, particularly, if the man doesn't have means of his own.

Mr. RANGEL. I would like to apologize to the distinguished panel. It is very unusual so many committees are holding meetings today. Most of us sit on the Judiciary Committee and we had meetings of the Judiciary Committee, the District Committee, annd others

I would also like to introduce the SICA training group from East Harlem, a group very active in New York, who are here to learn what makes Government tick. I don't believe they could have picked a better day to listen to the problems other cities have, and maybe realize that New York is not alone and may be even a little further ahead in solving some of its problems.

Mr. NOLDE. Would you please tell the committee why you gave up a lucrative private law practice to become embroiled in all of the problems confronting a State's attorney?

Mr. ALLEN. I was 52 years old and my children were grown and I guess you get a little community spirit somewhere in your life. I frankly felt at that time, and I still feel, I could make a substantial contribution.

I wasn't contributing anything as a defense lawyer. I was very well known and made a lot of money, but making money, of course, is not the prime mover in everybody's life. Certainly not in mine.

If I have 4 years or get reelected and have 8 years, and can have people talking about the Baltimore office like they talk about

William Cahalan's office in Detroit, that would be a huge success in my mind. I mean, if I go down in history as a good prosecutor, or one of the best prosecutors of Baltimore City, as a top prosecutor's office, then that would mean something.

To be a lawyer; that is not a tremendous achievement to be a good lawyer. Charlie was a good lawyer. I think it is a question of personal pride and my desire to try to make a substantial mark in Baltimore.

I think prosecution is a neglected field of activity. I think making enough noise about it might move it a little bit. I am the only Black prosecutor in the country, so they look at me when I say things. I may get a little more attention than Charlie did. Charlie did a good job while he was there, but he was one out of many complaining about the thing. Maybe they will pay a little more attention to me. I think they are paying a little attention already.

Mr. NOLDE. I think the very fact you are here so indicates.

Mr. ALLEN. I have done two things I think are worthwhile and I have my eye on a couple of other things I would like to do, and there is a good chance I will get a major fraud unit, which will get me into white-collar crime and organized crime, and I will have another fight on that, but I am going to get it. I think this is the type of thing that will eventually bring the office up to par.

I think maybe after awhile I will get some salary adjustments. But if the Federal Government will come along and set minimum standards for these various offices around the country and professionalize the offices, and I contribute just a little bit, just a little thought, I will think I have achieved something.

When I was in the latter years of my practice, I was constantly in contact with Charlie Moylan about this type of thing. I was a great letter writer and used to write long letters to him about practices, and so on. I think I even made a report to one of the bar associations about how the State attorney's office could be improved. And Charlie, I always accused Charlie of adopting some of my suggestions. I don't know whether he did or not.

Judge MOYLAN. Many of them.

Mr. ALLEN. I made a lot of suggestions.

Mr. NOLDE. Now you have a chance to put them in effect.

Mr. ALLEN. All that I made, Charlie adopted before I got into office. I probably never will be rich, and being rich doesn't really bother me a great deal. I have three grown children, and grandchildren, and I am happily married, and I have a nice home and I don't need a lot of dough. So I think I am doing something.

I am very happy with my job, but it is the hardest job I had in my life, frankly.

Mr. NOLDE. I think you are rich in accomplishments and we are pleased you could come, Mr. Allen and Judge Moylan. We found your thoughts provocative, your ideas excellent, and we are just delighted the committee could have the benefit of your great experience and great work.

We thank you again for coming.

Mr. ALLEN. Thank you very much. We are glad to have been here.

[The following material, from Mr. Allen and Judge Moylan, was received for the record:]

PREPARED STATEMENT OF MILTON B. ALLEN, STATE'S ATTORNEY FOR BALTIMORE CITY, BALTIMORE, MD.

The very composition of this hearing and its stated purpose is the best illustration I know of the problem of street crime. A select committee of our highest legislative body has elected to hear witnesses that may give some guidance to what, if anything, can be done to put the brakes on a runaway crime problem.

We simply can't think of street crime in isolation as if we could come up with a magic cure like social penicillin. We are looking at street crime from a viewpoint similar to that held by those who claim more laws, more policemen, tougher judges, and longer prison terms will bring a simple, direct end to America's crime problem.

Open defiance of the law, which manifests itself as street crime, is inextricably intertwined with interrelated problems, such as the inability of society to cope wi th crime. Obviously, the ease with which street crime can be committed and the high likelihood of never being caught, is a crime contributing factor. The inefficiency of many court systems and the difficulty of proving guilt must certainly be another contributing factor.

The prosecutor system, by which most often part-time, youthful, inexperienced, politically active prosecutors are given the awesome responsibility of operating prosecution offices and the fact that it is much easier to simply go along with the existing systems and become case processors instead of prosecutors is certainly a contributing factor.

A prison system that usually turns out a much more highly skilled criminal than it takes in, has got to be a strong contributing factor.

The basic unfairness of the American justice system, in which the have-nots supply the criminal caseloads, while we hardly have machinery to deal with the thinking criminal, must be a strong contributing factor.

The overly complicated criminal justice system, which we brought on ourselves by a series of decisions forced out of the Supreme Court by the activity of overbearing police action, spineless prosecutors and insensitive judges, must also be a part of the pattern.

The smallness of our Nation, as created by modern communication and travel by which a kid in California's ghetto instantly learns of an inciting incident in New York, or a Washington youngster instantly learns of the details of a rip-off in California, adds to the problem.

The virtual disappearance of State and county lines which makes even a perfect system in one area no solution to the nationwide problem, as the criminal simply transfers his activities, contributes.

The inability of the States to cope with organized crime, white collar crime, consumer fraud, and ecological crime, also contributes.

The lack of integrity at the top level of governments and appeals to racism and basic fears of our citizens by our Nation's leaders.

So there are no simple solutions, no quick answers. There are good ideas and good plans whereby one community or State can come up with a good system to affect one particular area of criminal activity. Such ideas or plans of attack, I will discuss today.

In Baltimore about a year ago, I started a homicide liaison unit, which grew into a liaison for violent crimes unit, LEAA financed, about September. This is a system by which an experienced prosecutor associates himself with a serious case early on. The case is processed with a view toward successful and proper prosecution. Too often cases are ended with a successful arrest, the successful prosecution being the State's attorney's or prosecutor's problem. Police have had difficulty adjusting to the series of cases regarding confessions, search and seizure, eye-witness identification, that came down in recent years. Getting lawyers to line-ups and what to do after a defendant says, "I want my lawyer here before I talk," have proven difficult burdens.

The liaison prosecutors are able to supervise witness statements, coordinate search and seizure warrants, give immunity, arrange for appearance before

grand jury, arrange for depositions, arrange for bail, deal with witnesses and lawyers in pending cases, and generally to create a prosecutable case at the initial stage. It is also able to furnish protection to the legally or factually innocent at an early stage, something I insist upon, but is often overlooked somehow in some systems, as I feel that nothing harms the system more than an unsuccessful prosecution and nothing helps it more than a fast, well-planned, proper and succcessful prosecution.

The system works. The police like it. And the prosecutors like it. It's fair, practical and has the potential for building respect for law and order with justice.

I can cite you some examples of how the unit works to illustrate its effectiveness, bearing in mind, of course, that there is some contribution in every case that makes a good case into a perfect case and hopeless case into a good case, or removes the finger of suspicion from an innocent person.

Case No. 1.—A murder-for-hire ring existed in Baltimore, dispatching unpopular people for a fee of $600 to $1,500. The police knew who they were but could never come up with quite enough to arrest. The liaison unit worked with the homicide unit and developed a strategy. They worked on the contact man between the killers and the hirers. The contact man cracked, he went before the grand jury, the two killers were arrested and jailed and in 29 days we had a conviction. Working in similar fashion, using immunity in the grand jury, the homicide unit was able to validly make a mass arrest and valid search that revealed the following: Several escaped murders.

Case No. 2.—The solution to an absolutely clueless murder of a security guard.

Case No. 3.—The double contract murder in New York, involving a narcotics transaction.

Case No. 4.—A quite efficient narcotics operation hitherto unknown to the police that operated between New York and Baltimore.

The same approach, immunity in the grand jury, was used to furnish the answer to an unsolved witness murder that had run into a blank wall 8 or 9 months before. An extra dividend, entirely unexpected, was a final answer to what has become known as "Baltimore's missing heroin case."

These small successes simply illustrate the wisdom of the police and prosecutors cooperatively together in one confined area. It illustrates further the immense possibility of getting professional prosecutors involved in case preparation at an early stage, rather than several months after the fact when it is too late to deal with important questions of witness cooperation, identification, immunity and the sufficiency of evidence to arest and sufficiency of evidence to convict.

In our fingering-pointing society, too often arrest figures assume too much importance, but every arrest for a major crime without conviction diminishes our ability to demand respect for law enforcement.

I have another unit built along similar lines and a similar theory, the narcotics strike force. As far as I could determine, it is the first successful effort at a State level Narcotics Strike Force in the Nation. We operate a hot line, advise police on warrants, gather intelligence, cooperate with law enforcement units all over the country and operate legal telephone taps.

We have had numerous inquiries from all over the country about both these units. A group from Indiana came to Baltimore recently to examine our Strike Force and Mr. Gersh, my Chief of the Liaison Unit, who is with us here today, has been asked to expound on the theory of the liaison of violent crimes unit in the *Notre Dame Lawyer*.

I am frankly surprised at this reaction because it would seem to me, as an outsider, that this is something we should have been doing in prosecution many, years ago and the theory of handling a criminal case from the prosecution point of view, and early involvement of the prosecutor seems to be something that should have been done much, much earlier in the growth of our system.

I trust this is not another committee to examine the crime picture, have various witnesses quoted liberally in the media, and end up recommending the passage of more laws, giving more penalties for more offenses. Passing laws will not affect the crime picture one iota. We already have more laws than we can possibly deal with. Proper law enforcement is what affects crime. Proper means efficient, quick, effective and equal. Proper means giving the police prosecutorial help.

I beseech the committee, in addition to recommending innovative approaches to the solution of crime, that they face the hard fact that most States do not have the proper orientation, interest or financial means to properly combat crime.

Many States have good police systems but the untrained police force far outnumbers the well trained. Some cities have professionalized their prosecutors and at least one State, New Jersey, has professionalized the entire State system but for the most part, the average prosecutor is too young, inexperienced, part-time, under paid, over worked, who quickly moves on to greener pastures. Help from the Federal sources in direction, minimum standards and funding, must come to create a uniform, realistic, fair system nation-wide. Instead of recommending new and tougher laws, I trust the committee will consider the following:

1. Minimum standards for the court systems. Eliminate the magistrates and justice of the peace system in all the States with a unified three-level court system, similar to the one in Maryland.

2. Minimum standards for the police. Require a minimum training period, an in-service training for all police, not just the big cities or the elite units.

3. Minimum standards for the prosecutors, directed and designed to eliminate the part-time prosecutors and replace them with full-time lawyers, with the chief prosecutor being selected at the skill level of a circuit court judge. In this manner, the public would be able to receive representation equal to that of the criminal defendant.

4. Acknowledgment of the necessity for a new approach in case preparation with the police-prosecutor units with adequate staff.

5. Acknowledgment that new case law must be implemented and adjusted to, while new statute law should not be passed unless there is implementation provided.

Attachment: (1).

(Attachment 1)

PROGRESS REPORT OF THE VIOLENT CRIMES LIAISON UNIT OF THE STATE'S ATTORNEY'S OFFICE FOR THE CITY OF BALTIMORE

BACKGROUND

The Violent Crimes Liaison Unit of the State's Attorney's Office for the City of Baltimore began its operation in July, 1972.

On that date, Howard B. Gresh was appointed Project Director and three additional Assistant State's Attorneys were recruited. Since it was necessary to assign experienced prosecutors to this Division, three Assistant State's Attorneys were recruited from the Trial Division of the State's Attorney's Office.

Because of prior trial commitments and vacations, etc., this Division did not become operational until September 5, 1972. Certain problems became apparent immediately and new systems had to be developed in order to attempt to follow the guidelines set out in the Grant.

The first apparent problem was meeting the Grant condition of setting trial dates within sixty days of arrest. At the inception of this Program, Court Dockets seemed to be firm for approximately ninety days in the future and it was impossible to have trial dates within the time specified.

On September 26, 1972 a system was devised with the Criminal Assignment Office of the Supreme Bench of Baltimore City, which allowed this Unit to reserve trial dates and, therefore, attempt to schedule all trials within sixty days of arrest. A copy of the memo setting up this Procedure is attached, hereto, and marked *Exhibit* 1.

Shortly after this Procedure was instituted, another problem became apparent. This second problem involved the Defendant obtaining a lawyer within the "sixty-day period" and, of course, without the Defendant being represented, it became impossible for trials to be set in within the said "sixty-day period". Shortly thereafter, the Public Defender in consultation with the Chief of Violent Crimes Liaison Unit worked out a plan whereby all cases emanating from this Unit were set in for immediate arraignment.

Prior to the set arraignment, the Public Defender was supplied a copy of the offense report and, thereby, was able to make a proper determination of his case and appoint counsel at a much earlier date than normal. Once again, as the new Unit became operational, further problems were encountered.

The next problem encountered also involved the early setting of trial dates. It was found that the police officers necessary for Grand Jury testimony because of other trial dates, conflicting schedules, rotating work schedules and other problems, would sometimes delay the presenting of the case to the Grand Jury for such a substantial period of time that once again, it became impossible to work within the "sixty-day guideline". As soon as this problem became notice-

able, a meeting between the Captain of the Homicide Squad of the Baltimore City Police Department and the Chief of the Violent Crimes Liaison Unit was set up and a new Procedure was instituted. Under this new Procedure, the Assistants in the Violent Crimes Liaison Unit began presenting cases without the officer if necessary to the Grand Jury and all cases began to be presented in the Grand Jury within five days after arrest.

Shortly, thereafter, as in all new procedures, further difficulties were encountered. It soon became apparent that the reservation of trial dates for cases emanating from this Unit were not sufficient to keep up with the amount of cases this Unit was handling. Under the original Procedure, (two cases per week were reserved by this Unit with Criminal Assignment and within a short period of time, all trial dates within the "sixty day period" were filled.)

On November 22, 1972 a check of the Criminal Assignment Office indicated that the first available reserve date was February 20, 1973. A period well in excess of the "sixty-day rule". Immediately after discovering this the Criminal Assignment Commissioner authorized additional reserved trial dates, being made available to this Unit.

In order to comply with the guideline of the Grant in providing twenty-four hour police coverage, it was, of course, immediately known that a Unit consisting of four men and no secretarial or administrative help could not supply physical coverage on a twenty-four hour basis to the Police Department. Therefore, a schedule was set up supplying normal daylight coverage and "on call coverage" for the Police Department at other hours. A copy of the sample schedule for September, 1972 is attached, hereto, and entitled *Exhibit 2.*

Because of the speedy trial objective of cases emanating from this Unit, special red files were ordered and all cases from the Violent Crimes Liaison Unit are inserted into a bright red file folder to call attention to all Assistant State's Attorneys handling a red file; that it is a special file which must have special handling.

A statistics form was devised, which is inserted into each file, and any Assistant State's Attorney handling a "red file" must fill in the appropriate information on the form; a copy of said form is attached, hereto, and entitled *Exhibit 3.*

OBJECTIVES

The basic objectives of the Violent Crimes Liaison Unit is to provide extensive cooperation and coordination between the Baltimore City Police Department and the State's Attorney's Office for the City of Baltimore.

It has been agreed that the personnel of this Unit shall not become involved in the investigation of any Homicide unless requested by the officer in charge of the investigation; but it must be noted, however, that the degree of cooperation between the Police Department and this Unit has been extremely high and cooperation has been requested to this date in the overwhelming majority of Homicide cases. The home telephone numbers of all Assistant State's Attorneys in this Unit have been provided to the Police Department in order for the officer requesting assistance to be able to quickly be in touch with the Assistant. As of this date, police officers have been using the home telephone numbers and contacting the Assistants when necessary.

The second objective of speedy trial is in the process of being attained by the following steps:

1. A special color file has been designed for cases handled by this Unit, so that any Assistant working on this file immediately knows this is a priority file.

2. The Violent Crimes Liaison Unit Assistant is responsible for the presentation of all cases to the Grand Jury, to insure a speedy indictment.

3. All crimes which this Unit has jurisdiction over are "specialed" to the Grand Jury by an Assistant to avoid the lengthy process through District Court.

4. The Public Defender is notified immediately upon indictment of any Defendant for a crime being processed by this Unit, so that the Public Defender may enter his appearance speedily and without arraignment, if possible.

5. Assistants preparing cases for trial are instructed that cases from this Unit receive top priority.

6. It is the policy of this Unit to resist postponements in cases assigned to this Unit, except under the most unusual circumstances.

PERFORMANCE

At this stage, because of the shortness of time that this Unit has been in existence, it would be impracticable to quote statistical data. It is, however, significant to point out some individual cases where the performance of this Unit has resulted in unusual and extremely advantageous results.

Case No. 1

During early August, 1972 a series of armed robberies throughout the City of Baltimore took place by an extremely violence-prone gang who were immediately nicknamed "Bonnie and Clyde".

The Police Department on August 17, 1972 arrested one Charlene Hopkins and immediately ascertained that she was involved with these series of armed robberies, etc. Police Officers immediately contacted this Unit and arrangements were made for Assistant State's Attorneys from the Violent Crimes Liaison Unit, along with police officers, to interrogate the female Defendant. As the result of the interrogation, sixteen armed robberies, two Homicides and sixty-five burglaries were cleared. Ten separate Defendants were arrested and trials are pending at this time. A copy of an article which appeared in the News American Newspaper is attached, hereto, and entitled *Exhibit 4.*

Case No. 2

On October 2, 1972, Eugene "Tank" Allen was arrested by members of the Baltimore City Police Department and the Federal Bureau of Investigation in Baltimore City; at that time, Mr. Allen was wanted by the State of Maryland for the crimes of escape and armed robbery. As a result of his arrest, this Unit was contacted by the Baltimore City Police Department and an Assistant was immediately dispatched and became involved in the interrogation of Mr. Allen. A direct result of the interrogation of Mr. Allen was information leading to the charge of homicide against one Hercules Williams for the murder of one Alonzo Alston on July 27, 1972. Defendant Williams was no stranger to the Prosecutor's Office in Baltimore City, as he had been tried for homicide several times prior hereto, and in each and every case he had been found Not Guilty. In several of the cases against Mr. Williams prior to the instant case, the witnesses had been killed or intimidated.

As a result of interrogation in this case and the speedy work of the Assistants of this Unit, immediate steps were taken to insure the preserving of testimony against Mr. Williams. A deposition was scheduled and taken in open Court on October 13, 1972, thereby, preserving the testimony of a material witness who had been threatened. This witness was also secreted in a motel with the expense being paid by this Office to prevent any further intimidations or violence upon her. The case of Hercules Williams was scheduled for trial on November 13, 1972 (twenty-nine days after his indictment) and a conviction was gained on the first count of an indictment for murder and the first count of an indictment of conspiracy to commit murder.

This Unit assisted the Trial Division of the State's Attorney's Office and the results became obvious. A copy of the Motions, Affidavits, Stipulations and Order are attached, hereto, and entitled *Exhibit 5.*

Case No. 3

On October 23, 1972, one Goetz Dietrich Breynk was arrested by the Baltimore City Police Department, Homicide Squad for the murder of his wife, Viola Breynk, aboard the motor ship, Hagen; a German Flag Ship which was in the Port of Baltimore. One of the Assistants assigned to this Unit investigated this case along with Homicide Detectives and it was ascertained that all of the witnesses, the Defendant and the victim were German Nationales.

Our Assistant in this case immediately researched the law and ascertained that the jurisdiction of the prosecution of this case could have been in the State Courts, the Federal District Court or in the home port of the ship (Germany). It was immediately ascertained that since all witnesses and all parties to the crime were German Nationales, no purpose would be served by trying this case in the City of Baltimore and burdening the taxpayers of this State with the expensive task of trying, convicting and imprisoning the Defendant. The following international agencies were immediately contacted: Interpol; the District Attorney's

Office, Hamburg, Germany; the German Consulate in Philadelphia and the United States Treasury Department. These agencies were contacted in addition to the Baltimore City Police Department, the State's Attorney's Office in Baltimore City and the Hamburg, Germany Police Department. As a result of negotiations between the various agencies, the Supervising District Attorney of Hamburg, Germany, W. Richter, obtained a warrant of arrest issued in the District Court of Hamburg, Germany before the Honorable Judge Kollwitz. On December 6, 1972 two German Police Officers arrived at Friendship Airport, Baltimore, Maryland, where they were met by Baltimore City Police Department Detectives and arrangements were made to transport the prisoner back to Germany, thereby, saving the taxpayers for the City of Baltimore, approximately $100,000.

It must be noted that the entire Grant for this Unit for the first calendar year was approximately $100,000 and this case (Case number 3), resulted in savings to the taxpayers of this State of more than that amount of money.

In addition to the above details, arrangements were made by this Office with the Sky Marshals, the New York City Detectives Bureau, Friendship Airport Security and John F. Kennedy Security in New York for the proper security for this prisoner to be transported back to Germany. Copies of correspondence from Interpol, the District Attorney's Office, Hamburg, Germany and warrants of arrest are attached, hereto, and entitled *Exhibit 6*.

In addition to the above cases which have been listed as examples of the work this Unit is doing, the Assistants assigned to this Unit have been involved in such things as death-bed confessions, drafting of search warrants for police, attending line-ups, advising police on the law in applicable situations and many other unusual situations.

SUMMARY

The experience of the past few months in operating this Unit would seem to indicate that the future of the Violent Crimes Liaison Unit is bright. As the result of the ever increasing complexities which the police officer must face, the assistance available to him by trained lawyers is a necessary tool.

There is, at this time, a pending application for additional Assistants and secretarial help to expand this Unit. It would seem that the effectiveness of this type program could be increased many fold by providing Assistant State's Attorneys around the clock physically on the premises of the Police Department. At this time, Assistants are available on call twenty-four hours a day, but this is not the best type of procedure.

There is certainly a definite need for secretarial and administrative manpower which the present Grant does not allow. In spite of some of the problems listed above and further, in spite of the shortage of manpower, there is no question as to the success of this Unit in the short time it has been working.

[The exhibits referred to were retained in the committee files.]

(Excerpt from a recent opinion by Judge Moylan in Miller versus Warden, Maryland House of Corrections, — Md. Ct. of Spec. App. — (Jan. 1973), which relates to waiver of jury trials in Maryland.)

Maryland Rule 741,[7] "Jury Trial—Waiver," provided:

"An accused may waive a jury trial and elect to be tried by the court. If an accused elects to be tried by the court the State may not elect a jury trial. An election to be tried by the court must be made before any evidence in the trial on the merits is taken unless otherwise provided by local rule of court."

It is axiomatic that a criminal defendant in Maryland has the right to a trial by jury. This right is conferred by Article 5 and Article 21 of the Maryland Declaration of Rights. It is also conferred by the due process clause of the Four-

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[7] The Rule was amended, effective September 1, 1971, to read:
"Rule 741. Jury Trial—Election.

"An accused may elect to be tried by jury or by the court. Such election shall be made by the accused in open court when first called upon to plead after he is represented by counsel of record or has waived counsel. If an accused elects to be tried by the court, the State may not elect a jury trial. The court may, in its discretion and for good cause shown, at any time prior to the trial permit the accused to change his election."

The amendment was double-edged. It provided that the election should be made by the accused in open court, mechanics as to which the predecessor rule had been silent. The other change was one of deliberate semantics. It deleated all reference to "waiver" of the jury trial and pointedly emphasized "election" between court trial and jury trial. The critical verb became "to elect" and not "to waive."

teenth Amendment to the Federal Constitution, which has been held by *Duncan* v. *Louisiana*, 391, U.S. 145, to incorporate the jury trial provision of the Sixth Amendment. Our problem is to decide how one elects to exercise that right or, alternatively, how one waives that right. The recognition of the right under the Maryland Declaration of Rights being fifteen years senior to the recognition by the Federal Bill of Rights, we are confident that our experience in implementing that right will not lightly be disregarded.

Our preliminary problem is to isolate the precise issue before us. In the language of the artilleryman, we shall "bracket the target." Initially, it is settled that the decision as to mode of trial (however made) must be the decision of the accused himself. Counsel may not "make" (as opposed to "announce") that decision for him. *State v. Howard*, 7 Md. App. 429. Our issue lies beyond that.

At the opposite extreme, it is settled that the decision of the accused in this regard, albeit of necessity made by him, need not be "announced" by him or[8] shown upon the face of the record. It is sufficient that the decision, even though announced by counsel, have been in fact made or acquiesced in by the accused. It is the true state of the defendant's mind which ultimately must be ascertained. No catechism a la *Boykin* or *Miranda* has been constitutionally prescribed. Even our holding in *Zimmerman v. State*, 9 Md. App. 488, overruled in other regards by *State v. Zimmerman*, 261 Md. 11, did not impose such a ritualistic obligation upon the State or the court.[9] Our issue lies short of this.

It being settled then that the decision must be personal to the accused, on the one hand, but that it need not personally be announced by the accused,[10] on the other hand, we pinpoint our present issue intermediately between those two fixed points—what was the quality of the decision, in fact, made by accused, even if made in the silence of his own thoughts?

In making that determination, we are making an independent constitutional opinion judgment. *Dillingham* v. *State*, 9 Md. App. 669, 714 (concurring opinion by Orth, J.). In doing so, we give great weight to the findings of Judge Mathias as to the specific, first-level facts (such as what was said and by whom, the demeanor and the courtroom experience of the applicant, the course of the trial itself, the strategic situation facing the applicant, etc.). We must, of course, make our own independent judgment as to what to make of those facts. We must resolve for ourselves the ultimate, second-level fact—the existence or non-existence of an effective waiver. *Walker* v. *State*, 12 Md. App. 684, 695.

The findings of Judge Mathias are contained in the Opinion and Order of Court:

"The Court finds from the record [that] . . . there was an affirmative indication on the morning of the trial that it would be a Court trial. It is concluded from Mr. Bryan's testimony the petitioner was in the courtroom. . . .

Further, it is imperative that the Court review the facts in this case. It is very obvious that there were two technical questions in this case; whether it was dark or daylight, and the question of whether a penknife in his pocket was, in fact, a dangerous and deadly weapon. It is rather obvious Mr. Bryan was successful in having a judgment of acquittal in Count Two, the penknife. It was the defendant's testimony that gained him that judgment of acquittal in explanation of how he got the penknife.

The Court further finds from the testimony of Mr. Miller and the record that he is not dull and did understand the nature of what was transpiring. Conversely,

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[8] The applicant does, indeed, advance this argument as a second line of defense. His references to *Wayne v. State*, 4 Md. App. 424, and *Moore v. State*, 7 Md. App. 330, are not directly relevant, since they deal with the constitutional "right to counsel." Both cases use the broad language of the Supreme Court in *Johnson v. Zerbst*, *supra*, and *Carnley v. Cochran*, *supra*, both of which are also "right to counsel" cases. The applicant's reference to rulings in this regard in Illinois, in California, in Michigan and in the Federal system is not helpful, since in those jurisdictions the trial by court is not the time-honored and prestigious alternative to trial by jury which it is in Maryland, but rather occupies inferior status resorted to only when the superior mode is foregone. Indeed, in the Federal system, an accused does not even have the unfettered right of trial by court if the Government insists upon trial by jury. *Singer v. United States*, 380 U.S. 24.

[9] In *Zimmerman*, the election of a court trial was announced by Zimmerman's lawyer. It was impossible to ascertain from the record whether Zimmerman had acquiesced in the decision or not. We attempted to remand the case to the trial court for a further evidentiary finding in order to determine whether there had, in fact, been a knowing and voluntary acquiescence in the decision announced by counsel.

[10] *State v. Zimmerman*, *supra*, a 25-26, the Court of Appeals wisely points out that "the preferable practice in accepting an election of trial by the court from an accused is for the trial judge at that time to determine on the record whether this is a knowing election on the part of the accused of a court trial in lieu of a jury trial." It make clear, however, that the suggested guideline is "calculated to reduce litigation" and is not an absolute requirement, the breach of which would be fatal error. It is a suggestion for judicial husbandry and not a constitutional mandate.

the Court is convinced that Mr. Miller is very streetwise and courtwise. From his testimony and his record he very well knew what was going on in that trial that day, and if he, in fact, did not concur with Mr. Bryan in that trial he certainly would have indicated at that time that he did not concur in it. Therefore, the Court will deny the contention that he did not knowingly and intelligently waive his right to a jury trial in Criminal Trials No. 10,585 for the reasons given and the testimony."

Giving great deference to the first-level findings of Judge Mathias and then making our own independent judgment thereon, we determine the applicant here did knowingly and voluntarily acquiesce in his lawyer's election of a court trial, thereby effectively waiving his right to a jury trial. Nothing in *Zimmerman* v. *State*, *supra*, or in *State* v. *Zimmerman*, *supra*, persuades us to find otherwise. Although in *Zimmerman* v. *State*, we tended to emphasize unduly, in the light of *State* v. *Zimmerman*, the waiver of the jury trial vis-a-vis the venerable Maryland practice of electing between two equally valued modes of trial, we still did not hold that that waiver must be expressed by the accused personally, on the face of the record. In that case, counsel had elected a court trial. We were unable to conclude whether Zimmerman had or had not knowingly and voluntarily acquiesced in the decision of his counsel. We attempted to send the case back for a further factual finding to resolve that issue. The Court of Appeals, in reversing that decision, held that the appropriate forum for such further factual finding is a post conviction petition hearing and not the trial court upon remand. In either event, there was a factual hearing by Judge Mathias in the case at bar. He determined that the applicant did knowingly and voluntarily waive his right to a jury trial. He supported that finding, in the oral opinion of the court, by pointing out how such an election was the only strategically intelligent decision for this court-wise defendant to have made:

"A reading of the testimony in the transcript, which I recessed to accomplish, would certainly indicate that his testimony was rather intelligent too, after what transpired. He knew what kind of trial he was confronted with. He knew that the police officers found him in the apartment. They walked in and he was in there. There was a bunch of clothes stacked up in the dining room. His buddy was hiding in the closet and when the officers told him to come out he said he came out. Why? Because he was afraid the police were going to shoot through the door.

He exercised good judgment. That may very well have been what would have happened. He knew that he was caught. In his opinion Judge Bowie said 'red' and did not use the word 'handed', but I think he meant that the defendant was caught red-handed in the apartment. Mr. Miller knew what he was confronted with. Counsel, if you please, knew what he was confronted with with a jury. Those facts have a definite bearing on who might I believe as to whether he intelligently and knowingly waived."

Judge Mathias pointed out, quite astutely, that where an accused has been caught red-handed and where his only defenses are of a technical nature,[11] sound strategy dictates the election of a court trial:

"At the time he and Bryan both thought it was a good idea that with the kind of evidence that they had in looking at the transcript, to have a Court trial. It is one of those cases that no sensible lawyer would present to a jury . . ."

We note, moreover, that the applicant here has, to this day, never indicated that he desired a jury trial. He relies exclusively on what he hopes to be a deficiency on the face of the record. We feel as did the Court of Appeals in *State* v. *Zimmerman*, *supra*, at 23:

"In the state of this record we do not perceive a factual dispute. There was before the court an election of a court trial by counsel in the presence of the accused, the exact situation which appeared in *Rose*. There is nothing in this record to show that Zimmerman ever wanted a jury trial. Even now he does not say he desired a jury trial. If he in fact did want a jury trial, it is odd that he did not express himself when the election was made and did not raise this point in his petition for right to appeal as an indigent, although, as the record indicates, he was not bashful in expressing himself in that petition on other points he regarded as worthy . . .'"

We hold that the intelligent and voluntary election of a court trial, announced by applicant's counsel and acquiesced in by the applicant, was an effective waiver of trial by jury. As the Court of Appeals said in *State* v. *Zimmerman*, at 12: "We

[11] See Bond, *The Maryland Practice of Trying Criminal Cases By Judges Alone, Without Juries*, 11 A.B.A.J. 699 (1925), at 702: "Trial before the court alone is sometimes preferred when a defense is based mainly on a point of law . . ."

do not consider whether an accused may elect a court trial, thereby waiving a jury trial. That is established. *Rose* v. *State*, 177 Md. 577."

If the specific holding of *State* v. *Zimmerman* was that cases will not be remanded to the trial court for further evidentiary findings, the broad import of *State* v. *Zimmerman* was to place the waiver question in its proper conceptual context as to modes of trial in first the Colony Palatine and now the Free State of Maryland. The Court of Appeals quotes generously from Chief Judge Carroll T. Bond in both *Rose* v. *State*, 177 Md. 577,[12] and in his article, "The Maryland Practice of Trying Criminal Cases by Judges Alone, Without Juries" in 11 A.B.A.J. 699 (1925). It points out that from the founding of this colony until the present day,[13] the court trial has been a qualitatively and quantitatively valuable and valued part of the criminal trial practice of this sovereignty. In the words of Judge Bond:

"So in this State the practice is one of respectable age, and it seems to Maryland lawyers to be fully as natural a feature of the administration of criminal justice as does the jury trial. They have been quite unaware that there was anything extraordinary in it, and are always surprised when they learn that in other jurisdictions an accused cannot have a trial without a jury if he wishes it.

A docket of jury trials only is something of which Maryland lawyers can hardly conceive; and it would dismay them." 11 A.B.A.J. 701.

Unlike virtually every other American jurisdiction,[14] we have traditionally not even considered the phenomenon in terms of waiving a normal or superior mode of trial by jury for some lesser or abnormal trial by court. We have spoken rather of election between two equals. The precautionary skepticism which, therefore, quite properly, circumscribes such decisions as 1) tendering a guilty plea or 2) proceeding to trial without counsel, would have no place in the routine election of a court trial in Maryland—a tactically dictated selection of forum for a fully contested trial. In this sovereignty, an intelligent and voluntary election of one trial mode is, *ipso facto*, an appropriate waiver of the alternative trial mode.

The waiver of trial by jury in many states is tantamount to a plea of *nolo contendere*—a virtual throwing in of the sponge—a "submission" to the court - and, therefore, a drastically more severe relinquishment of rights than is the waiver in Maryland, which is but the free election of an equally attractive mode of trial.[15] It would be exalting form over substance to impose the same waiver standard upon two such disparate relinquishments. Whatever may have been the broad language of the Supreme Court when dealing with the generality of states, we cannot imagine that that Court, if called upon to focus in on our unique history, would declare Maryland's experience of several hundred years, with no cry of injustice having been raised, to be beyond the pale of "fundamental fairness" or incompatible with "the concept of ordered liberty." Yet such would be the import of insisting upon trial by jury as the preferred, the superior, the normal mode of trial, which must be knowingly relinquished or abandoned before

[12] *State v. Zimmerman* made it clear that *Rose v. State* was still in full vigor and that our partial inhumation of it in *Zimmerman v. State, at* 495, n. 4, was, at best, premature.

[13] The trend of recent years has remained true to that analyzed by Chief Judge Bond from pre-Revolutionary times to 1925. The records of the Baltimore City State's Attorney's Office reveal that between 1952 and 1970, between 4,000 and 9,000 criminal indictments were disposed of each year. An average of approximately 14% were disposed of by way of the negotiated guilty plea. The great bulk of the indictments went to trial and were fought out upon the merits. During that eighteen-year-period, the percentage of jury trials fluctuated between 1% and 3%. The percentage of court trials fluctuated between 97% and 99%. The court trial in Baltimore, as in other parts of Maryland, is a stern contest each step of the way. Capital cases are frequently tried before panels of two or three judges and may consume weeks of trial time. As far back as 1872, *League v. State*, 36 Md. 257, recognized that in a multi-judge court trial, majority rule, and not unanimity, would prevail. It is not in diminution of the vigor of the contests that they are played out before faster referees, who do not have to be taught the rules afresh for each new game. See *Sherrill v. State*, 14 Md. App. 146, 157.

[14] Of the common law jurisdictions in North America, it is understood that the Maryland experience in this regard is shared only by the Province of Ontario.

[15] See *Bond, op. cit.*, at 702:

"The reasons which prompt the choice of a trial before the Court in one case and another are, of course, many and various. Every imaginable reason for thinking that a particular prisoner would stand a better chance of acquittal on the particular charge by a judge presiding than by the jury, must sometimes come into play. Small advantages in strategy, the personality and disposition of the judge, or the makeup of the jury panel—all such considerations must influence the choice and incline counsel now one way and now another. But there are more important reasons. Fear of the effect of popular prejudice upon a jury, either because of the nature of the charge, or because of something connected with the accused personally, is a very frequent ground of choice. It is common for defendants with known bad records to prefer trial before the court alone. And when the crime has aroused anger in the community from which the jury is chosen, trial before the court is frequently preferred."

resort may be had to a lesser and second-class mode of trial. Indeed, in the healthy laboratory of varied state experiences, others may yet follow where the Maryland experiment has led. In macrocosm, three hard fought court trials may represent more fundamental fairness than one hard fought jury trial plus two negotiated guilty pleas.[16] It is an unrealistic appraisal which ignores the total operation of a criminal justice system.

Trial by jury, in the ascendant since the Assize of Clarendon in 1166, has banished from the field such time-honored rivals as trial by ordeal of fire, trial by ordeal of water, trial by compurgation of witnesses and even the more recent Norman innovation of trial by battle. It has not banished from this realm trial by court. Whatever the direction in which our sister sovereignties may wish to travel, we see nothing in the notion of due process which would compel relegating to the attic of practice in this commonwealth, a trial mode which has served us expeditiously, fairly and well since our forefathers planted the common law of England upon these shores.[17]

Chairman Pepper. The committee will adjourn until 2 o'clock tomorrow afternoon.

[Whereupon, at 2:25 p.m., the committee adjourned, to reconvene at 2 p.m., on Wednesday, May 9, 1973.]

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[16] See Moylan, *The Trial of a Criminal Case Before The Court Without a Jury*, 17 Neb. State B.J. 138 (1968), at 139:

"Because of this heavy reliance in Baltimore on the Court trial, there has been little necessity for plea-bargaining as a method for relieving the criminal docket. In recent years in Baltimore, approximating 14 per cent of all the cases coming to trial in the Baltimore Criminal Courts resulted in pleas of guilty. This is in sharp contrast with most other parts of the country where plea-bargaining is a major factor in the disposition of criminal cases. . . . [I]n New York only about 2.5 per cent of the indictments ever actually go to trial and . . . the other 97.5 per cent are worked out on a negotiated plea basis. Sometimes armed robbery indictments are compromised not simply down to unarmed robbery, but even all the way down to one year simple assault pleas. By carrying our cases to trial, this type of plea-bargaining . . . simply does not have to exist."

[17] As an avidly wooed analogy, *Boykin v. Alabama* is currently very much in vogue with criminal defendants. In the case at bar, of course, the applicant sought to impose *Boykin's* catechism upon the constitutional right to trial by jury. In *White v. State*, No. 308, September Term, 1972, filed this day, the defendant there sought to bring the withdrawal of a plea of insanity under its broad umbrella. In an excellent analysis, Judge Scanlan gave the effort short shrift and demonstrated the utter inapplicability of the *Boykin* strictures to the ongoing tactical decisions of the trial table.

STREET CRIME IN AMERICA

(Prosecution and Court Innovations)

WEDNESDAY, MAY 9, 1973

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON CRIME,
Washington, D.C.

The committee met, pursuant to notice, at 2:20 p.m., in room 2261, Rayburn House Office Building, Hon. Claude Pepper (chairman) presiding.

Present: Representatives Pepper, Mann, Murphy, Rangel, Wiggins, and Winn.

Also present: Chris Nolde, chief counsel; Robert Trainor, assistant counsel; Thomas O'Halloran, assistant counsel; and Leroy Bedell, hearings officer.

Chairman PEPPER. The committee will come to order, please.

We are very pleased to have with us this afternoon, one of our distinguished and revered colleagues in the House, who comes from the great city of San Antonio. We will ask him if he will be kind enough to introduce our first witness this afternoon, an eminent jurist from the San Antonio area.

Our distinguished friend and colleague, Mr. Henry Gonzalez.

STATEMENT OF HON. HENRY B. GONZALEZ, A U.S. REPRESENTATIVE FROM THE STATE OF TEXAS

Mr. GONZALEZ. Thank you very much, Mr. Chairman.

I especially am grateful to you and the members of the select committee for giving me the opportunity to be here to greet a very famous Texan, a most outstanding public servant and one who is very well-known and highly honored and recognized in our area, Judge Adrian Spears, who first went to the Federal bench in 1961. But prior to this, he was one of, if not the leading attorney, successful in the legal profession and his practice and had gained quite a bit of fame in the handling of some cases that had very much to do with such things as municipal employees, fire and police matters, that involved detail and also, on the part of the lawyer, an interest and an awareness of needs in the public sector.

But more importantly, Mr. Chairman, I think your committee recognizes the work that Judge Spears has done in one most significant respect, and I am sure that you will be hearing from him as to the particulars. I am sure this is the reason why, even in this area, out of all of the 50 States, the name of Judge Adrian Spears stood out.

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There is a very good reason for it. When Judge Spears was appointed to the western district, he was the only judge in that entire area that had full caseload plus more. He was quick to see, being an agile-minded man, that the usual procedures which, incidentally, had been associated with Federal-level court procedures, would not suffice if justice were to prevail.

In the meantime, Judge Spears has compiled an incredible record, an accumulation of casework that on the record seems incredible and so successful that you seldom hear of any appellate court overruling his decisions. Yet, he has been innovative, he has instituted procedures that bring the court system to the ideal level that I have heard you discuss, Mr. Chairman, in connection with the question of criminal procedure.

It was Judge Spears that introduced a novel or unique approach in the handling of cases. Seeing the pressure as to the number of cases that were piling up, never losing sight of being an individual judge over an individual case, he, nevertheless, has instituted procedures that I think should have the benefit of national attention, and once they do, will be incorporated, and in the future people will wonder why it took so long to do what Judge Spears has been doing all along.

It is a real honor, Mr. Chairman, at this time to present this very notable San Antonian. We all love him, those of the legal profession to a man honor him, and I join with them in presenting to you a distinguished judge and public servant.

Chairman PEPPER. Thank you very much, Mr. Gonzalez. We are very much honored to have Judge Spears with us.

These hearings have sought out all over the country the police, the jurists in the various categories of courts, the various other officers having to do with correctional institutions, for example, who have been innovative and imaginative and creative and constructive in their approach to their administration of justice in our country.

So, Judge, you are one of the most highly mentioned judges that we had brought to our attention and we are very much honored and grateful to have you be with us this afternoon. I know you had to make sacrifices in order to be here. We hope your coming will give an example that others may follow in the courts of the country and promote even a better system for the administration of justice in our land.

We welcome you, Judge, and we will be glad to have you make your statement.

Mr. Counsel, what would your pleasure be?

Mr. NOLDE. Thank you, Mr. Chairman.

We would like to hear from Judge Spears and I would also like to introduce Mr. Gillespie, who came with Judge Spears.

Mr. Gillespie is a graduate of St. Mary's University School of Law, was in the Judge Advocate's Corps of the U.S. Army, was on the faculty of the Practicing Law Institute, and is a distinguished member of the San Antonio Bar. In fact, he has been an eminent practitioner there for the past 18 years. He will give us the defense side of the procedure which Judge Spears has so innovatively put into effect into his court.

We will be pleased to have you, Judge Spears, make an opening statement.

Chairman PEPPER. Mr. Gillespie, we are very much pleased to have you, too, and thank you very much for coming.

Judge, you may proceed if you will.

STATEMENTS OF HON. ADRIAN SPEARS, CHIEF JUDGE, U.S. DISTRICT COURT, WESTERN DISTRICT, SAN ANTONIO, TEX.; ACCOMPANIED BY JAMES GILLESPIE, ATTORNEY AT LAW

Judge SPEARS. Thank you, Mr. Chairman.

First, of course, I would like to acknowledge this fine introduction that our great Congressman has given to me. I don't have to tell you, because you already know, that he is honored by all segments of our community, not only in San Antonio, but in Texas as well.

I just attended, a few nights ago, an occasion at St. Mary's Law School where he was honored as the outstanding alumnus of St. Mary's University Law School. This is just one of the many, many honors he receives almost weekly.

Chairman PEPPER. Judge, he is certainly one of the most esteemed Members of the House of Representatives. We all love him.

Judge SPEARS. I know he is. We are proud of him. I could spend my whole time talking about Henry, but I am not going to do it.

Mr. Chairman, I think perhaps it might be in order for me to tell you something of the situation that we have in the Western District of Texas.

This district is as large, geographically, as the States of Pennsylvania and New York combined. It is 800 miles across it, not as the crow flies, but as you have to drive to go from one division point to another, from Waco to Austin, to San Antonio to Del Rio, up to Pecos, Midland, Odessa, and then into El Paso. So we have a tremendous geographical area to cover.

Congressman Gonzalez mentioned the fact that early in my tenure on the bench I was faced with some real problems. I will tell you what the primary problem was.

I was the third judge that was created in that district. Prior to the time I came to the bench, we had two judges, fine men, both of them, who had become elderly. One was 82 at the time I came on the bench; the other was 75 or 76 and both of them were reaching the point where they were thinking very seriously about retiring.

Shortly after I came on the bench, one of the judges did retire and, unfortunately, the other one became ill and died subsequently from this illness. So for a period of about 7 or 8 months I was the only judge in the district, covering the entire district. I don't have to tell you, with a border of some 450 miles between Mexico and Texas, that we have just about every kind of crime that is known to man, and some that no one else has to concern himself with.

In our border cities, particularly in Del Rio and El Paso, we had tremendous volumes of immigration cases, among others; narcotics cases were a part of our caseload. In San Antonio we have large narcotic caseloads.

Well, with the jails full all over the district and with one judge to empty them it was almost overwhelming. I knew that something had to be done, that I simply could not take care of this tremendous workload without some assistance.

One time during this period, I was down in Del Rio, which is on the border between Texas and Mexico. We had a U.S. attorney at that time who was a very fine gentlemen, an excellent lawyer, and a very compassionate type of person. I had set a large number of cases on the docket

in Del Rio. When I went in the courtroom it was full, and I wondered who these people were.

So I asked one of the court attendants who they were. He said, "They are witnesses." I said, "In what case?"

He said, "In the mail fraud case." I said, "What mail fraud case?" It was on the docket but I hadn't had a chance to look over the cases and see what they were. He said, "This is the first case on the docket and these witnesses are here to testify."

The government had brought some 50 witnesses and I don't know how many the defendant had. They told me that it would take 2 weeks to try this case.

Well, you can imagine the predicament I found myself in with all of the work that had to be done to take care of those people who were in jail and were entitled either to a speedy trial or to be released. In desperation, I said to the U.S. attorney, "Mr. Morgan, would you consider showing the defendant your file?"

He looked at me as though I had gone stark raving mad. Then he thought for a few moments and said, "No, I have no objection," whereupon, he picked up his file and handed it over to the defense counsel. At this point I said, "We will take a few minutes and let you have an opportunity to see what it is. You gentlemen get together and talk about this case and see if we can't do something to expedite it."

Thirty minutes later the lawyers came into my chambers and told me that the defendant had decided to plead guilty. In about 30 or 40 minutes, then, we disposed of a case that would have taken us 10 days to 2 weeks to try.

This got me thinking that the U.S. attorney could feel that way about it, his assistants might see the same advantages. So we instituted in our district a pretrial procedure in criminal cases, where the U.S. attorney, with his full acquiescence, would give to the defense counsel his complete file at or shortly after the arraignment.

Now, I don't want to be in the position of telling the committee things that you already know, but I have to do like I tell lawyers they should do—they should never argue to the court as though the court knows anything, because they might miss something they should have called to the court's attention. In the law, of course, we have the Jencks Act which provides, in effect, that after a witness has testified for the government, then defense counsel is entitled to demand and receive a copy of any statements the witness may have made.

A number of years ago, the Supreme Court decided a case called Brady versus Maryland, in which the Court said, in effect, that the prosecution should furnish to the defense all evidence in the prosecution's file that may be material to the defense or might lead to the discovery of material evidence.

Well, in that instance, the Supreme Court told us what to do, but they didn't tell us how to do it. This created problems for a number of reasons, but primarily because the judge was put in the position of having to determine upon an in camera examination of the file, after a prosecutor had given the defendant what he thought was material to his case, whether there was anything else in the prosecution's file that the defendant was entitled to have.

If the defendant demanded it, this had to be done.

Of course, the judge is not an advocate in the case and, certainly, before the case begins he wouldn't know what the theory of the defense was. Obviously, when a defendant comes in and pleads not guilty, that is it, and the prosecution is then faced with the burden of proving guilt beyond a reasonable doubt. So even though a defendant might come in and demand that the government produce evidence that was material to his defense, there was no way for the judge to determine whether the evidence in the prosecution's file was actually material until he had at least heard the government's case.

Even then the judge was at a disadvantage in trying to ascertain what documents, or statements, or other matters in the file might be beneficial to a defendant.

One time I tried a jury case over in Houston for one of the judges there. It was a tax fraud case. It took 10 days to try. I was in a quandary the whole time because we had an astute defense lawyer who was demanding, at every stage of the trial the defendant's rights under Brady versus Maryland. He wanted to know what the government had that was material to the defense of his client, but the prosecution would tell him on each occasion: "We have given you everything."

So, one weekend while the trial was in progress, Government counsel handed me, for an in-camera inspection, a file about a foot thick. I started reading those voluminous intraoffice communications and other documents, but I was at a complete loss to know what information might be beneficial to the defendant. The best that I could do was make an educated guess. An acquittal saved me from finding out whether or not I had guessed right.

Well, all of these things being in my mind and realizing that at some point in the proceeding the prosecutor has got to make a full disclosure, the only question remained was when.

Now, I could never see why in the vast majority of cases the prosecution would benefit substantially by waiting until after a witness testified before his statement was given to defense counsel, unless it would be because it might be thought that defense counsel simply wouldn't have time to digest the statement after it was given to them. In any event, since these incidents occur right in the middle of the trial—the court usually takes a 15- or 20-minute recess, during which the defense attorney is supposed to read the statement and digest it, and be able to cross-examine on it.

When the statement covers several pages additional time must be allowed. The upshot is that the jurors have to cool their heels in the jury room and the judge had to try to do other things while this study is being done.

In my suggestions to the U.S. attorney, and during the time that we were conducting our own type of pretrial, I got him to agree to furnish all of this material beforehand so that there would be no waste of time when the case came to court. Not only that, the cases that went to trial were tried more expeditiously and, in addition, they were more intelligently presented because the defendant and the prosecution knew more about what they were required to do and how to do it.

We operated under our local court rules on that basis for about 4 years with a great deal of success. Then in 1967 I heard by chance—and it really was by chance because I happened to be at a meeting where I sat next to a man who was acquainted with work that was

being done by a subcommittee of the American Bar Association—that Judge Carter from San Diego, who at that time was on the district bench, was beginning to experiment with what was called the omnibus hearing procedure.

Well, I immediately wrote to Judge Carter. I had known him before. In fact, he had been one of my instructors at the seminar I attended when I was a newly appointed judge. He promptly told me that he would be happy for me to participate in this experiment with him.

He sent me all the material that the subcommittee had worked out to provide for full disclosure between the prosecution and the defense, and we have worked with this procedure very effectively and very successfully ever since that time.

I am sorry that Mr. Harrison, who was in the U.S. attorney's office for about 8 or 9 years, 6 of which he spent as head of the criminal division in our district, is not here. I wish that he were here to give you some ideas as to how the prosecution feels about this, because prosecution attorneys are usually hidebound by the traditional concept of the armlength transaction between the prosecution and the defense. The prosecution doesn't like to tell the defense anything and, by the same token, if that situation persists the defense is not going to tell the prosecution anything.

[Mr. Harrison's prepared statement was received for the record and appears at the end of this testimony.]

In my judgment, the net result is that the administration of justice suffers. If we want to be altruistic, or if we want to be just plain fair in the administration of justice, a criminal trial must constitute a search for the truth, and what Judge Murrah refers to as "trial by ambush," or the "sporting theory of justice," in my judgment, ought to take a back seat.

This is not something new. As I understand it, they do it in England. The military in this country, I am informed, hands over their file in a court-martial case to the defense so they can be prepared to answer.

We start out first by sending a notice through the clerk's office whenever a person's case is set for arraignment, giving the attorney who was either appointed or employed by him an opportunity to ascertain whether or not he wants to participate. The procedure as presently utilized is strictly voluntary.

And let me say here, that even though in the beginning we met with some resistance from our bar, today I know of no lawyer in San Antonio who refuses to participate because he doesn't believe in it. Every now and then one will refuse because his client doesn't understand it, and he has no choice but to refuse if the client tells him to do it. But I know of no lawyer who voluntarily refuses to participate.

Mr. Harrison, the young man who was to be with us today, and couldn't because of the fact that his mother was seriously injured, had written a six- or seven-page single-spaced memorandum to his boss, the U.S. attorney, telling him that this was the worst thing he had ever heard of, that the administration of justice was going to take a back seat, that the lawyers would just play cagey with one another, and that it was a one-way street, and all of this sort of thing.

Needless to say, over the period of the last 4 or 5 years, he has appeared with us on a number of occasions before various groups in which he has admitted his error and has said that from the prosecution standpoint he is convinced this is the best procedure available to guarantee the proper administration of justice.

What does it do? It cuts down trial time, if you try a case. In a narcotics case, for example, we customarily get stipulations that the contraband involved is whatever the chemist says it is. Why? Because the lawyers know it is ridiculous to let the Government parade witnesses on the stand to prove things that they can't contest, because of the adverse psychological effect that it would have on the jury. This stipulation alone saves several hours of courtroom time.

Another thing we get now from the defendant is a stipulation that the contraband has been in the custody of Government agents from the time it was seized until the time of trial. This cuts down sometimes 3, 4, or 5 hours, depending upon how many agents have handled it in the process. Meticulous testimony reflecting the details of the chain of custody are usually without dispute and are really unnecessary.

Another thing that cuts down on the trial time is that defense lawyers already know what the statements are that the prosecuting witnesses have made since they know beforehand what the testimony is going to be, they are able to immediately cross-examine. But you know, better still, they are able to decide when they shouldn't cross-examine. And all of us know, or should know, that it is more often than not the questions you ask that hurt you, rather than the questions you didn't ask.

So the lawyers are more able to intelligently prepare their cases for trial.

But the best feature is from the standpoint of the administration of justice, that a defendant who comes into court can make an enlightened, intelligent plea. His lawyer doesn't have to tell him, "I think they are going to do this; I think they are going to do that." He can show him what the witnesses are going to testify to. Then he can look him square in the eye and ask, "What can you produce to refute this?"

Most of the time, the cases end up in pleas of guilty.

Now, some might say, well, is it a proper administration of justice simply because you get guilty pleas? I say it is, under the circumstances, because these are informed pleas of guilty. They are not made in contemplation of some deal or some plea-bargaining procedure engaged in by the attorneys, but not fully understood by the defendant. And then if the defendant is sent to prison, I think he makes a better prisoner because he knows that the prosecution did have the evidence against him.

Well, Mr. Chairman, I could go on and on about this. I want to give my young friend here, who was another one of those that objected strenuously to "Omnibus," an opportunity to talk. He had said it just wouldn't work, and I am not going to tell the prosecution anything, but after a while he began to realize that it was in the interest of his client and himself, too.

[The prepared statement of Judge Spears appears at the end of his testimony.]

Chairman Pepper. Judge, could you give us any more details of just how the Omnibus plan works?

Judge Spears. All right. The clerk sends out the form to the lawyer who is appointed or employed. Then the attorney sends back the form indicating whether he will or will not participate in Omnibus. In almost every case the lawyer does participate.

If he indicates that he wants to participate, he has 10 days during which he and the prosecuting attorney must get together for an attorneys' conference. At this conference they discuss the pros and cons. The defense attorney will try to determine whether any motions are in order, like motions to suppress, motions to dismiss, et cetera. If they are, he will indicate on the checklist form that goes to him.

Chairman PEPPER. Will you describe the checklist to us, please?

Judge SPEARS. Yes. The checklist form has on it every conceivable defense that a defendant can raise in a lawsuit. If it isn't here, those who had the job of preparing the checklist simply didn't know about it.

Now, some lawyers may find some things that we did not have noted on the checklist, but generally they are there. The lawyer who is not experienced in the criminal practice will find before him in this form a ready reference to whatever might be involved in his case.

Chairman PEPPER. Without objection on the part of any member of the committee, we would like to have that checklist in the record.

Judge SPEARS. All right. I will be glad to put it in the record.

[The checklist referred to appears at the end of Judge Spears' testimony.]

Judge SPEARS. This permits the attorney for the prosecution and the defense to indicate simply by circling a number, whether or not he wants to raise any particular issue. He doesn't have a file written "boiler plate" motions raising the same legal questions in case after case. Judges who hear the motions to suppress raising constitutional questions involving search and seizure and *Miranda* warnings usually know without detail motions and briefs whether there is any substantial basis for presenting them. It is only in the very unusual case that the judge needs a brief.

Now, anything that is on this form that either side wants to raise, they can do simply by checking the appropriate number without, as I say, going through the chore of preparing a written motion and a brief to accompany it, which is usually what is required by our local court rules in the ordinary case.

Mr. RANGEL. Excuse me, Judge. When you say "either side," what type of things would the government indicate that they would want to raise? Would that be on the checklist, too?

Judge SPEARS. It is on the checklist. Really, there are quite a few of them, but I will tell you some offhand. The government will want to know whether the defense of alibi will be raised. If it is to be, then the defendant checks it and the government is entitled to know who their witnesses are.

If the defense is going to raise the defense of insanity, they will check it on the list, and then the government is entitled to know the names of the witnesses who will appear.

If the defendant is going to put his character in issue, the government will be so advised and will be in a position to find out who those witnesses are, so they can not only talk to them, but go into the area and see if they can find any evidence that would refute the evidence these character witnesses might give.

So it is very comprehensive, very complete, in covering every aspect of a criminal trial.

Chairman PEPPER. Excuse me, Judge. Justice Clark, in telling me for the first time about your Omnibus plan, mentioned the alibi defense

as a possibility, and then the State's attorney, the prosecuting attorney, works very hard to check it out. If he found that the defendant did have a bona fide alibi he might dismiss the case without ever having to go on for trial.

Judge Spears. I think Mr. Gillespie will tell you of an incident of his own where the Government did dismiss the case when they found the alibi was complete.

It is really, Mr. Chairman and members of the committee, a two-way street. There isn't any question about it. The prosecution gets information that they wouldn't ordinarily get. Now, we can't require a defendant to testify against himself, and we don't attempt to, but any evidence that he is going to produce, or intends to produce at the trial, he can divulge ahead of time.

Chairman Pepper. This is somewhat the equivalent of a trial conference in a civil case?

Judge Spears. It is almost exactly the same. The only exception is that you can't take the deposition of the defendant. You can't require him personally to give any information. But anything that he is going to present as a defense the prosecution is entitled to know, and does know because they are told.

You know, at first, when this thing began the lawyers would come into court in what we call the omnibus hearing and I might spend an hour, an hour and a half, or 2 hours sometimes even longer, trying to prod them into telling each other these things, because they were bucking their experience and training and education over a period of many years. But now—and I think Mr. Gillespie will hear this out—omnibus hearings, as such, are a thing of the past.

I don't think I have had a so-called omnibus hearing in the last 3 years. We get into court at the arraignment, the lawyers have already met, the defendant knows the charges against him, he knows who is going to testify against him, and the Government knows what the defense is going to be. If there isn't a plea of guilty, then they are right down to the bedrock as to what the disputed fact issues are. If a motion to suppress has been indicated, they show on the form whether it is a Miranda question or whether it is a search-and-seizure question.

I will set those for a hearing at sometime in the future, just as soon as possible, and more often than not the case washes itself out on the motion to suppress.

If the court grants the motion to suppress, then, obviously, the evidence is out of the window and unless an appeal is taken and it is reversed, the defendant is home free. If he files a motion to suppress, however, which the court overrules, then counsel for the defendant will say, more often than not: "OK, let's take the record that was made on the motion to suppress, and let it constitute a part of the record on appeal."

And if there was a preliminary examination before the magistrate, that goes in as part of the record. The Government then offers whatever additional evidence they feel is necessary to show guilt beyond a reasonable doubt, after which the court makes a finding.

If his finding is one of guilt, they go up on this record with the legal question involved before the court of appeals. This saves a tremendous amount of time that the jury ordinarily would have to put in cooling their heels, because the normal way to do it would be

to wait until the case goes to trial, where you get into the area of motions to suppress at the time the evidence is offered. Then it is necessary to send the jury up to the jury room while you spend 2, 3, 4, or 5 hours pursuing the motion to suppress. The jury comes back down if the motion is overruled, after which they go ahead and hear the evidence. You may spend 2 days doing something you should have done in a half a day. The net result is the same, the finding is either guilty or not guilty, and if the motion to suppress is overruled the finding is usually guilty, because the defendant as a general rule is guilty if the evidence is properly obtained.

Mr. Wiggins. Judge, may I interrupt?

Judge Spears. Yes, sir.

Mr. Wiggins. Do I understand these omnibus hearings are not formal hearings presided over by a judicial officer?

Judge Spears. In my court they are presided over by a judicial officer. I understand some judges have been using variations of it, where they use a magistrate or where they might use some other court official. Personally, I don't think that is a good practice.

Mr. Wiggins. I understood you to say that in the last few years you haven't had any omnibus hearings, the counsel met informally and resolved all of this.

Judge Spears. We don't have any because they are not necessary any more. The lawyers know what they are supposed to do when they get to their conference and usually their problems are ironed out at this conference and there is very little, if anything, for the court to decide unless a motion is pending which must be heard on the evidence.

Mr. Wiggins. Is the conference presided over by a judicial officer?

Judge Spears. The lawyers' conference?

Mr. Wiggins. Yes.

Judge Spears. No, sir.

Mr. Wiggins. That is something apart from the omnibus hearing?

Judge Spears. Absolutely. The point I was trying to make was that originally, to try to get the lawyers oriented and sold on this, the judge—in my case, of course, it was my job to do this—had to persuade them that it was the thing to do. But it was usually a tug of war between them. However, now it is not that sort of tug of war, because they do it voluntarily.

Chairman Pepper. In the early days, you did preside over the omnibus hearing?

Judge Spears. Yes, sir, every aspect of it. And I think, Mr. Chairman—and this is my personal opinion, based upon—since 1967, that would be 6 years of using it—that if the judge considers this as a second-class type of procedure the lawyers might very well do the same thing. We have been over the country. I suppose we have spoken at 25 or 30 seminars that the American Bar Association and others have conducted, from one coast to the other, and the only ones who ever tell me they have had trouble with it are those who delegated the responsibility to a magistrate or someone else.

I just don't think it can be done that way, at least until after there has been an experience factor involved, and the lawyers know what they are supposed to do. I think it is something the judge has to do, certainly to start with.

Mr. Wiggins. Judge, isn't the trial judge the one who should conduct this hearing, or just an available judge?

Judge Spears. You know, we have never been able to enjoy the luxury of having another judge do our work for us. The case that I get in the beginning, I carry through to the end. My feeling about it would be that the judge who is going to try the case ought to conduct everything. I think this is desirable. I wouldn't say it is absolutely necessary. In our district we are so widespread, with seven divisions and only five judges, that we just have to do it all ourselves, because we can't get others to do it for us.

Mr. Wiggins. I take it there is a full right on the part of the defense to raise other defenses that have not been circled in advance; that he is not foreclosed in any way?

Judge Spears. Certainly, sure. And they understand this. This is made clear to them. One thing that I do when they come in for arraignment is to ask the U.S. attorney usually first, "Are you satisfied with the cooperation you have gotten from the defense"; and in almost every instance, he will say, "Yes."

I ask the defendant the same thing, and he will say, "Yes." And I ask them if there are any motions to be heard and they will tell me whether there are or not and, if so, those motions are set. If they enter into stipulations—and you notice the form requires it—the stipulations must be signed by the defendant and his attorney. I have the defendant stand in open court and I explain to him what he has stipulated to, and tell him that nothing he may say is binding upon him and nothing his attorney may say is binding upon him unless it is reduced to writing and signed by both the attorney and the defendant.

I explain in detail what the stipulation is, the fact the Government is not required to prove these things, and that it is accepted as proof, and then ask him if this is what he wants.

Chairman Pepper. When does the process begin with respect to arrest?

Judge Spears. Well, our process begins when the man is indicted and the clerk sends the notices of the arraignment.

You see, we have this plan to expedite criminal cases, which was promulgated pursuant to rule 50(b) of the Federal Rules of Criminal Procedure. Under this plan we must bring every defendant who is in custody to arraignment within 20 days. You can see that the time element there makes it necessary for us to handle all necessary preliminary procedures within a limited period of time.

So we set up a period of 10 days from the date of notice, until the date of the conference with counsel. With this time, plus the few days that is needed after that for the lawyers to resolve any conflicts that they may have, we find that is sufficient to get everything in order by the time the defendant is brought in for arraignment.

Chairman Pepper. The defendant, if you find the defendant doesn't have his own counsel, then, of course, counsel is named for him?

Judge Spears. Well, you see, this is done in the magistrate's court.

Chairman Pepper. I see.

Judge Spears. He comes into the magistrate for his first arraignment and the magistrate advises him of his constitutional rights, his right to attorney, and so forth. If he doesn't have an attorney, then the magistrate appoints one for him.

Sometimes he will tell the magistrate that he wants to employ his own attorney, but then it doesn't work out that way, and he will come

into the district court and say he doesn't have one. We just have to make allowances for that and give him additional time. But these instances happen very infrequently.

Chairman PEPPER. But what is the average length of time now which elapses before the indictment of a defendant in your court and the disposition of his case?

Judge SPEARS. The figure I am going to give you is the median time that the administrative office told us about for the last fiscal year. But it is a little misleading and I want to explain it. It is 3 days, but includes the period of time when the immigration cases were being handled by the district court.

Those cases generally were handled in 1 day, the arraignment and the sentencing were the same day. So you can see that having such a large number of those cases would overbalance the other cases on the docket. Actually, though, and I think realistically, it is about a month. The last figure that we had that would give us an indication was nine-tenths of 1 month.

Chairman PEPPER. Do you happen to have the percentage of cases that comes before you which are tried by jury?

Judge SPEARS. Well, it would have to be less than 3 percent. If it was any more than 3 percent, we just couldn't handle it. You get to dealing with percentages and you can almost prove anything, but someone came to the startling conclusion one time, and it is certainly true, that if the number were increased from three to six, then this would double the amount of work that the judges had to do in the courtroom.

And if you double the amount of work we had to do in the courtroom, we would be working, I think, 8-hour shifts almost around the clock. Hopefully, they would be only 8-hour shifts.

In this connection, Mr. Chairman, I might say for further amplification of our situation, the judges in our district have the highest weighted criminal caseload per judge in the United States. This may sound a little on the bragging side, but I think the point needs to be made that our performance record is among the four highest in the United States.

In civil cases, we have a median time of only 4 months between the time a case is filed and disposed of. I know our record in this regard is tops in the country.

We have wonderful, dedicated, hard-working judges, but that is not to say there aren't other dedicated, hard-working judges over the country. I think that Omnibus has helped us to do it. Even the judges who don't use it to the same extent that I do benefit from it, because the concept, the philosophy, is there. The Government attorneys now, just as a matter of course, turn their files over to opposing counsel and give them the benefit of this information whether there is full compliance with Omnibus or not.

Chairman PEPPER. Suppose we hear Mr. Gillespie and then we will ask further questions of Judge Spears.

Statement of James Gillespie

Mr. GILLESPIE. Thank you, Mr. Chairman.

As Judge Spears has told you, the Government prosecutor didn't have a monopoly on suspicion. We felt the U.S. attorney had available

to him all the prosecutorial agencies of the largest and most powerful country in the world—the FBI, the Federal Bureau of Narcotics and Dangerous Drugs, the Bureau of Customs Agency Service, the Secret Service, the Postal Inspectors—and our attitude was this: "Why should we turn over anything to these people? Let's see how we can get around it."

We met, had our little caucus about how we could get around this judicial pressure to get involved in Omnibus.

Judge Spears has told you there was some judicial cajoling. Mr. Harrison is not here today but he could have told you he opposed it vigorously, just as I did, except I didn't put it in writing. But finally it dawned on us of the defense bar if we move, from the defense viewpoint, if we could close a case faster, the sooner we could commence work on other matters. Then we decided to exchange a little bit of information. We gave lip service initially and I will confess this because they say confession is good for the soul.

Then things started happening. I keep time charts. We found Omnibus was a timesaver. It eliminated these horrible boilerplate motions, and routine briefs.

But what does this do for the defense lawyer? He has a secretary to pay, phone, rent, et cetera. So we eliminated unnecessary paperwork by using the form Mr. Wiggins has in front of him.

It also eliminated something else. We see, Perry Mason movies and we see it today in some courts in some jurisdictions, the two lawyers sparring around with their motions to suppress, motions to suppress confession, evidence, and everything under the Sun, and they are only doing one thing, they are sparring around, one to impress his boss, the district attorney or U.S. attorney, the defense lawyer trying to impress his client who doesn't understand anything going on, and the judge being bored because he knows what is happening. We don't have that in our court.

I think this system has made better lawyers out of our bar in San Antonio. It has done on thing, when you get into a lawsuit, boil it down to the critical issue. Don't play with it. Don't bother the judge with half a dozen different things. Get it down to the meat and nut of the coconut because there is the heart of your lawsuit.

The Omnibus boils down the case to the critical issues. Judge Spears commented about this.

My clients involved in narcotic transactions, most never tell me "Mr. Gillespie, I didn't have it, I have been framed." They almost never say anything like that. They will say, "That cop didn't have any reason to bust me, to arrest me." So what do we have? We have an unlawful search-and-seizure issue. There is the critical issue, nothing more, nothing less.

This checklist does one thing for the young lawyer. It acts as a tickler for a lawyer who does not practice criminal law, for the neophyte lawyer, and it brings back fond memories of his criminal law course he had in law school.

For the experienced trial lawyer in criminal cases, what it does it provides an "instant motion," if you will. It shortens the time needed to advise the assistant U.S. attorney and the court of the areas of complaint.

We then have a conference of counsel. Mr. Harrison and I have had a conference of counsel in 15 minutes and we both knew what each

wanted. Because we were used to it. But there has to be a rapport between these two individuals. There has got to be integrity between the two people and there has got to be trust.

If you reach a point, after the Government attorney turns over a list of information to you, you can go to your client—and I will come to an example in a minute—and you say that, based on the information the Government is going to present, that you are doomed at a trial and there is no way of convincing the jury that your client is innocent beyond a reasonable doubt. You can present this information to your client, and then he can make the determination of whether or not to enter a plea of guilty or not guilty at this point.

This is his determination, not the defense counsel. If you do enter a plea of not guilty, you know what you are being faced with. The defense lawyer is not sitting back like you saw on the television series; here comes the prosecution and in the door walks the surprise witness. We know who he is. So we don't have trial by ambush in the traditional sense.

One thing Judge Spears did not tell you, and Mr. Morgan experimented with this very famous case. This was the first overture toward omnibus. In El Paso, Mr. Morgan was so impressed with the initial concept he turned over 13 files to 13 different defense lawyers in the El Paso division. They were so stunned by it, so amazed, they all went to trial before their juries and there were 13 findings of guilty.

Mr. RANGEL. How does the Government handle its undercover agents or special employees?

Mr. GILLESPIE. I was coming to that, Congressman. He does it this way. In the FBI and Federal Bureau of Narcotics reports, they will have a code number for—they call them "cooperating individuals" now. Before they were called, I think, "special employees."

Mr. RANGEL. Special employees.

Mr. GILLESPIE. You are familiar with it. We have other names for them, of course, but they are not for the record. But one time, one case I will tell you about in a minute, the name of the confidential, or the cooperating individual, was mentioned. The defendant was a very dangerout man. He was semipsychotic, so Mr. Harrison and I did this and the court didn't know anything about it. We excised the name of the informant and cut it out and presented the balance of the report to my client. But the judge never knew anything about this procedure. This is the way we handled that and, again, this has to be within the spirit of cooperation with counsel for the Government.

Because you do want to protect—whether I might like the informer or not is immaterial, the fact is, he is an employee of the Government, and you don't want to see harm come to anyone, and that has happened many times in the past, as we all know.

Mr. RANGEL. What I was really talking about, Mr. Gillespie is those cases where the confidential or cooperative individual is actually the person that transacted the sale in order to make the case and where a defense lawyer couldn't possibly convince his client to plead guilty unless he saw who that person was that intended to testify against him. And, of course, the Government doesn't want to expose the undercover nature of its agent unless it really has to at trial. How do you handle that?

Mr. GILLESPIE. It depends on the type of situation. If we are talking about a sale, I am blessed, fortunately, with clients who know if you have—like going to a doctor, they don't tell me they have a headache when their toe is coming down with gangrene. And in a narcotics transaction, they will tell me whether or not they made a sale. I may ask: "Who did you make it to? How did it come about? Was it going to a third party?"

He will know what it is. And I send out my investigator and talk to that man. Or I confront the U.S. attorney: "John Smith is your CI, isn't he?" "Yes, he is."

"Where is he?" I don't do it for any other purpose but to get an investigator out to talk to that man to find out whether or not he was acting at that time as a confidential informer because there might be raised the defense of accomodation agent or, whether or not there is an entrapment involved.

Am I answering your question? Does that answer your question?

Chairman PEPPER. Excuse me, Judge, Mr. Gillespie. We have to run over and vote. You will have to excuse us. We will be back in just a few minutes.

[A brief recess was taken.]

Chairman PEPPER. The committee will come to order, please.

Mr. Gillespie, will you resume your statement?

Mr. GILLESPIE. Yes, sir.

I was commenting before the committee recessed that we don't have trial by ambush. As Judge Spears has stated we have many more pleas of guilty, which is quite true, but by the same token, you will have a client—and Congressman Rangel as a prosecutor knows that—you might have all of the facts available to you and the defendant still insists on going to trial.

One case particularly comes to mind where a defendant was charged with embezzlement from the Federal credit union where he swore he hadn't done it. We had a list of all of the Government witnesses. We were prepared for them; I questioned each one of them and used the Government witnesses as character witnesses for my client.

When the case was terminated, the jury was out for 8 hours and at 5 minutes of 5 p.m. the following day, the trial court said "If the jury doesn't come in by 5 p.m. I am going to declare a mistrial." They found him guilty after 8 hours, but at least we interjected reasonable doubt by the man's reputation from the Government's own witnesses in that particular case. We couldn't have done that, I wouldn't dare ask the Government's witness, president of the credit union, "Do you know the defendant; do you know his reputation for honesty and fair play, truth and veracity?" I wouldn't have dared ask that if I hadn't known the names of the Government's witnesses in the first place.

This is a saving not only for the defendant and protecting his rights, but a saving to the American taxpayer and, God knows, to the Federal district courts, who are overburdened throughout the country.

By way of further example, an individual came to me and in my questionnaire sheet I filled out on the defendant, I asked him very delicately, "Have you ever been under mental care?"—"No."

"Have you ever been seen by a psychiatrist?" And he said, "Just out of the State hospital." He had been hospitalized for 3 months.

I talked to the county psychiatrist. The defendant was a schizophrenic paranoid. I got the report from the county psychiatrist and also the district attorney's office. This was a credit-card fraud case. I immediately went to Mr. Harrison. The judge had no idea these back-of-the-scenes were going on. We presented the medical reports. We walked into court, and to spare the defendant's feeling, the Government said "Your Honor, we would like a psychiatric evaluation of the defendant."—"Granted."

It turned out the psychiatric report by the Government psychiatrist was stronger. We made arrangements to have the defendant rehospitalized in the State institution, because under Federal law, there is no provision when it is shown that a defendant was incompetent at the time of the commission of the offense. We rehospitalized him. The moment the case was dismissed he was back in the State hospital.

All of this came about through the Omnibus procedure. The whole time spent in court on this man's case took approximately 30 minutes. I think this is a tremendous saving to the taxpayers of this country and also it was beneficial to the client.

Chairman PEPPER. Excuse me. Judge, this is a vote on final passage.

[A brief recess was taken.]

Chairman PEPPER. The committee will come to order, please.

You may proceed, Mr. Gillespie.

Mr. GILLESPIE. I think the case I just finished with was the one on insanity, which saved us a great deal of time. The next case involved narcotics and machineguns. It all boiled down to several issues of a confession that led to the discovery of the fruits of other crimes. Very fortunately, we had very fine officers in the particular case in question who had elicited the confession and the young man had had two additional Federal charges placed against him as a result of the confession which was unlawfully induced, and two State charges.

As a result of our one hearing on the motion to suppress the confession, Judge Spears, who in this particular case handled this matter, granted the motion insofar as the confession was concerned and denied another motion as to another part of the case, and as a result, the defendant was convicted and we went up on appeal, and successfully, I might add, on the one issue, on the one motion.

On pleas of guilty, I had one defendant who adamantly told me he had not sold narcotics to any Federal agent. We excised the name of the informant from the police report. I turned it over to my client and he said, "Please try to negotiate something for me forthwith," and it was done.

Another situation that Judge Spears mentioned was alibi. It wasn't exactly a dismissal. It was a situation where a man was charged with uttering counterfeit notes and the Government had used a panel of pictures to show the victims. We prepared our own panel and, as a result of the case, while the jury didn't buy our presentation, on appeal it was found that the evidence was not sufficient to convict and reversed and ordered the indictment dismissed.

But also in that case, interestingly, we pled alibi, Mr. Harrison's investigators did check every one of the alibi witnesses and reported back to me, and said, "Your alibi witnesses are good." He said, we will have to concede that because I turned them over to him, just took them to his office.

Judge Spears mentioned something about the Jencks Act in a particular case. We had a Gun Control Act case which was of a very critical nature and we had an FBI report wherein it was stated the FBI had interviewed a sergeant who had testified or who had told them the weapon in question was an automatic firing weapon. Immediately we interviewed that sergeant and he advised us he never told the agent that at all.

As a matter of fact, he had to change each round and, therefore, it wasn't an automatic weapon. We obtained a judgment of acquittal, based on the fact we interviewed the sergeant, and this was all under Omnibus.

Chairman Pepper. That all would have come out later in court, but after a trial and the delay.

Mr. Gillespie. Mr. Chairman, in that particular case, the prosecutor who tried that case was a relatively new prosecutor, and he believed his FBI agent. He would not take the word of my witness who was actually his witness. We had to present it before a jury and the trial court granted the motion for judgment.

Chairman Pepper. Mr. Gillespie, do you have to leave at the same time the judge does?

Mr. Gillespie. No, sir.

Chairman Pepper. May we interrupt you as to if you permit the judge to leave at 4:20.

Do you have some questions, counsel?

Mr. Nolde. I want to ask the judge how he was able to get the defense bar as well as the prosecution to cooperate in participating in this program?

Chairman Pepper. You sent them all a Christmas card, didn't you, judge?

Judge Spears. You know, I decided that I was going to have to sell them a bill of goods, so I first called in the lawyers I considered were the leaders of the criminal bar, and I talked to them about it, and asked them what they thought about it. I said "the U.S. Attorney's Office now is willing to give this a trial and if you have the prosecutor willing to do it, that is about 85 percent of the job. Will you cooperate?" They said "Yes," and then I said, "Well, help me sell it to the other lawyers."

They did a good selling job themselves, but most of the real work was done in that courtroom. For instance, some said, "Why should I do this?" And I mentioned one a few moments ago about stipulating as to the chain of custody, and the argument I gave them was what I told you. I think the lawyers began to realize it was ridiculous to get into court and have the Government parade witnesses there they couldn't controvert in any sense of the word.

So the savings in time on that alone has been tremendous in the narcotics field. Most of our cases are narcotic cases. Fifty-six percent of our criminal docket in San Antonio are narcotics cases and they are increasing every day.

Mr. Rangel. What percentage are marihuana cases?

Judge Spears. You mean of narcotic cases? I'd say about 20–25 percent. Most of them are heroin cases. Most of our marihuana cases are handled in the State court. The only time we get the marihuana cases is when we are dealing with large suppliers, and some of them get pretty large. The last one we had was 4,000 pounds.

Mr. NOLDE. Speaking of the State courts, is there any reason why this procedure couldn't be applied to the State courts and, particularly, how do you answer the claim on the part of large city, busy prosecutors that their assistants never even know the first thing about the case until they walk in the court? Could this work in that kind of a situation?

Judge SPEARS. I think it could and I am sure it does. There are some States, I don't want to be specific about which ones they are, but the one that comes to my mind, the State of Washington, I believe, put in its rules provisions similar to the Omnibus procedure.

[Communications from Judge Spears, with enclosures concerning omibus procedure in State of Washington, appears at end of his testimony.]

Chairman PEPPER. Justice Douglas told me there were innovative programs in the Washington district.

Judge SPEARS. We were up there the last summer in Spokane and talked to the lawyers and judges in the State of Washington about it.

You are going to get some opposition, no doubt about that. But I think those who try it find it is worthwhile and continue to do so. Your question to me is how you are going to get busy prosecutors to do it. I don't know, unless the judges decide to be judges, and not automatons or robots or machine men, and use their influence to get them to do it. I don't see any reason why they can't do it if they exercise the power and authority they have to do it.

He can't make a defendant reveal those things that the Constitution protects him on, but he certainly could, I think, pressure defense counsel into providing information that the defendant himself is going to reveal at the time of trial.

Mr. NOLDE. And you see no sacrifice of defendant's rights?

Judge SPEARS. I see no sacrifice of his rights if these are things he is going to reveal in any event at the time of trial. As I say, you can't make him testify, but he doesn't have a constitutional right to refuse to reveal information that he proposes to reveal himself at the time of the trial.

Mr. NOLDE. Could this be made mandatory?

Judge SPEARS. I think to that extent it could be. And here, again, you know, I have been to so many places, I don't want to be specific, but I believe the State of Washington has similar requirements in its rules promulgated by the Supreme Court of Washington.

Mr. RANGEL. Is there any variation in the sentences that you can detect that are given to those defendants' with lawyers who cooperate with the system as opposed to those with lawyers that don't cooperate and go to trial?

Judge SPEARS. I can't answer the question because I don't have any lawyers who don't cooperate. We are a pretty large bar. We have a city of almost a million people, and I just haven't got any lawyers that don't cooperate.

Mr. RANGEL. After defendants mix with the general prison population, are there any habeas corpus motions that come out?

Judge SPEARS. Now, I am glad you mentioned this. Because the number of 2,255 motions we have now is about 10 percent of what they were before we started with this procedure. All of these latent constitutional problems are disposed of through the Omnibus hearing.

How is the man going to claim he didn't have effective counsel when he has got a checklist there with every conceivable defense set out for

him? And full opportunity is afforded him to discuss his defenses with his lawyer. This has been a God-send as far as 2,255 motions, which as you know is the Federal equivalent to habeas corpus, are concerned.

We just simply don't have them. Most of what we have now are section 1983 suits, in which prisoners claim they were mistreated in the local jail.

Chairman PEPPER. Judge, you have done such a fine job in explaining this to us. Are there other innovations you would recommend or care to comment on? We had here the suggestion that there be more use of video tape in trials. Are there any other? Can you tell us about any other innovations you would recommend to expedite and improve the administration of justice in the criminal system?

Judge SPEARS. Well, I think this helps us in order to conserve jury time, to utilize the juries more effectively. For a number of years we have been impaneling a jury and selecting as many as 8 or 10 juries at one time and having those juries come back at specified times to try cases, rather than bring an entire jury panel in and have a jury selected from that panel each time a jury is needed.

In other words, when we have 100 or 125 jurors in and we have 10 cases to try, we will select the 10 juries, or as many as we can at that time, and then tell those jurors when they are to come back. We feel we not only save much time and expense, but this is also more convenient to the jurors.

Chairman PEPPER. Can you estimate accurately enough when the cases that are certainly going to be disposed of, to be able to do that, tell them when to come back?

Judge SPEARS. We can tell because by the time a case has been omnibused it has been explored by both sides and they know pretty well whether that case is going to trial or not, and if so about how long it will take to try it. This is another advantage of the omnibus procedure. It just shakes it all out.

Chairman PEPPER. What have you, if anything, to say about how the appellate procedures with which you have had experience might be improved? We have had appellate judges here from State and Federal courts. Have you any suggestions about what can be done to expedite disposition of cases on appeal?

Judge SPEARS. Well, I would hesitate to try to tell appellate judges how to run their business, because I don't think they have any business telling us how to run ours. I don't think they know enough about our problems and I wouldn't propose to tell them how to solve theirs.

Incidentally, Mr. Chairman, I am on the Board of the Federal Judicial Center, and we have been exploring ways in which these matters can be expedited. I am sure the Judicial Center is going to have some answers to these. I hope they will.

Chairman PEPPER. One other question. We hear of proposals made that we need to increase the severity of sentences, length of sentences and the like. What, in your opinion, is the best deterrent to the commission of crime? It is long sentences, or likelihood of apprehension, speediness of trial? What would you say?

Judge SPEARS. I don't think it is necessarily long sentences. I think a speedy trial and the promptness of the punishment, if it is to come, are probably the best deterrents. Other than this, I just don't know what the answer is.

Chairman Pepper. Judge, let me stop now. I want my colleagues to have an opportunity.

Mr. Rangel?

Mr. Rangel. I don't have any questions.

Chairman Pepper. Mr. Winn?

Mr. Winn. I just have one question, Judge. It sounds to me that you have done a real fine job. How are you publicizing your program down there and how can you get further publicity out of it and have other jurisdictions take it over?

Judge Spears. This is a real problem because our court is busy and it is hard for me to get away. But last year I traveled almost 40,000 miles from one end of the country to the other, talking to various groups of the American Bar Association and to judicial conferences, in an effort to get the message across.

I can detect a change in philosophy. Five or six years ago, when I would talk to a group of lawyers and judges about this, they would look at me like I was crazy. Now they will come back and say we are doing this or we are doing that, which indicates they are having their prosecutors turn over their files, to a large extent, to defense attorneys.

The only fallacy there, I believe, is the fact they are not having it as a two-way street. They are not getting the cooperation out of the defense they ought to get and they could get if they implemented the entire program.

I think that is important. I think it is important for a defendant and his lawyer to participate to the point where they are giving up something substantial in return for what they get.

Mr. Winn. But there is more talk at your national meetings about swapping ideas?

Judge Spears. Yes. I was at a meeting of the metropolitan judges here in Washington a few weeks ago where I gave them my pitch about Omnibus. Afterward, as we went around the table for comments, each one, to my utter surprise and amazement, said they were doing a great deal of this themselves already. The U.S. attorneys in most of the courts were letting the defense have access to files.

I don't know, maybe I am naive, but it seems so simple to me, if you have got to do it, why wait? And it is fair. That is all there is to it. It is fair. The Supreme Court said it is, and Congress has said it is.

Chairman Pepper. Mr. Mann?

Mr. Mann. Judge, Mr. Nolde has expressed some of my concerns and questions. How many Federal judges in San Antonio handle the criminal cases?

Judge Spears. Two of us.

Mr. Mann. The other judge is getting the same cooperation?

Judge Spears. Yes.

I might say, and I want to be completely above board about this, he is not as sold on it as I am. But he does it.

Mr. Mann. And the San Antonio Criminal Bar—you mentioned the city of a million people—is how many lawyers?

Judge Spears. Everybody.

Mr. Mann. Everybody is on the list?

Judge Spears. Everybody is on the list. The first thing I did when I became a Federal judge was to dispense with the old practice of having about 15 to 20 criminal lawyers represent all of the indigent

defendants. I set up a rotation system and put each attorney admitted to practice in the Federal court on a separate card and we took them in rotation. That is the way we still do it.

Chairman PEPPER. You talked to some of these civil lawyers?

Judge SPEARS. I want to say this. I didn't try criminal cases when I was practicing law. I never was appointed in a criminal case, and I felt like I missed a lot. But every lawyer in San Antonio who now regularly tries cases in Federal court is a criminal lawyer, whether he calls himself that or not.

Mr. MANN. I have more of an assertion or statement than I do a question.

Given the atmosphere that prevails in San Antonio and the cooperativeness that exists between the judge and the lawyers and the rapport and the integrity and trust that was referred to, I can't help but be pessimistic about that same atmosphere prevailing in the contentions, multiple judge defense bar of many of the larger communities of this country.

I think in the small communities it might happen.

I command you highly for having developed the procedure and hope that it can be sold in other places, but I can't help but be pessimistic about it.

Judge SPEARS. I can understand your pessimism. I think it is going to be a gradual process of wearing it down. But I believe that lawyers in New York, Philadelphia, are just like lawyers anywhere else. If they find it is in their best interest and the best interest of their client to do it, they will do it. If it helps them make more money, they will do it. If it helps them to represent their clients better, they will do it. But they have to be shown.

It is going to take judges who are willing to exert the effort to do it. You can't do it by waving a wand and saying, "Change over now, boys." You can't do it by saying, "Everybody step in line" and march off one, two, three. You can't do it that way. You have to educate them and work at it. But it has been worthwhile as far as my court is concerned.

Chairman PEPPER. Judge, have you anything else to add?

Judge SPEARS. No, just to thank you and the members of this committee for the opportunity to come here. I hope we have been of some help in expressing what we believe to be solutions to some very vexing problems. We don't suggest this is a panacea; it is not the cure all, but I tell you it comes as close to being that as anything I know about.

And when you look at the Federal Criminal Rules of Procedure and what they are requiring now, and you look at the Jencks Act, and you look at the cases that have been decided by the Supreme Court, and the implementation by the courts of appeal all over the country, you can see we are coming to it anyway. Why not now?

I think that it will be a great day in our country when we do come to the point where, instead of handling cases on a piecemeal basis—I don't want to use "plea bargaining" in the wrong context, but the kind of plea bargaining I am talking about is the kind I don't think any of us will be very happy about—but when this is the way cases are disposed of and people are run through like cattle instead of human beings, then I think it is time for us to think in terms of the administration of justice being a human experience and an effort to see justice is done to everybody.

Mr. RANGEL. Judge, I would just like to underline another aspect of the problem we face in attempting to equalize the economic status of defendants who come into court trying to get justice. One of the sad things we find in the city of New York is that the poor cannot afford to retain counsel with experience in practice before the Federal courts and who is fully aware of Federal court procedures. The wealthier, more successful criminals are able to find people to make the necessary motions in order to protect the defendant's rights.

It just seems to me that this process of Government meeting defense halfway in assisting them as to what is available and looking for fair play on the part of defense counsel, even outside of the fact that it allows the judges to clear their calendar and all of the benefits that flow to the defendants from this, that in the first instance, it allows the defendant to believe that he can come before the bar of justice almost on equal standing with any other defendant.

Judge SPEARS. I think we have to recognize the fact the Government has to meet the defendant a little more than halfway, because the Government is in possession of the information that the defendant maybe doesn't have. I think it is a two-way street, but I don't mean each lane is 50–50. I think the Government or the prosecutor ought to give up more than he gets.

But I think in order to make it work, the defense should also be prepared to give up something.

Mr. RANGEL. Mr. Gillespie touched on it, but in many District Attorney's offices, they pay so little in terms of salary and provide no money for investigative resources, that the only thing the young lawyer can look forward to is the Perry Mason, hidden information type of thing. Given the handicaps imposed by limited budget, it is a remarkable job that is performed by most prosecutors offices.

Judge SPEARS. I can say, as the judge, God bless the lawyers. Without the lawyers the judges can't do anything. But if he has cooperative attorneys who are real professionals and who are interested and willing to do the right kind of job then the court can operate more smoothly.

Chairman PEPPER. Judge, the time you said you would have to depart has arrived. On behalf of the committee, we want to express our profound gratitude to you for coming here, to tell you how much we appreciate the contribution you made to the work of this committee. We are hoping that what we have discussed and put on the record is going to be helpful to the lawyers all over the country.

I am going to speak to the Florida Bar Assocation a little while later, in the month of May I believe it is. This is one of the things I am going to put principal emphasis upon.

So I would just like to say, if they were giving a medal of honor to judges for the performances of their services beyond the call of ordinary duty, you would be certainly entitled to it.

Judge SPEARS. You are very kind. Thank you.

Chairman PEPPER. We hope you have a pleasant trip home, Judge.

Mr. Gillespie, we appreciate your waiting. Now that the judge has finished, would you go ahead with any other comments you would like to make.

Mr. GILLESPIE. Yes, sir.

This follows something along with Congressman Rangel about the poor defendants. I had the unfortunate and unpleasant, and I hope never to be repeated, experience of being appointed in the Del Rio Division in a multiple conspiracy case—and I can cite the case right to this day—being advised that the case was going to take 2 weeks from motions to termination of trial on the merits.

I think the U.S. attorney founded the indictment in this district in this division because it was a border community of single-office lawyers.

The result was, things got so cantankerous we couldn't get any information out of the U.S. attorney and I personally prepared and filed over 142 motions for 21 defendants. I wasn't appointed for 21, just one. The last motion being a motion for change of venue. And when the local paper came out, it called it the "Federal Superbowl," and called the defense lawyers the "Dirty Dozen."

The case was then transferred, not to San Antonio, which would have been a central location for most lawyers involved in the case—some were retained, I might add—the transfer was to El Paso, 600 miles from home. In that case we had a situation under the Jencks Act where an FBI report came in at 4:15 in the afternoon, and I made a suggestion to his honor, who was not Judge Spears, if we could have a Xerox copy of the agent's report overnight, and then we would be in a position for the following day to pursue a meaningful cross-examination and thereby eliminate time.

Well, the judge said, "No, you will follow the Jencks Act, you will let the man testify and then the report will be turned over to each individual lawyer."

And, of course, the attitude of the defense lawyer is, "All right, Judge, if that's the way you want to play it, we can play it, too."

Each defense lawyer got up after the agent had testified, got before the podium, and started reading the 55-page, legal-sized document, single-spaced, margin-to-margin, 45 minutes, and answered, "No questions, Your Honor." That took 8 hours. That was a waste of taxpayers' money and we were just being onery.

But this did not have to be, had we used omnibus we would have to report prior to trial. This was a waste of time. Omnibus would have saved so much here.

Omnibus would have saved so much.

One of the things I think—something was mentioned about whether or not it worked in the State procedure. In Bexar County we have a monumental caseload. We have underpaid district attorneys, young chaps out of law school, the first time they see the case is when it comes up.

Now, what I have done, for example, I had a Preston versus California type of situation, and I could have walked into the courtroom and raised it for the first time after 3 days of trial, 2 days of voir dire examination of the jury, 1 week of the county's time, and it would have been a sensation in the papers. But instead, again (1) I was paid to try the case whether I tried it for a week or 5 minutes. I went to the prosecutor, I showed him the facts in the case from the police officer's report, a copy of the examining trial which he had never read, and last, a small brief, about 5 pages, the Preston-type research.

And he said, "My golly, I can't go on with this case. This is the end of the case." I said, "Well, I thought I would bring it to your attention."

The case was dismissed. It saved him embarrassment, the county money, and my client the trauma of a trial.

But this is known as omnibus by the back door. This was one-way omnibus by the defense.

In a recent murder case I was appointed on, I attempted to do something with the prosecution but he was trying to impress me with what a fine lawyer he was and he was well prepared, but he didn't know about two eyewitnesses, in what we call a misdemeanor murder case, a little bar affair. But we had two eyewitnesses. He wouldn't tell me the time of day. He hid out his witnesses in Houston, Tex., 200 miles from San Antonio. We were unable to obtain continuance. I let him put on his case and then brought in a deputy sheriff from another county, a very respected deputy, who had observed the incident with his date, who was not his wife, unfortunately, and as a consequence, the district attorney was stunned, and the jury rightfully found the young lady not guilty.

It was a waste of time, my office staff time, my investigator's time, and it embarrassed the district attorney's office because their investigation was poor.

Mr. RANGEL. What statutory authority do lawyers and judges and prosecutors have to do what you are doing down in Texas?

Mr. GILLESPIE. The omnibus?

Mr. RANGEL. Right.

Mr. GILLESPIE. The gentleman that just left, that is the authority. He makes a suggestion. He made a suggestion, Congressman, and he tried to show us how this could work and it does work. I can't begin to tell you with all my heart—and he is not here and doesn't know what I am saying—but it works so effectively on both sides of the street between us and there is no authority for it, there is no written mandatory statement—and I don't think Judge Spears left you with a sheet you get in the mail on every case, "Will you and your client cooperate in the omnibus procedure." You can answer, "No," and you proceed under the old Federal Rules of Criminal Procedure.

Mr. RANGEL. The fact it is effective has nothing to do with the fact that it flies in the face of long-established tradition?

Mr. GILLESPIE. That is correct. But traditions must sometimes yield to the changes of a fast moving world.

Mr. RANGEL. Something like the judge says, lawyers have to cooperate and there has to be a feeling that, it is a fair process among the lawyers before one, one would start venturing, walking into a prosecutor's office and leaving smiling, saying, "I have cooperated," and clients start looking at you a little funny.

Mr. GILLESPIE. You have to be very careful about that. There is a sense of tact and diplomacy in dealing with the clients. You know from actual experience there are people who are criminals and there are citizens caught in the commission of criminal acts. A man who normally would not commit, say an embezzlement offense, has gambling debts, steals and says "I will pay it back." You have seen that. These people are decent people caught and yielded to temptation one time, and then the other classification is the true criminals, who are going

to pursue a life of crime regardless and you have to be very careful on how you explain the Omnibus procedure to them. Very frankly, I tell my clients, "We are going to go through the Omnibus procedure," and the response of my client is, "Anything you say. You are the attorney." That is what I am hired for.

One thing, how does it work through the Nation? We talked in New Orleans one time to the New Orleans County Bar Association. Total rejection by both sides. "No, it will never work. I won't tell that prosecutor a thing."

I was in New Orleans for a sentencing in early February of this year, talking to a defense lawyer, who grabbed the prosecutor walking by and said, "Hey, Charlie, let's do a little Omnibus on that thing, on that Smith thing."

They don't have this procedure, but this is what he was saying. I said, "What do you mean? What is the Omnibus thing?" He said, "We exchange information, try to get to the bottom of the whole thing." He didn't know who I was at all, except as another defense lawyer.

Mr. RANGEL. You mentioned the hardened criminal. Wouldn't you say most of the hardened criminals who have been indicted by the U.S. Government recognize they have got to be convicted 99 out of 100 percent of the time?

Mr. GILLESPIE. I think the conviction rate by the Department of Justice is 98 percent.

Mr. RANGEL. Well, it seems to me, it has been my experience with narcotic cases, whether you told the defendant your case or not, he himself knows that it is direct sale or several direct sales, and that the only way he can possibly beat it is a jury trial. How are you able to avoid that?

Mr. GILLESPIE. To avoid the jury trial? That is his election. I will tell him what the facts are, make an outline of the summary of each witness' testimony, and he makes the election.

Mr. RANGEL. He agrees the Government has the case?

Mr. GILLESPIE. But if he wants to try it, let him try it.

Mr. RANGEL. This stipulation you may want to enter into about the chain of possession of the drugs. Some defense lawyers just stay on that for 3 hours, saying it was missing for half an hour somewhere, especially in New York where we lost $73 million worth of drugs, you know.

Mr. GILLESPIE. I heard about that.

But we have the business—remember Sam Leibowitz from your area once said a good defense lawyer is 90 percent sweat and investigation. The first thing I do if I go into a foreign jurisdiction, I learn who my judge is and find everything out about him, about the prosecutor, and the witnesses. And in the narcotics case, about the chemist. In my community the customs chemist is a classmate of mine from Tulane, majored in chemistry, has his masters degree. I have been through the testing procedure with him. To cross-examine him is truly a waste of time.

At Vandenberg Air Force Base in June of 1971 the Air Force hired a criminologist to give the test in a marihuana case. I found out before I went in on the 39a session, which is preliminary examination in the military, that he had never had any chemistry in college. He told me later he felt distressed because he never proved the contrabrand issue was marihuana. He couldn't conclusively say.

Mr. RANGEL. You have proved my point. You know your business and you know your community and you know the background and reputations of a lot of Government witnesses.

Mr. GILLESPIE. If I go to another community, Congressman, I will find out about the reputation of the chemist, the prosecutor, and the court.

Mr. RANGEL. But those things the Government is asking the defendant to stipulate to because it is just assumed that the Government can and will prove it, without going into the integrity or background of the chemist. Many times the contraband changes 10 hands before it reaches that court. And if this occurs, which is still another variable to work with, are you going to spend some time on each one of those sets of hands?

Mr. GILLESPIE. If that is all I have, I won't stipulate. If my client says, "Look, I don't care what you said, I read the report, I want my day in court." And we had a case like that in San Antonio. He didn't believe the undercover police officer. He said he was going to lie and he said, "I want to hear him lie."

Mr. RANGEL. Does he get more time if he is convicted than the person who goes through Omnibus?

Mr. GILLESPIE. I am glad you asked that question, because it depends on what court you appeared in front of. You can go before Judge Spears and spend a week before him, as I did in a Dyer Act case. My client was found guilty and given a suspended sentence. But other courts charge rent. If the client goes to trial in a plea of not guilty and is found guilty, we know you are going to be charged rent, and I think it is unfair.

Judge Spears' philosophy is every man is entitled to his day in court. I wish the other judges would follow that because then you come to the balancing of whether or not to go to trial.

You know, this nebulous idea of being charged for time in court if found guilty hovering over your head and you must tell your client this, if you bring it out in the open there is not a judge in the country would say he would do a thing like that. But you, as a prosecutor, know that is quite true. But that is a problem when you come with that.

Chairman PEPPER. Mr. Gillespie, you obviously are a very able and experienced defense counsel. You have had a lot to do with this sort of thing. Looking at it from the standpoint of this committee, and as you have been testifying here today, to improve the criminal justice system in the country, what innovations, other than that one you so well pointed out today, would you recommend that could and should be made?

Mr. GILLESPIE. All right, sir. The Federal Rules of Criminal Procedure, rule 5, which has to do with preliminary examination of persons charged with Federal offenses. In the Southern District of New York, there is no such thing as examining trial, is there, Congressman?

Mr. RANGEL. It has been a long time.

Mr. GILLESPIE. They don't have it. It is on the books, but in the Southern District of New York they have a continually running grand jury. As a consequence, no defendant ever gets an examining trial.

Mr. RANGEL. Are you talking about a pretrial hearing?

Mr. GILLESPIE. Yes, sir.

Preliminary examination, I think is the formal term for the rule.

Mr. RANGEL. They have it and they don't use it. They indict.

Mr. GILLESPIE. Congressman, my attitude is this. If Congress intended to give the defendant the right to preliminary examination then he ought to have a right to it. If we are not going to have it, like you do in the Southern District of New York, then go ahead and eliminate it so we don't quibble about it.

Mr. RANGEL. I agree.

Mr. GILLESPIE. I strongly feel if it is on the books it should be made mandatory. If the man says, "I want a preliminary examination," he should be entitled to it, and any defense lawyer who doesn't use the right to preliminary examination in the jurisdiction where it can be used is not worthy of his title as defense lawyer.

Mr. RANGEL. You are talking about prior to indictment, coming from the grand jury?

Mr. GILLESPIE. Yes, sir.

Mr. RANGEL. If defense counsel makes all the motions he wants in the southern district of New York like any other district, the D.A. goes in and asks for indictment.

Mr. GILLESPIE. Right.

Mr. RANGEL. You are saying to hold up the indictment?

Mr. GILLESPIE. No, sir. I am saying we have the rule on the books, let's use it. If we are not going to use it, like you do in the Southern District of New York, eliminate it from the rules. But don't put it like the carrot out to the defendant. Here is where we will know what probable cause or what evidence is going to be presented against an accused. Let's either eliminate it or make it something meaningful and not this fraud of having it on the books, where it looks good in writing, and is never used, like in your district.

Chairman PEPPER. What else, then?

Mr. GILLESPIE. I can't think of a thing.

Chairman PEPPER. Let me ask you about appellate procedures. You have appealed many cases, I am sure.

Mr. GILLESPIE. Yes, sir; unfortunately.

Chairman PEPPER. You have had a lot where you haven't appealed, I am sure of that.

Mr. GILLESPIE. Yes, sir.

Chairman PEPPER. You were reversed on a lot of them, I am sure, where you had the conviction below. But have you any suggestions as to how the appellate procedure may be simplified and expedited?

Mr. GILLESPIE. Yes, sir. The elimination of the appendix that we are required in any retained case. Let me make the differential, for example, between a retained employment and an indigent appeal. If we are employed to appeal, we have to prepare an appendix. You could just appeal a case and present everything to the appellate court. You wouldn't have this problem. You try to simplify it and make it more difficult to appeal. You go into a lot of machinery, instead of presenting the transcript, appellant's brief, and appellee's brief. That would make it simpler.

Chairman PEPPER. One of the judges suggested and the charge of the court in a Federal court—the judge's comments on the evidence.

Mr. GILLESPIE. Not in our district.

Chairman PEPPER. They don't?

Mr. GILLESPIE. No, sir. In California, in one court I watched a trial there, waiting to go to trial, and the judge did not comment up there. And in Chicago I attended trials there and the judge never commented.

Chairman PEPPER. Most of them don't, do they?

Mr. GILLESPIE. Most of them don't do it.

Chairman PEPPER. In England they put great store upon that in the appellate court. Sometimes they have a procedure by which the trial judge's charge to the jury contains a rather lengthy and elaborate comment on the testimony. It gives a pretty good review of what the evidence in the lower court was to the appellate court. They use that rather extensively in lieu of the complete transcript of record. At least in the preliminary application for the right of appeal.

Mr. GILLESPIE. I have one other suggestion, Mr. Chairman, before I forget it. That is in Federal court, the rule is that the charge is orally given to the jury. Even though in my district it is prohibitive, we cannot speak to a juror after the termination of a case, or forever and ever. I think if the complaint that I get through the grapevine, shall I say, is the fact, they can't remember all of the judge's charge and especially in a complex piece of litigation involving a stock fraud swindle. Most lawyers don't understand it, so how can the layman understand it when the judge reads it off? I would suggest it be done in writing and the jury have a copy of the court's instructions. In that fashion, the jury would have the law in front of it. It would help some. But just hearing it, they are not going to get anything out of it. They generally don't.

Chairman PEPPER. We had one judge, a court of appeals judge in one of the circuits, who recommended the use of video tape. He showed video tapes here of a confession, where a prosecuting attorney was questioning a defendant in the presence of a police officer, and in the presence of this video tape operator. Apparently, the question came up later as to whether or not that was a voluntary confession. And by giving the appellate court an opportunity to see and hear that defendant at the time he gave the confession, of course, would be very helpful to the court in making that decision.

Mr. GILLESPIE. I agree with that. I have attempted to sell to our local police that they put on in every possible investigation a small cassette tape recorder when taking a confession, especially in the crimes of violence. They could hand the cartridge to the prosecutor and here is the whole confession, the *Miranda* warning, read the statement to him, yes, yes, yes, you would not have any motion for suppression of that confession, but they won't do it.

Chairman PEPPER. Also, one of these judges who testified here recommended that it not be necessary to wait till the transcript of the record is all written up by the reporter, which takes sometimes 90 days or more. Do you think that most criminal cases could be disposed of on appeal without the necessity of the whole transcript of record being laid before the appellate court?

Mr. GILLESPIE. It would depend on the type of case, Mr. Chairman. I have a case on appeal at the present time. I think the whole record is 50 pages. It involves a motion to suppress, and Judge Spears was the hearing judge and the whole issue goes to the affidavit, to the complaint of the search warrant, which I think is wrong, the court says

it is right. I am appealing on that one point. I have already sent that to the court of appeals.

Chairman PEPPER. It would cost a lot of money and take lot of time to have all of the testimony about that case transcribed by the reporter.

Mr. GILLESPIE. Had I gone to a jury; but it went up on one point only. I think the appellate court on the particular case had to hear the testimony or see the testimony of the magistrate who issued the search warrant, the testimony of the officer who swore to the first page of the affidavit, but not to the second page where it was critical and of the cross-examination of the magistrate by "his honor" and the prosecuting attorney, which I think it was improper and it did not prove anything except the search warrant was improperly issued without probable cause.

Chairman PEPPER. Don't the rules permit the taking up just essential parts of the record?

Mr. GILLESPIE. Yes, sir, and that is what we are doing in this case. The court order, the hearing on the motion to suppress, and the finding. We agreed and stipulated everything in the hearing on the motion to suppress would be used on the merits and stipulated to jurisdiction and then appealed.

Chairman PEPPER. One other thing. What general observation would you make about what might be done to reduce crime in the country? Do you find that crime in general is committed by relatively few people, most of whom are repeaters, or a large number of whom are repeaters?

Mr. GILLESPIE. Sir, we are going through an era in this country and I don't know how to describe it. I practice any place where I am hired, you understand, but I went down to the southern district of Texas, Laredo division, presided over by the chief judge, the Honorable Ben Connally. I saw youngsters, doctors' sons, lawyers' sons, dentists' sons, professional people charged with possessions of such quantities of marihuana that years ago would have been unheard of. Yet, I don't think the severity of the punishment, for example, under 21 U.S.C. 174, 176(A), which I know Mr. Rangel is very familiar with, minimum-maximum type of sentences did any good. The reduction of the sentences hasn't done any good. What I am saying is I don't know the answer either. Unless it is education with youngsters in school.

Chairman PEPPER. We had testimony here the other day that in the city of Philadelphia—this was by one of their local judges—that young people under 18 years of age committed 25 percent of the murders, 40 percent of the robberies, and 39 percent of the burglaries. Imagine now, young people under 18 years of age. We have had the figure that, I believe, 25 percent in general of the country, 25 percent of the serious crimes or index crimes committed by people under 18; 40 percent, I believe, under 21; 51 percent under 25; and about 60 percent under 28. So that you get two-thirds of the crime of serious character in this country in general committed by people under 28 years of age.

Mr. GILLESPIE. Agreed.

Chairman PEPPER. I have seen the figures that in those who have long-term sentences in prison, that they average three periods of incarceration prior to the fourth one.

Mr. GILLESPIE. Where he can become well educated in other areas of sophistication.

Chairman PEPPER. One of the subjects we are very much concerned about is the penal system, or the correctional institution program. Have you any comment to make on that? What kind of sentences, what kind of action with respect to people charged with crime by the courts is most effective in dealing with the problem of crime?

Mr. GILLESPIE. Again, Mr Chairman, it depends whether you are asking about crimes of violence or hardened criminals.

Chairman PEPPER. I am talking primarily about serious crime. What can be done with what we call index crimes, burglary, robbery, and rapes?

Mr. GILLESPIE. I know since the abolition of the death sentence in Texas, assault with firearms in my State carried a minimum of 5 years and a maximum penalty of death, and we have had a monumental increase in our community in crimes of robbery by assault with firearms. Because, I consider a robber probably one of the most dangerous type criminals because he is violent, he is premeditated in his conduct, and he won't hesitate to kill if you resist him. This is one of the areas—I am a defense lawyer, but I feel I can't imagine any more penalty in our State than the death penalty. We don't have it now, of course, and I don't know what to do about it.

The Sigmon Service Station, Shamrock Service Station, and Stop-and-Go Ice Houses are constantly robbed. If I come home late at night and stop at the Stop-and-Go and buy a package of cigarettes they look at me with very jaundiced eyes at 11 o'clock at night, and they stay open until midnight. I don't think the severity of punishment is the answer.

You recall, Mr. Chairman, in England, to show an example, they would hang pickpockets and they had to stop the public hanging because too many people were having their pockets picked.

I can't give you the answer. I am sorry.

Mr. RANGEL. Didn't you say the penalty was a deterrent? I thought you were about to say that, and then we went back to England.

Mr. GILLESPIE. It doesn't deter. I don't know what deters. I certainly believe the statute deters narcotic transactions among young people.

Mr. RANGEL. Were you saying that since the abolition of the death penalty, you have found a sharp increase in armed robbery?

Mr. GILLESPIE. Yes, sir.

Mr. RANGEL. You do believe there is a connection?

Mr. GILLESPIE. There has got to be because of this sharp rise. Our district attorney, for example, won't negotiate a plea on an armed robbery because the publicity in the newspapers is so violently opposed to any negotiation involving a crime of violence, such as armed robbery, which is very prevalent. They are more prone to be kindly to a man charged with a barroom killing than an armed robbery. But those crimes are different than a robbery. Two people in a bar can get into an argument and one suddenly pokes the other one, who has a cardiovascular defect, and he dies. That is certainly not murder one. It's aggravated assault in my State. But robbery, I think, there is a definite indication the robber knows if he is caught he is not going to be facing a jury if they can impose a death penalty.

Chairman PEPPER. Mr. Winn?

Mr. WINN. No questions.

Chairman PEPPER. Mr. Mann?

Mr. MANN. No, thank you, Mr. Chairman.

Chairman PEPPER. Anything else, Mr. Rangel?

Mr. RANGEL. No.

Chairman PEPPER. Counsel?

Mr. NOLDE. You testified that the result of this procedure is to speed up the system and that defense attorneys can therefore represent more clients. I take it there is more to it than that. What incentive would the defendant's attorney have in participating in this omnibus procedure, particularly where the defendant is clearly guilty? What would he have to gain by full disclosure?

Mr. GILLESPIE. What he would have to gain, if your client, for example told you—in the embezzlement situation I discussed earlier, the man told me he was not guilty. He was assisted by the fact that we gave him his day in court as he desired. I was able to use the Government's own witness to paint him a little different color than that he was an evil person, and I used the Government's witnesses. I had to use whatever means available that were ethical and legal. His rights were protected, he insisted on testifying, and said he didn't do it. And until this day, he tells me he didn't take that money. I have known him for about 5 years now. He was given a very short sentence. But I was able to use the Government's witness and we gave them handwriting exemplars and in return that did not show he did do it.

But there is no giving up of any defendant's rights. If my clients don't want to participate, I just tell the court we don't participate in it and that is the end of it.

Mr. NOLDE. How did Judge Spears manage to persuade the defense lawyers to cooperate with him?

Mr. GILLESPIE. The same magic any Federal judge uses when he asks you to do something. It is merely a request. And when I was honored to appear before this committee, I was preparing an appeal brief and Judge Spears asked me, "You would like to go to Washington? I said, "Yes, your Honor." That is the magic.

Mr. NOLDE. Any judge with the desire?

Mr. GILLESPIE. It has to be a strong judge. If a judge says, "We are going to utilize this, and this is what we are going to do, gentlemen, I appreciate your cooperation," you will get it done.

Mr. NOLDE. Thank you very much.

Chairman PEPPER. Mr. Gillespie, we certainly thank you. You have given us most interesting and most helpful testimony. We appreciate it. We hope you haven't lost too much time in the preparation of that brief.

Thank you very much. I hope you have a pleasant trip home.

Mr. GILLESPIE. Thank you.

[The following checklist and prepared statement of Mr. Harrison, previously referred to, were received for the record:]

Form OH–3; 6–28–67; Revised 5–15–69.

UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF TEXAS, SAN ANTONIO DIVISION

UNITED STATES OF AMERICA v. ————————

Defendant

Criminal No.————————

INSTRUCTIONS

If an item numbered below is not applicable to this case, then counsel will note the same in the margin opposite the item number with the letters "N.A."

A. DISCOVERY BY DEFENDANT

(Circle Appropriate Response)

1. The defense states it (has) (has not) obtained full discovery and (or) has inspected the government file, (except)

(If government has refused discovery of certain materials, defense counsel shall state nature of material: _____
_____.)

2. The government states it (has) (has not) disclosed all evidence in its possession, favorable to defendant on the issue of guilt. In the event defendant is not satisfied with what has been supplied him in response to questions 1 and 2 above then:

3. The defendant requests and moves for—(Number circled shows motion requested)

3(a) *Discovery* of all oral, written or recorded statements or memorandum of them made by defendant to investigating officers or to third parties and in the possession of the government. (Granted) (Denied)

3(b) *Discovery* of the names of government's witnesses and their statements. (Granted) (Denied)

3(c) *Inspection* of all physical or documentary evidence in government's possession. (Granted) (Denied)

4. Defendant, having had discovery of Items #2 and #3, (requests and moves) (does not request and move) for *discovery* and *inspection* of all *further* or *additional* information coming into the government's possession as to Items #2 and #3 between this conference and trial. (Granted) (Denied)

5. The defense moves and *requests* the following information and the *government states*—(Circle the appropriate response)

5(a) The government (will) (will not) rely on prior *acts* or convictions of a similar nature for proof of knowledge or intent.

(1) Court rules it (may) (may not) be used.

(2) Defendant stipulates to prior conviction without production of witnesses or certified copy. (Yes) (No)

5(b) Expert witness (will) (will not) be called:

(1) Name of witness, qualification and subject of testimony, and reports (have been) (will be) supplied to the defense.

5(c) *Reports or tests of physical or mental examinations* in the control of the prosecution (have been) (will be) supplied.

5(d) *Reports of scientific tests, experiments or comparisons and other reports of experts* in the control of the prosecution, pertaining to this case (have been) (will be) supplied.

5(e) *Inspection and/or copying of any books, papers, documents,* photographs or tangible objects which the prosecution—(Circle appropriate response)

(1) obtained from or belonging to the defendant, or

(2) which will be used at the hearing or trial, (have been) (will be) supplied to defendant.

5(f) Information concerning a *prior conviction* of persons whom the prosecution intends to call as witnesses at the hearing or trial (has been) (will be) supplied to defendant.

5(g) Government (will) (will not) use *prior felony conviction for impeachment* of defendant if he testifies,

Date of conviction_____ Offense_____

(1) Court rules it (may) (may not) be used.

(2) Defendant stipulates to prior conviction without production of witnesses or certified copy. (Yes) (No)

5(h) Any information government has, indicating *entrapment* of defendant (has been) (will be) supplied.

B. MOTIONS REQUIRING SEPARATE HEARING

6. The defense *moves*—(number circled shows motion requested)

6(a) To *suppress* physical evidence in plaintiff's possession on the grounds of—(Circle appropriate response)

(1) Illegal search and seizure

(2) Illegal arrest

6(b) Hearing on motion to suppress physical evidence set for :

(Defendant will file formal motion accompanied by memorandum brief within ____ days. Government counsel will respond within ____ days thereafter.)

6(c) To suppress admission or confessions made by defendant on the grounds of—(Circle appropriate response)

(1) Delay in arraignment
(2) Coercion or unlawful inducement
(3) Violation of the *Miranda* Rule
(4) Unlawful arrest
(5) Improper use of lineup (Wade, Gilbert, Stovall decisions)
(6) Improper use of photographs

6(d) Hearing to suppress admissions, confessions, lineup and photos is set for:

(1) Date of trial, or
(2) ---

(Defendant will file formal motion accompanied by memorandum brief within ____ days. Government counsel will respond within ____ days thereafter.)

The government to state:

6(e) Proceedings before the grand jury (were) (were not) recorded.

6(f) Transcriptions of the grand jury testimony of the accused, and all persons whom the prosecution intends to call as witnesses at a hearing or trial (have been) (will be) supplied.

6(g) *Hearing re supplying* transcripts set for

6(h) *The government to state:*

(1) There (was) (was not) an *informer* (or lookout) involved;
(2) The informer (will) (will not) be called as a witness at the trial;
(3) It has supplied the name, address and phone number of the informer;

or

(4) It will claim privilege of non-disclosure.

6(i) *Hearing on privilege set for*

6(j) *The government to state:*

There (has) (has not) been any—(Circle appropriate response)

(1) Electronic surveillance of the defendant or his premises;
(2) Leads obtained by electronic surveillance of defendant's person or premises;
(3) All material will be supplied, or

6(k) Hearing on disclosure set for

C. MISCELLANEOUS MOTIONS

7. The defense *moves*—(Number circled shows motion requested)

7(a) To *dismiss* for failure of the indictment (or information) to state an offense (Granted) (Denied)

7(b) To *dismiss* the indictment or information (or count ——— thereof) on the ground of duplicity. (Granted (Denied)

7(c) To sever case of defendant ——————— and for a separate trial. (Granted) (Denied)

7(d) To severe count ——— of the indictment or information and for a separate trial thereon. (Granted) (Denied)

7(e) For a *Bill of Particulars.* (Granted) (Denied)

7(f) To take a *deposition* of witness for testimonial purposes and not for discovery. (Granted) (Denied)

7(g) To require government to secure the *appearance* of witness ——————— who is subject to government direction at the trial or hearing. (Granted) (Denied)

7(h) To *dismiss* for delay in prosecution. (Granted) (Denied)

7(i) To inquire into the *reasonableness of bail.* Amount fixed ————. (Affirmed) (Modified to ————.)

D. DISCOVERY BY THE GOVERNMENT

D.1. *Statements by the defense in response to government requests.*

8. *Competency, Insanity, and Diminished Mental Responsibility*

8(a) There (is) (is not) any claim of incompetency of defendant to stand trial.

8(b) Defendant (will) (will not) rely on a defense of insanity at the time of offense;

If the answer to 8(a) or (b) is "will" the

8(c) Defendant (will) (will not) supply the name of his witnesses, both lay and professional, on the above issue;

8(d) Defendant (will) (will not) permit the prosecution to inspect and copy all medical reports under his control or the control of his attorney;

8(e) Defendant (will) (will not) submit to a psychiatric examination by a court appointed doctor on the issue of his sanity at the time of the alleged offense.

9. *Alibi*

9(a) Defendant (will) (will not) rely on an alibi;

9(b) Defendant (will) (will not) furnish a list of his alibi witnesses (but desires to be present during any interview).

10. *Scientific Testing*

10(a) Defendant (will) (will not) furnish results of *scientific* tests, experiments or comparisons and the names of persons who conducted the tests.

10(b) Defendant (will) (will not) provide the government with all records and memoranda constituting documentary evidence in his possession or under his control or (will) (will not) disclose the whereabouts of said material. If said documentary evidence is not available but destroyed, the defense (will) (will not) state the time, place, and date of said destruction and the location of reports, if any, concerning said destruction.

11. *Nature of the Defense*

11(a) Defense counsel states that the general nature of defense is—(Circle appropriate response)

(1) Lack of knowledge of contraband
(2) Lack of specific intent
(3) Diminished mental responsibility
(4) Entrapment
(5) General denial. Put government to proof, but (will) (may) offer evidence after government rests.
(6) General denial. Put government to proof, but (will) (may) offer no evidence after government rests.

11(b) Defense counsel states it (will) (will not) waive husband and wife privilege.

11(c) Defendant (will) (may) (will not) testify.

11(d) Defendant (will) (may) (will not) call additional witnesses.

11(e) Character witnesses (will) (will not) be called.

11(f) Defense counsel will supply government names, addresses, and phone numbers of additional witnesses for defendant _____ days before trial.

D. 2. Ruling on government request and motions

12. Government *moves* for the defendant—

12(a) to appear in a *lineup.* (Granted) (Denied)

12(b) to speak for *voice identification* by witness. (Granted) (Denied)

12(c) to be *finger printed.* (Granted) (Denied)

12(d) to pose for *photographs.* (not involving a re-enactment of the crime) (Granted) (Denied)

12(e) to *try on articles of clothing.* (Granted) (Denied)

12(f) *Surrender clothing or shoes* for experimental comparison. (Granted) (Denied)

12(g) to permit taking of specimens of material *under fingernails.* (Granted) (Denied)

12(h) to permit taking *samples of blood, hair, and other materials of his body* which involves no unreasonable intrusion. (Granted) (Denied)

12(i) to provide *samples of his handwriting.* (Granted) (Denied)

12(j) to submit to a physical *external inspection of his body.* (Granted) (Denied)

E. STIPULATIONS

If the stipulation form will not cover sufficiently the area agreed upon, it is recommended that the original be attached hereto and filed at the omnibus hearing.

(All stipulations must be signed by the defendant and his attorney as required by Rule 17.1, F.R.Cr.P.)

13. It is stipulated between the parties:

13(a) That if _____ were called as a witness and sworn he would testify he was the owner of the motor vehicle on the date referred to in the indictment (or information) and that on or about that date the motor vehicle disappeared or was stolen and that he never gave the defendant or any other person permission to take the motor vehicle.

_____ _____
Attorney for Defendant Defendant

13(b) That the official report of the chemist may be received in evidence as proof of the weight and nature of the substance referred to in the indictment (or information).

_____ _____
Attorney for Defendant Defendant

13(c) That if _____ the official government chemist were called, qualified as an expert and sworn as a witness he would testify that the substance referred to in the indictment (or information) has been chemically tested and is _____ and the weight is _____.

_____ _____
Attorney for Defendant Defendant

13(d) That there had been a continuous chain of custody in government agents from the time of the seizure of the contraband to the time of the trial.

_____ _____
Attorney for Defendant Defendant

13(e) Miscellaneous stipulations:

_____

_____

_____

_____

_____

_____ _____
Attorney for Defendant Defendant

F. CONCLUSION

14. Defense counsel states:

14(a) That defense counsel as of the date of this conference of counsel knows of no problems involving delay in arraignment, the *Miranda* Rule or illegal search and seizure or arrest, or any other constitutional problem, except as set forth above. (Agree) (Disagree)

14(b) That defense counsel has inspected the check list on this OH–3 Action Taken Form, and knows of no other motion, proceeding of request which he desires to press, other than those checked thereon. (Agree) (Disagree)

15. Defense counsel states:

15(a) There (is) (is not) (may be) a probability of a disposition without trial.

15(b) Defendant (will) (will not) waive a jury and ask for a court trial.

15(c) That an Omnibus Hearing (is) (is not) desired, and government counsel (agree) (disagree)

15(d) If all counsel conclude after conferring, that no motions will be urged, that an Omnibus Hearing is not desired, they may complete, approve and have the defendant sign (where indicated) Form OH–3, and submit it to the Court not later than five (5) days prior to the date set for the Omnibus Hearing, in which event no hearing will be held unless otherwise directed by the Court.

15(e) If a hearing is desired, all counsel shall advise the Court in writing not later than five (5) days prior to the date set for the Omnibus Hearing *whether* or *not* they will be ready for such hearing on the date set in the Order Setting Conference of Counsel and Omnibus Hearing.

Approved: Date: _____

_____
Attorney for the United States

So ordered:

_____
Attorney for Defendant

_____
United States District Judge

_____
Defendant

STATEMENT OF REESE L. HARRISON, JR., SPECIAL ASSISTANT U.S. DISTRICT ATTORNEY, WESTERN DISTRICT OF TEXAS

Mr. Chairman and members of the committee: What is Omnibus? Some of my fellow prosecutors have termed it "Omnious". Black's Law Dictionary defines it as "embracing the whole of a complex subject matter by uniting all parties in interest having adverse or conflicting claims, thereby avoiding circuity or multiplicity of action." It simply means that issues in criminal cases which normally would be raised at the trial are fully explored prior to trial in a formal pretrial conference in open court in a manner similar to that contemplated by the Federal Rules of Civil Procedure.

The problem with the initiation of the Omnibus Hearing Project is that it is different and "goes against the grain", so to speak, of a prosecuting attorney. When I first became a prosecuting attorney the prosecution told the defendant very little and the defendant told the prosecution even less. Some argue that the Omnibus Hearing Project is inconsistent with the adversary system. If "trial by ambush" is what is meant by the adversary system, then I think it is outmoded and should be discarded for our objective is a "search for the truth", and not the defeat of an enemy by a clever surprise. Preparation for trial should not be purely a guessing game. However, it has been my personal experience that I am more of an adversary under the project than I was prior thereto for the reasons hereinafter explained. For one to be an effective advocate he must have initiative and resourcefulness. These attributes will lead to avenues never before dreamed of by the prosecution.

Under the Omnibus Hearing Project it is not inappropriate, nor does it violate the Fifth Amendment privilege, for the defendant to disclose all real and documentary evidence he intends to introduce into evidence prior to the time of trial, so that the prosecution will not be surprised. A statement of testimonial evidence that will be offered from the defense witnesses, other than the defendant, is also supplied for like reasons. Diligent and reesourceful prosecutors can obtain this information when the defendant enters into the project where formerly the prosectuors had no idea what evidence, if any, would be offered by the defendant. Of course, you will say to yourself, "a defendant never has any evidence to offer!" That may be true in a great number of cases, but there is an increasing number of criminal cases where a defendant offers a full and sophisticated defense, which prior to the initiation of the project was unknown to the prosecution. The prosecution now learns the names and addresses of defense witnesses in advance, thus enabling it to send prosecution officials to interview them and pin down their testimony.

Under the project, the defendant furnishes written reports of expert witnesses in advance of the trial. The prosecution may call in prosecution experts to assist in developing a plan of cross-examination of defendant's experts, and to assist in finding areas of vulnerability in the report of the defense's expert witnesses.

Under the project, the prosecution secures a list of character witnesses and their addresses, from which it can adduce information resulting in the dis-

qualification of those witnesses, thereby prohibiting said witnesses from testifying relative to the character of the defendant. In addition, knowing who the character witnesses are, and from what locality or institution they come, produces a source from which the prosecution is able on occasion to find witnesses whose testimony with respect to the defendant's character is unfavorable to the defendant.

Alibi witnesses and their addresses can be secured by participation in the project. This gives the prosecution an opportunity to explore the alibi, and in many instances assemble facts which show that the claimed alibi is not, in fact, an alibi at all, and that the act resulting in the offense could still have taken place in spite of the alibi defense.

The project requires that all motions to suppress confessions and admissions, as well as those with respect to searches and seizures, must be heard in advance of trial. The effect is twofold. First, long and costly delays where the jury is retired from the courtroom while an intrial hearing is held on the motion to suppress are eliminated. Secondly, in many narcotic cases the principal issue is not whether the defendant was in possession of the contraband, but on the contrary, the issue is the legality of the search, i.e. probable cause for the warrant, the manner of execution of the warrant, etc. Many times we have found that the defendant who wants his day in Court is satisfied with a hearing on a motion to suppress. Following the hearing, if the Court denies the motion, the defendant will oftentimes agree to try the case before the Court without a jury. This allows the Court to consider the evidence already received at the hearing on the motion to suppress, and for the prosecution to offer, and the Court to receive, such other evidence as the prosecution considers necessary to bring about a conviction, whereupon the Court makes a finding of either guilt or innocence. This results in the defendant preserving his record on the question involving the motion to suppress so that he can take his appeal on this issue, thus eliminating the delay and cost of empanelling a jury and having witnesses stand around in the halls two to three days waiting to be called to testify during the trial.

One of the most important advantages of the project is the elimination of the written motion practice, whereby counsel are required to file written motions accompanied by briefs in support thereof and the substitution of the pretrial order "check list" of motions. The written motion and memorandum brief in support thereof is a wholly desirable practice, in and of itself, where the question is unique and one of first impression, but it is a time consuming problem resulting in a backlog in the steno pool when the prosecution is required to answer motions of a "plain vanilla" nature. Motions in the latter category have in all probability been heard and considered on many occasions by the trial judge, and written motions and briefs are simply not that helpful to the Court. The project eliminates this practice and utilizes a pretrial order "check list", except in those instances where the Court feels that the issue is such that it should be explored more fully and completely in written memoranda briefs offered by counsel for both sides. These instances are rare and because of this fact, so-called "plain vanilla" motions requiring written briefs have been eliminated. Further, due to the elimination of the written motion practice just described, the prosecution can more effectively use and allocate the time which normally would be spent to research and brief motions of the "plain vanilla" nature, to brief and research the more difficult and unique questions of law in connection with which the Court requests written memorandum briefs from counsel on both sides. The hearings on all motions written or checked off on the pretrial order are held at the pretrial conference, referred to as the Omnibus Hearing, at which time the issues are resolved, the defendant makes his record, and the error, if any, in the trial court denying the written motions is preserved.

The Omnibus Hearing Project, by resulting in a full disclosure of the prosecution file, reduces, if it does not entirely eliminate, the problems involved under the rule of *Brady v. Maryland*, and its progeny. With full disclosure of the prosecution file, the defense is not surprised and no one should be able to convince a judge that the prosecution has withheld evidence favorable to the defendant on the issue of guilt, when *all the evidence* in the prosecution file has been furnished to the defendant prior to trial.

Finally, and perhaps the greatest advantage of the Omnibus Hearing, is that it results in more pleas of guilty than we have ever experienced in the past. This is brought about by making full disclosure of everything in the prosecution file to the defendant. At first blush, the prosecutors will be wholly skeptical and perhaps incensed, as I was. Many will say that the result of such disclosure of

the prosecution file will result in more acquittals and dismissals. However, the figures in the San Antonio Division of the Western District of Texas are to the contrary.

Why the increase in pleas of guilty? I have had many of the outstanding criminal defense lawyers of the San Antonio Bar state that they are apprehensive about advising their client to plead guilty if they do not know the merits of the prosecution's case. When the defendant has the opportunity to see the prosecution's case and discuss the same with his lawyer, and both are fully informed concerning the same, the criminal defense lawyers tell me that their clients are more receptive to pleading guilty then prior to the implementation of the project. One reason for this is that the defense attorney and his client are able to base their discussion concerning a plea of guilty by what is contained in the prosecution's file.

The success of the Omnibus Hearing Project depends upon strong leadership from the Bench, an imaginative and resourceful prosecutor, and a defense bar that responds in a highly professional manner.

Chairman Pepper. I have a staff synopsis and prepared statement from Prof. Etzioni of Columbia University which will be placed in the record.

[The material referred to follows:]

Staff Synopsis of Prof. Amitai Etzioni

Professor Amitai Etzioni obtained his Ph. D. at the University of California in Berkley in 1958. He is a professor of sociology and Chairman of the Sociology Department at Columbia. The Professor has been a consultant for government agencies at the Federal, State, and Municipal level and has written widely for professional and other journals here and abroad including the New York Times and the Washington Post.

Professor Etzioni presents three policies to reduce crime by one third in twelve months and substantiates his theories with considerable statistical data all of which I have enclosed. The policies investigated by the Professor and his associates are: the decriminalization of victimless crimes, which would result in a reduction of annual arrests of 31 per cent; a program of full employment—meaningful and decent paying—of young people that would result in a 9 per cent reduction of violent crime; and domestic disarmament that would result in a decrease in murder from 40 per cent to 45 per cent and an estimated decrease in armed robbery of 23 to 26 per cent. Professor Etzioni also calculated secondary reduction in crime that follows the freeing of police personnel as a result of the above reductions.

We are all aware of the court congestion problem presented by victimless crimes. Not only does the Professor suggest methods of alleviating the conditions but he statistically substantiates his assertions.

Professor Etzioni is concerned with domestic disarmament and asserts that if this could be achieved there would be a decrease in murder from 40 to 50 per cent and an estimated decrease in armed robbery from 23 to 26 per cent. He does not advocate the type of gun control that has met so much legislative resistance but feels if guns were removed from private hands as in Canada, Britain, France, West Germany and Israel that 85 per cent of all guns could be removed. A person who wanted the use of a gun would have to remove the same from a gun bank and return it after he had gone hunting or used it in some other lawful manner.

The third attack that Professor Etzioni would make on crime is meaningful employment for youth because he points out statistically that crime is very much a youthful occupation and that unemployment which is itself disproportionately associated with crime is disproportionately high among the youth.

Using 1970 as a base year the Professor presents statistics which shows that more than half of all arrests are persons under 25. He relates this to the high unemployment rate for persons in that age bracket and concludes that meaningful employment of the young would bring about a reduction in crime.

Three Policies To Reduce Crime by One-third in Twelve Months

(By Amitai Etzioni)

(Research Assistance: Joshua Freeman)

GENERAL CONCLUSION

So called "liberal" crime-reduction policies, which have not been implemented so far, would reduce crime *significantly* and *quickly*, our projections show that if really given a chance we would see a decline of crime between 36 & 39% within twelve months.

The three policies we have investigated are: the decriminalization of victimless crimes, which would result in a reduction of annual arrests of 31 per cent; a program of full employment—meaningful and decent paying—of young people that would result in a 9 per cent reduction of violent crime; and domestic disarmament that would result in a decrease in murder from 40 per cent to 45 per cent and an estimated decrease in armed robbery of 23 to 26 per cent.

We further calculated the secondary reduction in crime that would come with the freeing of police resources as a result of the above reductions; this amounted to another 3.3 per cent to 3.4 per cent annually.

In sum, we project a total reduction in all crime, as measured by arrests, of from 35.9 per cent to 38.8 per cent annually. The three policies that would effect this reduction could be implemented within the next twelve months and they are vastly more effective than any reduction even advocates of the death penalty could hope for.

METHODS OF COMPUTATION

Our projections are based on 1970 data, the most complete currently available data on crime. When relevant, both a pessimistic and an optimistic projection, as regarding the effects of the suggested policies, were made. Note that while the pessimistic projections are very cautious, the optimistic ones are not excessively so. The reasons we used such conservative projections is that we wished to bend over backward, to be extra careful in our conclusions. Nevertheless, even the more pessimistic projection suggests that more than a third of the crime in the U.S.A. (35.9%) could be eliminated within the next twelve months, if the Congress, the Executive and the courts saw fit to implement, in conjunction, the following three policies often discussed but never implemented in this country.

THE MEASURE OF DECRIMINALIZATION OF VICTIMLESS CRIMES

Again and again the national debate about crime conjures up the image of the mugger, robber, rapist and assassin. Often overlooked is that a sizeable part of the crime wave is made up of crimes which have no harmful effect on anyone other than the perpetuator and even the harmful effects on him are not fully established. A staggering 2,066,035 arrests, of the total of 6,570,473 reported in 1970[1], a full third, were for victimless crimes. (These victimless crimes include prostitution, gambling, drunkenness, runaways, and marajuana violations.)

Some of these victimless crimes, such as prostitution and gambling, involve moral issues. In effect then, our police are punishing people who misbehave by the code of established members of the community, or by a code of behavior that is no longer responsive to the community, rather than protecting body or prop-

[1] Unless noted, all arrest statistics are from the FBI, U.S. Department of Justice *Uniform Crime Reports—1970* (Washington, D.C.: U.S. Government Printing Office, 1970), hereafter cited as UCA. 5,270 agencies, representing a 1970 population of 151,604,000 (or 75% of the country), reported the arrests under their jurisdiction according to standardized FBI procedures. If a person is arrested and charged with several offenses, this is counted as only one arrest (which is listed under the most serious charge involved). If an individual is arrested on several separate occasions, or several persons are arrested for the same offense, each arrest is counted separately. Traffic offenses are not included in these statistics. For a fuller discussion of the *UCR* see Marvin E. Wolfgang, "Uniform Crime Reports: A Critical Appraisal," University of Pennsylvania Law Review, p. 721 (1963), and *Crimes of Violence*. A staff report submitted to the National Commission of the Causes and Prevention of Violence. Washington: U.S. Government Printing Office, December 1969, Part I Chapter 2.

erty from violence. However, the most common arrest in the area of victimless crimes is for a "crime" which only a minority consider more than a breach of good manners, namely drunkenness. 1,512,672 arrests, or 23%, of the total arrests reported were for this charge. This does not include those arrested for drunken driving (432,522 arrests), liquor violations (222,464) or alcohol related crimes. (In line with our cautious approach, we included *none* of the 9% of all arrests which involved a simple "breach of the peace" at least some of which surely involve victimless crimes, e.g. boisterous drunk.) Computing only those arrests concerned with drunkeness alone locates this as the leading victimless crime: over twice as many arrests are reported on this charge as for the next largest cause for arrest, larcency.

Sex offenses, *other than forcible rape*, account for 1.5% of all arrests. There were about 49,000 arrests for prostitution and commercialized vice, and an equal number for other sex offenses,[2] for a total of 98,722 arrests. Practically all of these "criminals" are consenting adults, who in other countries, for instance in Britain, would not have been arrested. Police sources, who indicate that the policemen often are quite happy to get out of the social work and "moral" business, and focus on chasing criminals, occasionally suggest that prostitution should be controlled because it "leads" to other crimes, especially theft (or "rolling"). But the arrests reported here include only those in which charges no more serious than prostitution are also involved.

Gambling accounted for another 1.3% of all arrests, with 84,804 arrests made on this charge in 1970. The extent to which communities still view gambling as a sin varies, but this seems to be on the decline. Virtually nobody now seriously views it as a "crime," other than in the tautological sense, i.e. "because the law says so."

These crimes also raise a constitutional issue. Only a very small fraction of all gamblers, homosexuals, or prostitutes are arrested: when only a minute proportion of those committing a crime are punished, the punishment might legally be considered "arbitrary", and as such be unconstitutional. On these grounds the Supreme Court might be able to relieve the society from the obsolescent grip of laws prohibiting victimless crimes by striking them off the books.

As for drunkenness, expert after expert has testified, that drunks should be turned over to medical, rather than police authorities; the latter merely lock them up for the night, release them the next day, without the benefit of any long-term treatment, and then, simply rearrest them shortly thereafter.

If runaways as well as drunkards, were to be handled by authorities other than the police, in this case, social work agencies, the number of arrests would fall by another 179,073 a year.

While the treatment of marijuana is much more controversial, the evidence shows that this is not more but less harmful than alcohol. Moreover, it pacifies and does not cause aggressive behavior. A Presidential commission has recommended that it be decriminalized. This would reduce the annual number of arrests by another 190,764 (by 1970 figures) or 2.9%.[3]

All said and done, if the categories of victimless crimes listed above were decriminalized, 31.4% per cent of all arrests, or 2,066,035, would be eliminated.[4]

It may at first seem that this crime reduction is strictly semantic i.e., some acts, which are not harmful to body or property of others or the community, were once called crimes, we cease to call them crimes, and—we report less crime. But there is a corollary, very real, crime reduction effect: a giant pool of police resources would be freed to focus on the crimes which do have victims.[5] And, hundreds of thousands of people, many quite young, who are legally labelled "criminals" and taught to see themselves as such, and are thus forced into contacts with criminal sub-cultures and organizations, would themselves no longer so pushed by the society and its obsolescent laws.

EMPLOYMENT OF THE YOUNG, AND CRIME PREVENTION

Crime is very much a youthful occupation. Many young offenders "retire" by the time they reach 25, even if they were not caught or arrested. More than half of

[2] Included in "other sex offenses" are statutory rape, offenses against chastity, morals-common decency and so forth.

[3] *Marijuana: A Signal of Misunderstanding*, First Report of the National Commission on Marijuana and Drug Abuse, Washington: U.S. Gov't Printing Office, March 1972, P–106–7.

[4] This is simply the summed total of arrests, for the above listed "victimless crimes."

[5] This effect is discussed in the final section of this report.

all arrests, 52.4%, are of persons under 25. (25.3%—under 18.) 77% of all robbers arrested are less than 25 years old.[6]

Second, unemployment which is itself disproportionately associated with crime, is disproportionately high among the young. Using 1970 as a base year, we find that while the un-employment rate for all males was 4.4%, the rate for males aged 16 and 17 was 16.9%, for males aged 18 and 19, 13.4% and for those 20–24 years old, 8.4%. Likewise, while the overall rate for women was 5.9%, for those 18 and 19, 14.4%, and for those 20–24 years old, 7.9%. For non-white persons the rates are even higher than the overall rates, reaching a peak of 36.9% unemployment for non-white females, age 16 and 17.[7]

Finally, it should be noted that unemployment rates are still higher when we look specifically at urban poverty neighborhoods. Thus, while the overall unemployment rate for the entire population was 4.9% in 1970, it was one and one half times as much (7.6%) in urban poverty neighborhood.[8]

TABLE 3.—*Unemployment by sex, race, and age, 1970*

	Percent
Total	4.9
Male	4.4
Age:	
16 to 17	16.9
White	15.7
Nonwhite	27.8
18 to 19	13.4
White	12.0
Nonwhite	23.1
20 to 24	8.4
White	7.8
Nonwhite	12.6
Female	5.9
Age:	
16 to 17	17.4
White	15.3
Nonwhite	36.9
18 to 19	14.4
White	11.9
Nonwhite	32.9
20 to 24	7.9
White	6.9
Nonwhite	15.0

Source: "Manpower Report to the President" U.S. Department of Labor, March 1972 (U.S. Government Printing Office) p. 177–179.

[6] *Uniform Crime Reports, 1970*, p. 126–27. Table I presents a summary of the relevant data.

An independent study of 17 cities, using 1967 data, supplied directly by the local authorities came up with very similar findings, as shown in Table 2. See Crimes of Violence, Vol. II, A Staff Report Submitted to the National Commission on the causes and prevention of Violence, Washington, D.C.: U.S. Government Printing Office, December, 1969, PP 267, 271, 275, 279, 283.

[7] *Manpower Report to the President*, U.S. Department of Labor, March 1972, (U.S. Government Printing Office) p. 177–179. Table 3 gives a complete summary of the relevant data.

The rates calculated by the Dept. of Labor are based on a monthly survey of households, in which the number of persons actively seeking work is ascertained. It has been widely stated that this method of calculation significantly underestimates the true unemployment rate, since those unable to find work, and so discouraged that they have ceased active search, are not counted as being unemployed, but rather as not being in the work force. Furthermore, those seeking full-time work, but presently employed involuntarily on a part-time basis only, are counted as fully employed. In a study of long-term Civilian Labor Participation Rates, and forced part-time employment, Paul Sweezy has estimated that real unemployment is about 1.5 times the Dept. of Labor figure. (See Paul Sweezy, "Economic Stagnation and the Stagnation of Economics", *Monthly Review*, 22:11 (April 1971).

As will be seen later, we have therefore made projections based both on the official rates and rates 1.5 times as high as the official ones.

[8] "The poverty neighborhood classification used is based on a ranking of census tracts according to 1960 data on income, education, skills, housing, and proportion of broken families. The poorest one-fifth of these tracts in the Nation's 100 largest metropolitan areas are considered poverty neighborhoods. As such some persons above the poverty level are probably included and some poor persons living in other urban neighborhoods excluded." From: U.S. Dept. of Labor, *Manpower Report to the President*, March 1972, U.S. Government Printing Office, p. 251.

While there do not seem to be any recent national statistics on the socio-economic status of criminal offenders or their occupational status,[9] there are several studies which allow us to estimate the proportion and number of crimes committed by unemployed young persons, and the effect of full and meaningful employment of the young on crime. The most comprehensive study of the occupational status of offenders was the study of major crime in 17 cities in 1967, conducted by the National Commission on the Causes and Prevention of Violence.[10]

Using the data in that study, we can calculate the rate at which unemployed and employed persons commit crimes.[11] We calculated these rates in two ways, once using the unemployment rates for these cities presented by the U.S. Department of Labor, and once using rates one and a half times as great, in order to compensate for official unemployment rates undercounting the chronically unemployed, particularly among the young. (They include only those who actively seek employment.)[12]

Assuming that those currently unemployed would, if employed, commit crimes not at the rate they currently do so, but rather at the rate of those currently employed (if only because the hours spent at work, or resting from it, are not spent stalking the street in search of a "mark"), we can calculate the percentage decrease in crime that would result from conditions of full employment of all persons.[13]

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[9] A local study of the District of Columbia found that 44% of Black and 40% of White offenders in major violent crimes were unemployed. See *Report of the President's Commission on Crime in the District of Columbia*, Washington, D.C., United States Government Printing Office, 1966, pp. 131–132.

[10] This study, and the raw data collected for it, comprise Chapter 5 and Appendix 11 respectively, of Volume 11, *Crimes of Violence*, of the Commission's Report, op. cit.

[11] We calculated the rate at which unemployed and employed persons commit crime as follows:

The 17 city study gives the total number of offenses in 1967 in these cities for criminal homicide, forcible rape, aggravated assault, and armed and unarmed robbery. It also gives the percentage of offenses in each category committed by each occupational group, which can be subtotaled into offenses committed by unemployed persons, offenses committed by employed persons, and offenses committed by persons not in the work force (i.e. students, housewives, etc.). Table 4 column 1 presents the percentages for unemployed and employed persons. Unless some occupation was stated, all persons 17 or under were listed as students, and therefore not in the work force. Thus a proportion of crimes committed by persons under 17 who were actually unemployed, that is neither students nor employed, were listed as being committed by students. (Presumably those minors *with* a job were listed under that occupational grouping as well). The effect of this bias is to *decrease* the amount of crime reported to have been committed by unemployed persons.

By multiplying the *number* of offenses in each category by the *percentage* committed by employed and unemployed persons respectively, we calculated the actual number of crimes committed by each group in these cities in 1967. (For this and other calculations see table 4).

We used the 1967 employment data for these same 17 cities (from the *Manpower Report to the President*, April 1971) to determine the total number of individuals who were employed and who were unemployed. By dividing the number of offenses for each crime committed by unemployed and employed persons respectively, by the number of persons in each of these categories, we determined the number of offenses committed per thousand unemployed persons and per thousand employed persons, that is the *rates* of crime for unemployed and employed persons. These rates are shown in Table 4, column 4.

[12] Since it is widely asserted that many persons actually unemployed are categorized by the Department of Labor as being out of the work force (see footnote 6), we recalculated crime rates increasing by 50% the number of persons reported as unemployed in the 17 cities in 1967. (See Table 4).

[13] First we estimated the number of offenses in each crime category committed nationally by unemployed persons by multiplying the total number of offenses nationally by the percentage of the specific offenses committed by unemployed persons, as determined in the 17 city study (see Table 5 for full data and calculations). We then projected the number of crimes that would be committed by those currently unemployed if they committed crime at the employed person rate by dividing the number of crimes they currently commit by the ratio of the relevant unemployed crime rate to the employed crime rate (again as determined from the 17 city study). By subtracting the projected number of offenses that would be committed by those currently unemployed if fully employed, from the number of offenses currently committed by the unemployed, we have the reduction in the number of offenses that we could expect to result from full employment. Dividing this figure by the total number of offenses for that crime category, we can express the reduction as a percentage of current crime levels.

TABLE 4.—CRIME RATES: EMPLOYED VERSUS UNEMPLOYED; 17 CITIES, 1967[1]

	Percent committed by employment status	Number committed by employment status	Total number of persons (thousands) in employment status category[2]	Rate of crime/thousand persons by employment status[3]	Ratio unemployed vote/employed votes[4]
Criminal homicide, total offenses=3274[5]					
Unemployed	12.7	415.8	870.7	0.478	
			[6](1,306.1)	(.318)	5.975
Employed	59.9	1,961.1	24,616.5	.080	(3.985)
Aggravated assault, total offenses=75,198:					
Unemployed	15.0	11,279.7	870.7	11.620	
			(1,306.1)	(.8636)	8.714
Employed	43.7	32,861.5	24,616.5	1.335	(6.469)
Forcible rate, total offenses=7,908:					
Unemployed	15.7	1,241.6	870.7	1.426	
			(1,306.1)	(.951)	7.466
Employed	59.4	4,697.4	24,616.5	.191	(4.979)
Armed robbery, total offenses=63,718:[7]					
Unemployed	29.8	18,988.0	870.7	21.808	
			(1,306.1)	(14.538)	20.007
Employed	42.1	26,825.3	24,616.5	1.090	(13.3)
Unarmed robbery, total offenses=42,479:[7]					
Unemployed	5.6	2,378.8	870.7	2.732	9.324
			(1,306.1)	(1.821)	(6.215)
Employed	17.0	7,221.4	24,616.5	.293	

[1] From 17 city survey, "Crimes of Violence," op. cit., pp. 270, 274, 278, 282, 286.
[2] From "Manpower Report to the President," April 1971.
[3] Column 2 divided by col. 3.
[4] Unemployed rate from col. 4 divided by employed rate from col. 4.
[5] Total offenses for the 17 cities, from "Crimes of Violence," p. 262, multiplied by col. 1.
[6] Parenthetical figures are second calculation, using higher unemployment rate estimate, as discussed in footnote 11.
[7] Estimate, based on total robberies: 106,197, and national figure of 60 percent robberies armed.

TABLE I.—AGE AND CRIMINALITY

Crime	Percent of offenders arrested			
	Percent under 15	Percent under 18	Percent under 21	Percent under 25
All crimes	9.2	25.3	39.1	52.4
Violent crime major:				
Murder and nonnegligant manslaughter	1.5	10.5	25.2	43.4
Forcible rape	4.1	20.8	42.4	64.5
Robbery	11.1	33.4	56.6	77.0
Aggravated assault	5.4	16.5	29.8	58.6
Total violent crime	7.1	22.6	40.1	58.5
Property crime major:				
Burglary, breaking and entering	22.9	52.0	70.4	80.7
Larceny-theft	25.1	50.7	66.5	77.4
Auto theft	15.1	56.1	74.9	86.3
Total property crime	23.3	51.7	68.6	80.1
Other selected crimes:				
Other assaults (not aggravated)	7.3	18.2	30.7	47.0
Arson	39.0	59.5	69.5	77.4
Vandalism	45.3	72.0	81.1	87.3

Source: From "Uniform Crime Reports," FBI, 1970. pp. 126–27 (52 percent agencies, 1970 population: 151,604,000).

TABLE 2.—AGE AND CRIMINALITY

	Percent of offenders of age		
	0 to 17	18 to 25	Total (0 to 250)
Criminal homicide	9.1	33.5	42.6
Aggravated assault	17.7	24.6	42.3
Forcible rape	20.9	48.0	68.9
Armed robbery	23.4	52.0	75.4
Unarmed robbery	57.1	31.3	88.4

Source: From a survey of 17 cities, 1967, weighted cases conducted by National Commission on the Causes and Prevention of Violence, in their report, vol. 11, pp. 267, 271, 275, 279, 283.

TABLE 5.—PROJECTED REDUCTION IN CRIME AFTER FULL EMPLOYMENT

Offense	Number of offenses 1970 [1]	Percent committed by unemployed [2]	Number of offenses committed by unemployment [3]	Number of offenses if committed at employed rate [4]	Projected number of crimes less [5]	Percent decrease [6]
	(1)	(2)	(3)	(4)	(5)	(6)
Criminal homicide	15,856	12.7	2,014	337	1,677	10.6
Excluding manslaughter by negligence	12,836	12.7	1,630	273	1,357	
				[7] (505)	(1,509)	(9.5)
				(409)	1,221	
Forcible rape	15,411	15.7	2,420	324	2,096	13.6
				(486)	(1,934)	(12.5)
Aggravated assault	125,971	15.0	18,896	2,168	16,728	13.3
				(2,921)	(15,975)	(12.7)
Armed robbery [8]	52,612	29.8	15,678	784	14,894	28.3
				(1,175)	(14,503)	(27.6)
Unarmed robbery [8]	35,075	5.6	1,964	211	1,753	5.0
				(316)	(1,648)	(4.7)

[1] Number of arrested offenders, 1970. From UCR, 1970, p. 126.
[2] From table 4, col. 1.
[3] Col. 1 times col. 2.
[4] Col. 3 divided by table 4, col. 5 (the ratio of unemployed crime rate to employed crime rate).
[5] Col. 3 minus col. 4.
[6] The percentage decrease in total crime, if unemployed committed crimes at employed rate. Col. 5 divided by col. 1.
[7] The parenthetical figures are for a 2d calculation, using increased unemployment estimate, as discussed in footnote 11.
[8] The UCR does not directly give armed-unarmed statistics for robbery. However, it states that 60 percent of robberies were armed and in total there were 87,687 robbery arrests.

This decrease, using the official unemployment rates, (which averaged 3.4% for the 17 cities) varies from 5% for unarmed robbery to 28.3% for armed robbery. Using the higher unemployment rate, the range is from a 4.7% to a 27.6% decrease. Since however our figures are based only on the easier-to-achieve full and meaningful employment among those 25 and younger, we have to apply these decreases only to the percentage of each crime committed by persons in that age category. Projecting data for the percentage of crimes committed in the 17 cities by young offenders (which are very similar to national data from a separate source),[14] we find that full employment for those 25 and younger would result in a decrease of from 4.3%–4.5% of all murder (depending on the unemployment rate estimate used), from 5.4%–5.6% in aggravated assault, from 8.6%–9.4% in forcible rape, and from 20.8%–21.3% in armed robbery.[15] The decrease in unarmed robbery would be from 4.2–4.4%.

[14] Although the 17 city and the national data are very similar, only the former is subdivided for robbery into armed and unarmed robbery. For this reason we chose to use this data. However, it should be noted that this data is for those *25 and younger*, while the national data, previously discussed, is for those *under 25*. See tables 1 and 2 for comparative data.

[15] These figures are simply the decrease in crime expected from full employment of persons of all ages, multiplied by the percentage of crimes committed by persons 25 and younger (as shown in Table 2).

Because the National Commission survey included only violent crimes, we cannot calculate a precise projection of the reduction in property crime, such as burglary, larceny, and auto-theft.[16] However, given that the percentage of young property crime offenders is higher even than for robbery,[17] we can assume that the reduction here would also be higher. However, to maintain our conservative approach, we estimate only that it will be in the range of reduction of those crimes we were able to make precise projections for, that is between 4.4% and 21.3% or 4.2%–20.8% using the higher unemployment estimate. (The large range is due to the lack of more precise data.)

In toto, while the relationships between unemployment and criminal behavior are rather complex and not well studied, we estimate that full decent-paying employment of young persons, would reduce violent crimes by 9% a year.[18] The size of the effect on crimes against property is difficult to pin point but certainly will be considerable.

DOMESTIC DISARMAMENT

What effects on criminality would be achieved if most firearms would not merely have to be registered, but were removed from private hands, as in Canada, Britain, France, West Germany, Israel and practically all other democratic, economically-developed societies. Drawing on the experience of other countries, we assume and this is our pessimistic estimate—that 85% of all arms could be removed: optimistically, this figure could reach 95%. What would be the effect of such domestic disarmament, we ask, knowing full well that not all those deprived of arms will also drop their criminal intent?

MURDERS: THE MOST SERIOUS OFFENSE

In 1970, 66% of the 13,649 murder victims were killed by the use of a firearm.[19] Firearm elimination would decrease this high rate of murder in two ways: in some cases faced with the lack of firearms, the potential murderer will abandon his intent altogether, and no crime will take place, for reasons soon to be explained. Secondly, in a greater number of cases, some less deadly weapon will be substituted for a firearm, and what otherwise would have been a lethal attack will be in many cases, a non fatal one.

Certain murders by their very nature require a firearm.[20] It is impossible to climb a tower and murder persons a mile away without using a rifle. Similarly, it is very difficult to attack a guarded bank without using some sort of firearm. Weak persons, children, cowardly assailants would all find attacks on others, particularly physically strong victims, difficult if not impossible without firearm availability. As Robert Coles puts it: "Every psychiatrist has treated patients who were thankful that guns were not around at one time or another in their lives. Temper tantrums, fights, seizures, hysterical episodes all make the presence of guns an additional, and possible mortal, danger".[21]

An informal examination of actual cases indicates that in about 25% of all murders committed with firearms, the absence of the firearms would have resulted in no crime at all being committed.

What does this mean in terms of the overall murder rate? 66% of all murders use firearms, and after domestic disarmament firearms would not be available in these cases. Our estimated reduction by 25% of murders in such cases would therefore mean a total decrease of 15.9% in all murders (if domestic disarmament is 95% effective), the reduction would be by 14.0%, if it is 85% enforced.[22]

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[16] Other, more costly property crime, such as embezzlement, fraud, and false advertising, is usually committed by older, employed persons and would not likely be decreased by full youth employment.

[17] 80.1% of "major" property crime (larceny, burglary, auto-theft) is committed by persons under 25 compared to 77.0% of robberies. See Table 1.

[18] Here we simply totaled up the expected reduction in the number of offenses for each of the five violent crimes (homicide, rape, assault, armed and unarmed robbery), and expressed the total reduction as a percentage of all offenses in these categories. Using the low unemployment estimate, we project a reduction of 9.1%; using the higher estimate, 8.8%.

[19] *UCR*, 1971, op. cit., p. 118.

[20] This is particularly true for assassinations, which are almost always committed with firearms.

[21] Robert Coles, "America Amok", *The New Republic*, 155:8 (August 27, 1966) p. 14, as cited in Marvin E. Wolfgang and Frances Ferracuti, *The Subculture of Violence*, New York: Travistock Publications, 1967, p. 189.

[22] 15.9% is 25% (murder reduction) of 95% (effectiveness of disarmament) of 66% (number of murderers involving firearms). Similarly, 14.0% is 25% of 85% of 66%.

However, the benefits of firearms elimination does not stop here. In the attacks that still do occur, the substitution of less deadly weapons for firearms will result in a large saving of lives, even if the number of incidents as such remains the same.[23] It is well documented that murders fall into two categories: those characterized by a "single minded intend to kill",[24] and those which are "Slaying in the heat of passion, or killing as a Result of the intent to do harm, but without specific intent to kill." [25] We will assume pessimistically that all the remaining murders of the first type will be successfully carried out, even in the absence of firearms. However, in the latter cases this will not be true. These attacks, far more numerous, almost always grow out of quarrels or arguments, usually among family or friends.[26] The typical case involves someone grabbing the most potent weapon around—and using it. If it is a gun the effect is usually fatal. As the head of Chicago Homicide put it, describing one such case: "There was a domestic fight. A gun was there. And then somebody was dead. If you have described one you have described them all." [27] But what happens if a gun is *not* there? On the basis of the aforementioned survey we assume that in three out of four of the cases, an attack still will take place, and the next most lethal weapon, a knife will be used. It has been shown that fewer fatalities in the case of knife attack will result by a ratio of 4 out of 5, i.e. only one fatality where firearms would have left five dead.[28] In other words, in such attacks, when knives instead of guns are used, the death rate goes down by 80%. (Of course when other weapons are used, as they would be, whether fists, coke bottles, or baseball bats, the reduction will be still greater, but we will stick to our conservative estimations).

To calculate the effect of this "substitution" effect, we first calculate the number of attacks that would still occur when firearms are eliminated. Since 66% of murders are by firearms and in 95% of these cases firearms would have been eliminated, and knowing that 75% of these previously firearm attacks will still occur, we find that 47% of all murders are attacks in which another weapon will be substituted for a firearm.[29] With 85% elimination, our pessimistic projection, such cases are 42% of the total. A study of Chicago murders showed that 78% were of the type characterized as "deadly attacks", not "single minded" murders.[30] (It is among these attacks that the 80% reduction in fatalities will take place). All told then, as a result of the substitution of other weapons for firearms, we will expect a reduction in the overall murder rate of from 26.3% to 29.3% (depending on the effectiveness of the elimination policy).[31]

Combining the two effects, i.e. the elimination of some firearm attacks altogether, and the use of less deadly weapons in others, we find that the overall reduction in murder would optimistically be 45.0% (at 95% elimination) and pessimistically 40.3% (at 85% elimination). In 1970 this would have amounted to a saving of from 5501 to 6142 lives.

FIREARM ACCIDENTS

In 1968 there were 2,394 deaths from firearms accidents.[32] The rate of firearms accidents varies regionally in line with the rate of firearm ownership. In other words, the more firearms—the more firearms accidents.[33] We would therefore expect that the reduction in firearms would result in a parallel reduction in accidental deaths, or an annual saving of 2232 (or 2035) lives.[34]

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[23] For this section, we based our general argument on that presented in Frank Zimring's "Is Gun Control Likely to Reduce Violent Killings," a mimeograph report of the Center for Studies in Criminal Justice, University of Chicago, (republished in the University of Chicago Law Review, 35 : 721 (1968).

[24] Ibid. p. 3.

[25] Wolfgang and Ferracuti, op. cit. p. 189.

[26] See Zimring, op. cit. p. 23, also *UCR*, 1970, op. cit. p. 9.

[27] Commander Francis Flanagin, in a television interview about Chicago's 600th homicide of 1968, quoted in George Newton and Frank Zimring, *Firearms and Violence*, A Staff Report submitted to the National Commission on the Causes and Prevention of Violence, Washington, United States Government Printing Office, 1969.

[28] This ratio was determined by Frank Zimring, based on a study of 510 homicides, reported to the Chicago police in 1966, and 480 serious assualts involving knives or guns reported in the 5th period of 1968. In Zimring, op. cit. pp. 4–5.

[29] 47% is 75% (murders still occur, without firearms) of 95% (effectiveness) of 66% (% of murders using firearms).

[30] Zimring, op. cit. pp. 2–3. Wolfgang and Ferracuti estimate that "Probably less than 51% of all known killings are premeditated, planned, and intentional." op. cit. p. 189.

[31] i.e. 78% of 42% to 78% of 47%.

[32] U.S. Bureau of the Census, *Statistical Abstract of the United Statess 1972*. (93rd edition). Washington, D.C. 1972. p. 61.

[33] Newton and Zimring, op. cit. p. 29.

[34] $2232 = .95$ (effectiveness coefficient) $\times 2394$. $2035 = .85 \times 2394$.

It should be noted that the average life expectancy in the U.S. is about 72 years, the average age of death from *all accidents is 41 years, and the average age of victims of firearms accidents only 24 years.* 40% of the victims are children and teenagers (under 20).[35] Disarmament would then save the most tragic victims, the young and the innocent.

Firearms elimination will also lead to the avoidance of some 19,000–95,000 at 95% elimination (or at 85% effectiveness, 17,000–85,000) non-fatal injuries annually, that result from firearm accidents.[36]

Combining the reductions in murder and accidents, we find that 95% firearms elimination would result in an annual savings of 8,374 lives; or if 85% effective, a savings of 7, 536 lives.

ROBBERY

In 1970 there were approximately 500,000 robberies,[37] 60% of which were armed, and 37%, or 185,000 of which involved firearms.[38] (Several studies show that these robberies involving firearms caused a disproportionate amount of harm both in property loss and fatalities, but we will not focus our attention on these.[39]

Evidence shows that the firearm is an essential element in many armed robberies. In its absence, many robberies would not be committed at all, both because of the increased difficulty (i.e. it is difficult to rob a bank protected by alarms and armed guards without a firearm),[40] the increased risk to the robber (e.g., that the victim might fight back), and the psychological obstacles. On this last point Dr. Donald Newman, in a study of convicted robbers, commissioned by the National Commission on the Causes and Prevention of Violence, noted:

"Robbery appears to be a crime made infinitely more possible by having a gun. To rob without one requires a degree of strength, size and confidence which was lacking in many of the men with whom I spoke. . . . For the most part the men involved in robbery were not very aggressive. Some of these men could not possibly carry out a robbery without a gun. In short, there was a clear reality element in the need for a gun once a man made the decision to rob. . . . Although the men needed a gun to rob, the converse was also true: they needed to rob in order to use a gun . . . it was the gun which provided the power and the opportunity for mastery."[41]

A very cautious way to estimate the proportion of firearm robberies "saved" in a disarmed America, lacking direct data on this, is to use the same proportion of murders avoided, namely under optimistic assumptions, 45%, pessimistically, 40%. There are some reasons that argue that it might be lower (for instance, robbery is more often pre-meditated than murder and hence the "appropriate" tools can be related), and there are some reasons to think it might be higher (e.g. many robbers now armed would not dare climb into a house, let alone face

[35] Newton and Zimring, op. cit. pp. 27–28.

[36] Estimates of non-fatal firearm accidents range from 20,000–100,000 annually. (See Ibid, p. 28). The "savings" is calculated as 95% (or 85%) of the range.

[37] The *UCR* indicates that in 1970 there were 348,000 robberies. (UCR, 1970, as reported in Stat. Abst., 1972, op. cit. p. 143).This is probably considerably below the actual figure, since many robberies are not reported to the police, or by the police to the FBI. A national survey of 10,000 households conducted by the National Opinion Research Center for the National Commission on the Causes and Prevention of Violence, indicated that the real numbers of robberies was probably about 1½ times the reported figure. (*Crimes of Violence*, op. cit., p. 19). For 1970 this would indicate approximately 500,000 robberies.

[38] 6 out of 10 robberies reported to the *UCR* were armed. In turn 63% of the armed robberies involved firearms. (UCR, 1970, op. cit., p. 15). Thus 37% (63% of 60%) of all robberies involved firearms. This means that in 1970 there were roughly 129,000 *reported* robberies involving firearms. If *unreported* robberies followed similar patterns, the actual number of robberies involving firearms was closer to 185,000.

[39] The percentage of robberies involving firearms is far greater for indoor robberies (which are more dangerous and lucrative) than for outdoor robberies. See Newton and Zimring, op. cit., p. 47; also *Crimes of Violence*, op. cit., p. 302. Furthermore, firearms are involved more often when a commercial establishment is the location of the robbery. See *Crimes of Violence*, op. cit., p. 302.

The fatality rate for robberies involving firearms is considerably higher than that for unarmed robberies, or robberies involving some other weapon. One study showed that in New York City the fatality rate for firearm robberies is nearly 4 times that of other armed robberies. See Newton and Zimring, op. cit., p. 47. However, it should be noted that while the *fatality* is higher, the *injury* rate is lower in armed robbery than in unarmed robbery. Presumably the presence of a weapon intimidates the victim, and he or she is less likely to resist. See *Crimes of Violence*, op. cit., p. 370.

[40] The National Commission on the Causes and Prevention of Violence survey of 17 cities included in its weighted sample 649 armed and unarmed robberies. 3% of all armed robberies were bank robberies, but *not a single case of unarmed bank* robbery was reported. See *Crimes of Violence*, p. 302.

[41] Newton and Zimring, op. cit., p. 47. The complete report is Appendix E of the same volume.

a guard in a bank, without a weapon). Hence, we will take 5% off from our low estimate of murder depressent rate, making it a 38% reduction, and add 5% to our high one, making it 47%, to give us a reasonable range.

Thus, the reduction in firearm robbery would lead us to expect a decline of from 70,300 to 77,000 robberies annually, or 23.4% to 25.9% of all armed robberies.[42]

CUMULATIVE AND SECONDARY EFFECTS, AND RESOURCE ALLOCATION

To be able to judge the combined effects of all three policies, we deal with arrest figures. We have already calculated the reduction in annual arrests that would result from the decriminalization of victimless crimes. For other crimes, by simply assuming that the number of arrests are proportional to the number of crimes, we can express their reductions in terms of the projected reductions in the number of arrests. We can then calculate the cumulative reduction from these three policies combined, *modifying the individual reductions* to take into account previous reductions from the other policies. (e.g. if there are fewer younger offenders because they are at work, this reduces the benefits one can expect to gain from gun elimination and vice versa.) The cumulative results are shown in table A. They are expressed in terms of a range, the lower figure based on the most pessimistic assumptions, the higher on more optimistic ones.

The table shows that we can project a reduction in the number of arrests, here used as an indicator of the number of crimes committed, using the most pessimistic assumptions, of from 4.2% for unarmed robbery, to 29.3% for armed robbery, and 24.9% for murder. The total reduction in arrests would be 32.6%, a reduction of over 2 *million* arrests annually. Using more optimistic assumptions, the reductions would range from 4.4% for unarmed robbery, to 47.5% for murder, and 40.5% for armed robbery. The total reduction in annual arrests would be 35.4%, or 2,322,758 arrests.

The large reduction in both crime and arrests will free a large amount of police resources presently devoted to the investigation of these crimes, the arrest of the offenders, and the post-arrest procedures of detention, trial, and punishment. Since the reductions are in all types of crimes, including both crimes demanding a great deal of resources, such as murder, and crimes involving few resources, such as drunkenness, we can assume that the average resources currently devoted to these reduced crimes is proportional to the resources used for all crimes in general. We can thus say that there will be a freeing of between 32.6% and 35.4% of the police resources devoted directly to patrol, investigation and arrest as a result of the three measures outlines. These resources will now be free to deal with the prevention, and investigation, of the remaining criminal violations. Even assuming that crime declines proportionately only 15% as much as police resources will increase, this will mean an additional 4.9–5.3% reduction in crime rates, after the initial reductions. This would amount to a reduction in terms of the current crime rate of another 3.3–3.4%. The total reduction, including primary and secondary effects, would thus amount to 35.9–38.8% of the current arrests annually.

While throughout these projections we were as cautious as possible in estimating their benefits, we are the first to point out that any such projections are subject to a margin of error. But it must also be clear that even if the crime reduction achieved would be lower than expected, the benefits of the suggested policies would be very substantial.

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[42] 70,300 (reduction) = 38% of 185,000 (number of firearms robberies).
77,000 = 47% of 185,000.
23.4% = 70,300/300,000 (number of *armed* robberies annually).
25.9% = 77,000/300,000.

TABLE A

	Criminal homicide				
	Murder and nonnegligent manslaughter	All criminal homicide	Armed robbery	Aggravated assault	Unarmed robbery
1970 arrests	12,836	15,856	52,612	125,917	35,075
Reduction from ending victimless crime					
Percent					
Reduction from full youth employment	552–578	682–714	10,943–11,206	6,800–7,051	1,473–1,543
Percent	4.3–4.5	4.3–4.5	20.8–21.3	5.4–5.6	4.2–4.4
Unadjusted reduction from disarmament	5,173–5,776	5,173–5,776	12,311–13,627		
Percent	40.3–45.0	34.7–38.7	23.4–25.9		
Adjusted reduction from disarmament	4,950–5,516	4,950–5,516	9,751–10,097		
Percent	38.6–43.0	31.2–34.8	18.5–19.2		
Subtotal	5,502–6,094	5,632–6,230	20,694–21,303	6,800–7,051	1,473–1,543
Primary effects (percent)	42.9–47.5	35.5–39.3	39.3–40.5	5.4–5.5	4.2–4.4
Unadjusted reduction from freed resources (percent)					
Adjusted reduction from freed resources					
Percent					
Total reduction					
Percent					

	Forcible rape	Subtotal, violent crimes	Property crime (larceny, burglary, auto theft)	Other crimes	Total, all crimes
1970 arrests	15,411	241,905	1,028,858	5,541,615	6,570,473
Reduction from ending victimless crime				2,066,035	2,066,035
Percent				37.3	31.4
Reduction from full youth employment	1,325–1,449	21,223–21,963	43,212–219,147		64,435–241,110
Percent	8.6–9.4	8.8–9.1	4.2–21.3		1.0–3.7
Unadjusted reduction from disarmament		17,484–19,403			17,484–19,403
Percent		7.4–8.2			.3–.3
Adjusted reduction from disarmament		14,701–15,613			14,701–15,613
Percent		6.1–6.5			.2–.2
Subtotal	1,325–1,449	35,924–37,576	43,212–219,147	2,066,035	2,145,171–2,322,758
Primary effects (percent)	8.6–9.4	14.9–15.5	4.2–21.3	37.3	32.6–35.4
Unadjusted reduction from freed resources (percent)					4.9–5.3
Adjusted reduction from freed resources					216,840–225,129
Percent					3.3–3.4
Total reduction					2,362,011–2,547,887
Percent					35.9–38.8

STATEMENT BY NATIONAL COUNCIL OF JEWISH WOMEN, INC., NEW YORK, N.Y.

The National Council of Jewish Women, an organization established in 1893, and with a membership of over 100,000 in local Sections throughout the United States, has concerned itself with justice for children for a number of decades.

Since its inception, our organization has provided help for children in trouble. In our very first decade Sections provided remedial work in connection with juvenile and other courts. A Council probation officer for Jewish delinquent children was accepted in a Municipal Court in 1906, and by 1911 several other Sections were providing this service. At present an estimated 35 Sections are active in the juvenile justice system. Some are active in social action programs—sponsoring public meetings, testifying on proposed state legislation. Many are providing services—education, tutoring, vocation, recreation—in detention centers and training schools. One Section sponsors three residences for teenage girls who have been in trouble with the law.

In the Spring of 1972, in over 125 communities across the country, members of the National Council of Jewish Women began their year long study of Justice for Children. They have review their local laws, interviewed judges, lawyers, policemen, administrators, social workers, educators, friends and critics of the juvenile justice system. They have visited courts, detention centers, training schools and other institutions and have sponsored forums, debates and public discussions.

On the basis of their research they have recommended the following program of action for the National Council of Jewish Women. The program, endorsed at the NCJW's National Convention, includes children's right, group homes and justice for children coalitions for action.

While detailed tabulation of the study continues, the basic findings which prompted these choices can be summarized as follows:

CHILDREN'S RIGHTS

One of the major problems both in terms of the number of children affected and the harm outweighing the benefits is the area of status offense. The statutes involved are discriminatory and vague. They make it a crime for a child—and only for a child—to be "incorrigible," or "unruly," or "stubborn," or to "habitually idle away his or her time." The crime of truancy is frequently committed by youngsters when their reading ability is four or five years below grade level. We are more likely to jail a runaway child than deal with his intolerable home situation.

In some jurisdictions, we may call these children Pins, Chins, Mins or Jins, instead of delinquents, but we are deceiving no one. We still jail them, give them records, and send them to training schools. Many training school administrators have been quite candid about the children in their care "who really don't belong here." We agree. As one report noted, "It can be said that the biggest help an institution gives a Pins is help in moving upward in the penal system."

Commission after commission has urged that these laws be changed. The President's Commission on Law Enforcement in 1967: "Serious consideration should be given complete elimination from the court's jurisdiction of conduct illegal only for a child . . . We must bluntly ask what our present power achieves and must acknowledge in answer that at the most we do not really know, and in at least some cases we suspect it may do as much harm as good." The White House Conference on Children in 1970: "Children's offenses that would not be crimes if committed by an adult—such as runaway, truancy, curfew violation and incorrigibility—should not be processed through the court system, but diverted to community resources." And most recently the National Advisory Committee on Criminal Justice Standards and Goals in 1973 summarized: The standards prescribe (consistent with other recent national studies) that only those youths who have committed acts that would be criminal if committed by adults should be subject to the delinquency jurisdiction of the courts.

It is time our laws reflected these recommendations.

Preventive detention of children is common with few detainees meeting the criteria of being either potential dangers to the community or possible runaways.

They are frequently held for periods considerably longer than those recommended in any guideline. Three month stays in detention are not unusual. Some children have been held up to two years awaiting placement. Since detention is supposed to be short term the programs provided are minimal, particularly in education. Long stays are truly lost time.

There are still many areas of this country where children are detained in adult jails. Since the jails are usually required by law to separate children from adults, and since jail facilities are limited, this means that a detained child is practically in solitary confinement. We don't believe the solution lies in further construction of large maximum security juvenile detention centers. Most of these communities could do the job with small residential-type facilities and more discriminating detention policies.

The Supreme Court *Gault* decision is commonly understood to have established the child's right to be represented in court by counsel. However, we find that in a number of communities children appear in court without a lawyer. One judge told us that while 75 percent of the children who appeared in his court weren't represented, the figure in surrounding counties was about 10 percent. We find judges suggesting the child waive his right to counsel; some say they provide counsel "if the child asks for it." We doubt that a child is competent to make this decision. Of course, the problem of providing adequate counsel to indigent children is further complicated by the termination of neighborhood OEO legal services programs.

A further matter of concern is the transfer of children from juvenile to adult criminal courts. As we oppose juvenile courts eagerly assuming the responsibilities of schools and parents, so do we oppose those courts which with equal willingness give up what we believe are their appropriate duties.

If a child is removed from his home and community it is theoretically to provide him with a level of care and treatment which he did not otherwise receive, but if he is having problems with the family—the most common crime children commit—the chances are quite good that his training school will be inaccessible to his parents and at least as good that no counseling will be provided the family to pave the way for his return. For older children who are not likely to return to school upon release, vocational training is inadequate. The child with emotional problems will find therapeutic services limited. Despite acknowledged widespread addiction, narcotics programs are rare, although in some instances 20 or 30 percent of the children may be officially on prescribed drugs to make management easier.

Children requiring intensive mental health services have additional difficulties. Hospitals, unaccustomed or unwilling to accept disruptive children turn them back to the correction facility as quickly as possible. Indeed, we feel all procedures which shuttle children back and forth in this manner deserve scrutiny.

Other procedures we have found within the institutional system which concern us include the use of solitary confinement (even if it is called "meditation room" or "intensive treatment unit"), the transfer to more secure facilities without hearings, censorship of mail, etc.

Ombudsmen programs may provide one solution but these are still experimental and their progress should be followed.

As for children's arrest and court records, it seems general practice that they are officially confidential but unofficially accessible. We have been told of their availability to colleges, prospective employers and the armed forces. They are not only subject to local misuse, but to the extent they become part of a national records system, the problem increases. The need for adequate assurance of confidentiality and expungement procedures is clear. Furthermore, police records on juveniles may group serious criminal offenses leading to arrest with minor street encounters leading to no further action. Thus the fact that a child "has a police record" tells us less than it implies. We think safeguards are needed in relation to: what matters merit inscription, what kind of notice parents receive of such inscription, and what opportunity is provided to answer allegations which otherwise may repose for years unchallenged in police files.

GROUP HOMES

The inappropriate use of detention and training school facilities is due not only to the laws but to the alternatives. We have seen children in detention for weeks and months because they had "inadequate homes or no place to go." Police have told us of the need for temporary housing for youngsters having problems at home, "sometimes we have no one else to call except a family they are already in trouble with." An administrator spoke about the girls in one institution. "Some are erroneously placed here because no other facility exists. This includes some whose primary problem is a bad family situation or pregnancy."

The need for group homes, particularly for teenagers, is almost universal. Children whose personal or family problems are at the crisis point are not criminals and should not be deported from their communities. They do not need institutions; they are frequently harmed by institutions. They just need a different place to live for a few days or perhaps a couple of months.

Communities must be helped to understand these children's needs so that they can accept them as "neighbors." The provision of such non-punitive facilities for runaways has been threatened in some areas by opponents who characterized these facilities as "contributing to the delinquency of a minor." Obviously an intensive effort is necessary to provide a receptive climate.

Group home programs should also make appropriate services available to both the children and the families during the period of separation.

JUSTICE FOR CHILDREN COALITIONS FOR ACTION

Obviously both children's rights and group homes require community support and cooperation if they are to be established. There is much that interested and concerned groups working together can accomplish to provide justice for children. Such coalitions could:

Monitor the implementation of existing legislation in their communities and encourage passage of better laws where necessary.

Insure that children have available to them the health, guidance, family counseling, educational and employment services they need.

Coordinate and expand the delivery of these services to provide a prompt and effective alternative to channelling problems into the judicial system.

Few communities provide adequate service systems now. Such services as exist are frequently scattered uncoordinated and understaffed. The problem is being compounded as some federally-financed programs are cut and the battle for revenue sharing funds must be waged if they are to survive.

We have been told in one state "the sad fact is that many of our children in need of social services must actually be arrested before any attempt is made to deal with their needs."

If we care about our children, and if we care about justice, it is time to prove it.

[The following letter was subsequently received from Judge Spears:]

U.S. DISTRICT COURT,
WESTERN DISTRICT OF TEXAS,
San Antonio, Tex., May 29, 1973.

Hon. CLAUDE PEPPER,
Chairman, Select Committee on Crime, House of Representatives, Congress of the United States, Washington, D.C.

DEAR CONGRESSMAN PEPPER: You will recall that I stated during my testimony before the Select Committee on Crime that I thought that the State of Washington had adopted some aspects of the omnibus hearing project.

Enclosed herewith are copies of several pages from the Official Advance Sheets Washington Reports, dated May 11, 1973, which contain Rule 4.5 of the recently adopted Criminal Rules for the Superior Court of the State of Washington.

With best personal regards, I am

Sincerely,

ADRIAN A. SPEARS,
U.S. District Judge.

RULE 4.5—OMNIBUS HEARING

(a) When required. When a plea of not guilty is entered, the court may set a time for an omnibus hearing.

(b) Time. The time set for the omnibus hearing shall allow sufficient time for counsel to (i) initiate and complete discovery; (ii) conduct further investigation of the case, as needed; and (iii) continue plea discussions.

(c) Checklist. At the omnibus hearing, the trial court on its own initiative, utilizing a checklist substantially in the form of the omnibus application by plaintiff and defendant (see section (h)) shall:

(i) ensure that standards regarding provision of counsel have been complied with;

(ii) ascertain whether the parties have completed discovery and, if not, make orders appropriate to expedite completion;

(iii) make rulings on any motions, other requests then pending, and ascertain whether and additional motions, or requests will be made at the hearing or continued portions thereof;

(iv) ascertain whether there are any procedural or constitutional issues which should be considered;

(v) upon agreement of counsel, or upon finding that the trial is likely to be protracted or otherwise unusually complicated, set a time for a pretrial conference; and

(vi) permit defendant to change his plea.

(d) Motions. All motions and other requests prior to trial should ordinarily be reserved for and presented orally at the omnibus hearing unless the court otherwise directs. Failure to raise or give notice at the hearing of any error or issue of which the party concerned has knowledge may constitute waiver of such error or issue. Checklist forms substantially like the memorandum required by section (h) shall be made available by the court and utilized at the hearing to ensure that all requests, errors and issues are then considered.

(e) Continuance. Any and all issues should be raised either by counsel or by the court without prior notice, and if appropriate, informally disposed of. If additional discovery, investigation or preparation, or evidentiary hearing, or formal presentation is necessary for a fair and orderly determination of any issue, the omnibus hearing should be continued from time to time until all matters raised are properly disposed of.

(f) Record. A verbatim record (electronic, mechanical or otherwise) shall be made of all proceedings at the hearing.

(g) Stipulations. Stipulations by any party shall be binding upon that party at trial unless set aside or modified by the court in the interests of justice.

(h) Memorandum. At the conclusion of the hearing, a summary memorandum shall be made indicating disclosure made, rulings and orders of the court, stipulations, and any other matters determined or pending. Such summary memorandum shall be in substantially the following form:

Copy received and date filed by clerk:

Superior Court of Washington for_____County, State of Washington, Plaintiff, versus _____, Defendant.

No. _____, Omnibus application by plaintiff and defendant.

Date:

Notice to:

Purpose: To prepare for trial or plea and to determine the extent of discovery to be granted to each party.

I

MOTION BY DEFENDANT

Comes now the defendant and makes the applications or motions checked off below:

1. To dismiss for failure of the indictment (of information) to state an offense. Granted_____Denied_____.

2. To sever defendant's case and for separate trial.

3. To sever counts and for a separate trial.

4. To make more definite and certain.

5. For discovery of all oral, written or recorded statements made by defendant to investigating officers or to third parties and in the possession of the plaintiff.

6. For discovery of the names and addresses of plaintiff's witnesses and their statements.

7. To inspect physical or documentary evidence in plaintiff's possession.

8. To suppress physical evidence in plaintiff's possession because of (1) illegal search, (2) illegal arrest. Hearing set for _____.

9. For a hearing under Rule 3.5.

10. To suppress evidence of the identification of the defendant.

11. To take the deposition of witnesses.

12. To secure the appearance of a witness at trial or hearing.

13. To inquire into the conditions of pretrial release. Affirmed _____ Modified to_____.

To Require the Prosecution

14. To state—
(a) If there was an informer involved;
(b) Whether he will be called as a witness at the trial; and,
(c) To state the name and address of the informer or claim the privilege.
15. To disclose evidence in plaintiff's possession, favorable to defendant on the issue of guilt.
16. To disclose whether it will rely on prior acts or convictions of a similar nature for proof of knowledge or intent.
17. To advise whether any expert witness will be called, and if so supply—
(a) Name of witness, qualifications and subject of testimony;
(b) Report.
18. To supply any reports or tests of physical or mental examinations in the control of the prosecution.
19. To supply any reports of scientific tests, experiments, or comparisons and other reports to experts in the control of the prosecution, pertaining to this case.
20. To permit inspection and copying of any books, papers, documents, photographs or tangible objects which the prosecution—
(a) Obtained from or belonging to the defendant, or
(b) Which will be used at the hearing or trial.
21. To supply any information known concerning a prior conviction of persons whom the prosecution intends to call as witnesses at the hearing or trial.
22. To inform the defendant of any information he has indicating entrapment of the defendant.
Dated:----------

Attorney for Defendant

II

Motion By Plaintiff

The plaintiff makes the application or motions checked:
1. Defendant to state the general nature of his defense.
2. Defendant to state whether or not he will rely on an alibi and, if so, to furnish a list of his alibi witnesses and their addresses. Granted ----------Denied----------.
3. Defendant to state whether or not he will rely on a defense of insanity at the time of the offense.
(a) If so, defendant to supply the name(s) of his witness(es) on the issue, both lay and professional.
(b) If so, defendant to permit the prosecution to inspect and copy all medical reports under his control or the control of his attorney.
(c) Defendant will also state whether or not he will submit to a psychiatric examination by a doctor selected by the prosecution.
4. Defendant to furnish results of scientific tests, experiments or comparisons and the names of persons who conducted the tests.
5. Defendant to appear in a lineup.
6. Defendant to speak for voice identification by witnesses.
7. Defendant to be fingerprinted.
8. Defendant to pose for photographs (not involving a reenactment of the crime).
9. Defendant to try on articles of clothing.
10. Defendant to permit taking of specimens of material under fingernails.
11. Defendant to permit taking samples of blood, hair and other materials of his body which involve no unreasonable intrusion thereof.
12. Defendant to provide samples of his handwriting.
13. Defendant to submit to a physical external inspection of his body.
14. Defendant to state whether there is any claim of incompetency to stand trial.
15. For discovery of the names and addresses of defendant's witnesses and their statements.
16. To inspect physical or documentary evidence in defendant's possession.
17. To take the deposition(s) of witness(es).
18. To secure the appearance of a witness at trial or hearing.

19. Defendant to state whether his prior convictions will be stipulated or need be proved.

20. Defendant to state whether he will stipulate to the continuous chain of custody of evidence from acquisition to trial.

Dated: _____

_____
Prosecuting Attorney

It is so ordered this _____ day of _____.

_____
Judge

Comment: Supersedes RCW 10.46.030 in part.

RULE 4.6—DEPOSITIONS

(a) When Taken. Upon a showing that a prospective witness may be unable to attend or prevented from attending a trial or hearing or if a witness refuses to discuss the case with either counsel and that his testimony is material and that it is necessary to take his deposition in order to prevent a failure of justice the court at any time after the filing of an indictment or information may upon motion of a party and notice to the parties order that his his testimony be taken by deposition and that any designated books, papers, documents or tangible objects, not privileged, be produced at the same time and place.

(b) Notice of Taking. The party at whose instance a deposition is to be taken shall give to every other party reasonable written notice of the time and place for taking the deposition. The notice shall state the name and address of each person to be examined. On motion of a party upon whom the notice is served, the court for cause showing may extend or shorten the time and may change the place of taking.

(c) How Taken. A deposition shall be taken in the manner provided in civil actions. No deposition shall be used in

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Chairman PEPPER. The Congress has sought through its omnibus crime control legislation to encourage the States to approach the problems of crime control on a comprehensive basis. Our hearings, particularly these hearings on the various aspects of street crime, have emphasized the need for an overall approach to the criminal justice system.

I am pleased, therefore, that the Governor of my own State, the Honorable Reubin O'D. Askew, has adopted this approach and has recommended to the 1973 Florida Legislature a comprehensive program for reform and improvement of the criminal justice system of the State. I believe his message would be of interest in other States and I request that it be included in these hearings.

[The message referred to follows:]

"There is much of which to be proud. But much more remains to be done..."

Governor
Reubin O'D. Askew

Special Message on Criminal Justice
to the Florida Legislature, April 16, 1973.

Governor's Supplementary Message on Florida's Criminal Justice System

The Constitution of Florida reposes in the office of Governor a profound public trust. It invests the office with broad powers and charges the holder with solemn duties. I am not unmindful of the great privilege which is mine to hold—in passing, as it were—at the sufferance of the electorate of this great state. Neither am I unmindful of the singular and correlative duty imposed upon me as the Chief Magistrate of this State "to take care that the laws be faithfully executed." But, as I am sure you will agree, this executive duty was not cast nor does it now exist in the solitude of a constitutional vacuum.

To the contrary, it is a duty to the citizens of Florida which cannot possibly be fulfilled without the cooperation and assistance of the Legislative and Judicial Branches; without the aid and advice of my colleagues in the Executive Branch, most notably, the Cabinet; without the untiring service of thousands of dedicated governmental officers and employees; and finally without the interest and support of the citizens themselves.

With these thoughts in mind, I take this opportunity to share with you my views regarding the deficiencies which beset Florida's criminal justice system and my recommendations of the means to improve the system to the end that our laws may be more faithfully executed and the lofty goals of our forefathers may be fully realized.

SPECIAL MESSAGE ON CRIMINAL JUSTICE

In the area of criminal justice over the past few years, we have met new challenges and achieved significant results. There is much of which to be proud. But much more remains to be done if we are to have a system of criminal justice that is not only effective but also just, and not only concerned about statistical accomplishments but also committed to upholding the dignity of persons it serves.

During this session, the Legislature has a unique opportunity to address problems that for too long have gone untreated and to continue the reform which you have initiated in the recent past.

A source of gratification to all is the report of crime trends in Florida which is soon to be released by the Florida Department of Law Enforcement. The report will show an appreciable *downturn* of 5.3% in the rate of violent and property crimes in Florida. Along with this improvement, we can also take comfort in knowing that last year the percentage of crimes cleared by arrest *increased* by over 9% in Florida. For

this accomplishment we owe tribute to the hundreds of dedicated law enforcement officers who serve throughout our State.

While these statistics are encouraging, the absolute number of crimes is still intolerable. The cost of crime in dollar and human terms is far too much for the health of Florida. Last year, for example, victims of property crimes in Florida suffered more than $77 million in unrecovered property losses. More than 900 persons were murdered, and thousands of Florida residents were permanently traumatized as victims of rape, robbery, aggravated assaults, and other serious crimes.

Drug abuse continues to be a serious problem in our state. Arrests for sale of narcotics and dangerous drugs increased by more than 26% in 1972 over the previous year, while arrests for possession increased by more than 53%. We must continue and improve our treatment, rehabilitative and enforcement programs in this area.

To provide agencies in these areas and others in the criminal justice system with the necessary resources, I have proposed in my recommended budget for fiscal year 1973-1974 an overall *increase* of more than 25% in appropriations for criminal justice operations. By function, the recommended budget calls for more than a 53% increase in appropriations for programs dealing with the actual reduction of criminal activity, a 27% increase for programs dealing with the prosecution and defense and nearly a 23% increase for institutional and community-based rehabilitation programs.

We cannot succeed in our efforts to control crime and improve our system of criminal justice if adequate resources are not provided. For that reason I urge you to approve the recommended budget which I have submitted.

In addition to providing adequate resources, we must also review the adequacy of our laws and make changes where circumstances warrant. Only through such a comprehensive approach will we improve our chances of successfully meeting the changing challenge of crime in Florida.

ORGANIZED CRIME

Organized crime is a disease that feeds on the weakness of man. It affects each one of us in many direct and indirect ways.

By its illegal gambling operations it earns millions of dollars which serve as the "seed money" for its other illicit activities. Estimates of organized crime revenue from gambling are staggering. In 1967 the President's Crime Commission es-

timated that illegal gambling nationwide provides organized crime with between $7 billion and $50 billion in gross annual proceeds. If we assume that *$7 billion*, as the low figure in that range, is a realistic estimate of organized crime's gross "take" from gambling, we are saying the organized crime has gambling revenues amounting to more than $800 thousand *every hour of every day*. It is not unreasonable to assume that organized crime revenue from illegal gambling in Florida amounts to at least one-fiftieth of those national figures—or a gross annual revenue from illegal gambling in Florida of $140,000,000. Because Florida is the ninth largest state, it is likely that this gross figure may be greater.

While gambling may be organized crime's major source of income, it is by no means the sole source. Organized criminal rings, some of which operate with the support of hard core organized crime groups, are responsible for a large part of the drug importation and distribution activities in the nation and in Florida. From this enterprise it is estimated that hundreds of millions of dollars are generated for the coffers of organized crime.

But the financial consequences to our society from this vicious racket pale by comparison to the human consequences. While we should be disturbed by the large sums of money which organized crime derives from its drug importations, we must not lose sight of the incalculable harm caused to society by the ravages of drug abuse and its consequences. These consequences include shattered lives and dreams of thousands of families and billions of dollars in property crimes committed by addicts who must feed their expensive habits on a daily basis. The addict generally does not meet that expense from legitimate means but resorts instead to theft, and here again organized crime serves as a willing partner by providing fencing outlets for the conversion of stolen property into cash for the purchase of drugs.

Loansharking—the lending of money at criminally usurious rates—is another of the lucrative illegal activities of organized crime which affects each of us. The loanshark preys on the poor and rich alike, and the consequences of his activities cause ripples and waves throughout our economy. The loanshark victim, upon failure to repay, may lose his business to the loanshark or be forced into the crime of embezzlement out of fear of the retribution he knows may be inflicted. Once in control of a captured business, a loanshark may fleece the concern of its assets and subsequently take refuge under our bankruptcy laws. Nationwide, the loanshark racket is estimated to generate at least $300 million annually to organized crime, and again it is not unreasonable to assume that at least one-fiftieth of that amount is derived in Florida.

These illegal activities of organized crime not only provide millions of dollars in untaxed profits, but also establish avenues toward "respectability" for the racketeer element by enabling the infiltration of legitimate business through outright purchase. Few if any types of business are immune to these incursions. A study by the Internal Revenue Service a few years ago revealed that of 113 publicly identified racketeers investigated, 98 of them had control of or a significant interest in 159 different enterprises. There is strong evidence to indicate that organized crime infiltration of legitimate business in Florida is a problem of growing magnitude.

But of all the consequences of organized crime the most devestating is the official corruption it causes. The late J. Edgar Hoover accurately stated that "organized crime cannot exist in a community without the protection of corrupt officials and the blessings of an apathetic public whose sense of morals has been dulled to blindness." No effort to deal with organized crime can be complete without a concomitant program to assure integrity in government.

STATEWIDE GRAND JURY

Much more can be said about organized crime than is contained in this short listing of abuses it inflicts on the people of Florida. It is sufficient to say that a highly sophisticated, diversified and widespread force operates in our state today. Loud voices and good intentions will not eliminate it. Only carefully conceived, sound, and well-executed plans will. The burden of finding solutions is on those of us who have been elected to lead.

Having evaluated the status of our effort against organized crime, I have concluded that more than anything else our evidence-gathering process is in need of improvement. While, in most respects, our substantive laws may be adequate in their coverage of illegal activities of organized crime, the laws are not self-executing. As you know, I have recommended a statewide grand jury which would provide us with an effective evidence-gathering tool and immeasurably improve our ability to detect organized criminal activity and indict members of organized crime.

The activities and consequences of organized crime are matters of statewide significance and concern. County and circuit boundaries are not respected by an organized crime group which conducts bookmaking or other gambling operations with selling, collection and "lay-off" contacts in many counties; or by a drug ring which imports narcotics in one county, processes them in another, sells them in a third and maintains its head-

quarters in a fourth; or by an organized criminal group which receives from another state the proceeds of an illegal operation and invests those funds in a number of our counties in attempts to "launder" the money and provide "legitimate" fronts for illegitimate operations.

Consequently, we need a mechanism that is able to investigate these activities on a statewide basis since they unquestionably have state wide impact.

When one considers that our 67 counties range in size from the smallest, with 301 square miles, to the largest, with 2,578 square miles, and range in population from approximately 3,000 residents to nearly 1.3 million, it becomes clearer that the single county approach to dealing with multicounty criminal activity is inadequate.

The proposed bill establishing the statewide grand jury not only has great promise of achieving significant results, but also contains numerous checks, balances and safeguards against abuse and manipulation. In fact, the statewide grand jury I propose has added safeguards which are not contained in either the Federal law which authorizes special grand juries or in the laws of other states which have statewide grand juries.

We have been cautious in drafting the proposed bill to prevent vulnerability to manipulation and abuse, and have created what some might call a "cumbersome" mechanism.

Two of our sister states—Colorado and New Jersey—have instituted statewide grand juries within the past few years. In each state the results have been salutary and the evaluation positive. For example, since 1968 when a statewide grand jury system was established in New Jersey, that state has empaneled nine statewide grand juries. As of May, 1972, the New Jersey statewide grand jury had returned 204 indictments resulting in 110 convictions. In the first two months of this year an additional 14 indictments have been returned. The types of multijurisdictional offenses covered by the indictments include gambling, large scale narcotics operations, extortion, loansharking and bribery.

The experience of these states clearly underscores the fact that as an institution for gathering evidence in organized crime investigations a grand jury is without counterpart. But to be truly effective in such cases a grand jury must have a geographic jurisdiction which is capable of adequately exploring multicounty activities of organized crime. Currently, our law only authorizes grand juries with jurisdiction to inquire into offenses which are triable within the boundaries of a county. Under certain circumstances a grand jury may be moved from

the county where the triable offense allegedly occurred. In an organized crime operation covering a number of counties and judicial circuits, separate grand juries must be empaneled in each of the counties where offenses are committed.

A dramatic example of how this situation can cause a serious hindrance to the enforcement of state laws is presented by the recent case involving key figures in a Central Florida based gambling conspiracy. After extensive investigation by Florida law enforcement and prosecutive agencies in Central Florida, it was a Federal grand jury and not a Florida grand jury which returned indictments. One of the basic reasons for this was that a Federal grand jury had the geographic scope to investigate into the entire matter and to return indictments irrespective of the county or circuit where offenses were committed. Despite the expenditure of thousands of dollars and hundreds of man-hours by state agencies in developing this significant organized crime gambling case, the state deferred to the Federal Government for purposes of prosecution of Federal crimes due, in large measure to our fragmented and patchwork grand jury structure.

Inter-governmental cooperation as evidenced in this case and others should be applauded. At the same time, however, we must bear in mind that Federal prosecutive and investigative priorities may not coincide with those of our state. Matters investigated and developed by Florida agencies and referred to Federal grand juries often may stand in line while Fedral agencies accomplish their primary mission—the enforcement of Federal laws. We have a legitimate interest in assuring that state laws are enforced and the only way to assure that is to have a self-sufficient capability.

What does it profit us to have law proscribing certain conduct and setting penalties for violation if our investigative and prosecutive mechanisms are not equipped to effectively enforce them? There should be no need for our state to forego prosecutions for reasons that are well within the power of the Legislature to correct.

Under the bill I shall propose, a statewide grand jury could be empaneled only with approval by the Supreme Court upon a petition filed by the Governor seeking such empaneling and setting forth good and sufficient reasons for the empanelment.

The term of the grand jury would be delineated by the Supreme Court for a period of up to twelve months, subject to extension for up to six months by the Supreme Court upon petition by a majority of the grand jurors or by the grand jury's legal advisor.

The statewide grand jury would have geographic jurisdiction extending throughout the state. Its subject matter jurisdiction would be limited to the investigation of organized crime which is defined in the bill as "matters involving incidents which occur or have occurred in two or more counties as part of related transactions."

An indictment returned by the statewide grand jury would be certified for trial in the county where the offense was committed, thus safeguarding the defendant's constitutionally guaranteed right of venue. To preserve the independence of the grand jury, the bill provides that the foreman and deputy foreman shall be elected by the grand jurors themselves.

The legal advisor to the statewide grand jury would be a state attorney designated by the Governor, subject to the approval of the Supreme Court.

The statewide grand jury would be composed of eligible potential jurors randomly drawn on a population basis from certified jury lists of the several counties. To assure that the grand jury is composed of a cross-sampling of residents from different parts of the state, the bill restricts to one-quarter of the entire composition the number of grand jurors who may residents of any one judicial circuit.

Under this bill, judicial supervision of the statewide grand jury would be exercised by a judge of the circuit court assigned for that purpose by the Chief Justice of the Supreme Court.

All of these are important safeguards which will effectively guarantee that the statewide grand jury will properly be used, and in addition, serve as a symbol of our State's tough posture against organized crime.

The statewide grand jury would not expand the substantive powers now reposed in county grand juries. Rather it would merely have an expanded geographical jurisdiction and be limited to inquiry into organized crime matters which are not confined to a single county.

It would be a valuable mechanism in dealing with complex and lengthy investigations requiring the undivided attention of the statewide grand jury. It would be a valuable tool in combating organized crime which respects no county boundaries. It would be an important vehicle for dealing with organized crime activities of statewide impact and concern.

The severity of the organized crime problem requires and the people of Florida deserve no less than the realistic approach embodied in this proposal. I urge you to enact, at this session, legislation creating the statewide grand jury described above.

COUNTY GRAND JURY

Creation of a statewide grand jury does not obviate the need to improve our law dealing with county grand juries. In most respects, Chapter 905 of the Florida Statutes which deals with county grand juries has not been revised since 1939. During the intervening thirty-four years, the complexity of crime has increased and the complexion of our criminal justice system has drastically changed.

In keeping with the spirit of criminal code revision, I believe that we should take this opportunity to streamline and clarify Chapter 905 along the lines that I shall set forth in a proposed bill.

IMMUNITY

In complex and wide-ranging investigations, few evidence-gathering tools are as effective as the grant to a witness of immunity from prosecution in exchange for testimony initially refused on the basis of the privilege against self-incrimination. As a tool of evidence-gathering, immunity dates back to 18th Century England. It is founded on the premise that the privilege against self-incrimination, as the well-known expert on evidence, Dean Wigmore, noted, is "merely an option of refusal not a prohibition of inquiry."

Particularly in complex investigations, notably those involving organized crime, a "wall of silence" is created by key potential witnesses. The wall is constructed of two materials. First is the internal discipline of organized criminal groups which make their members well aware of the fate that awaits them if they testify. Second is the privilege against self-incrimination. What many jurisdictions, including the Federal Government, have recognized is that the wall of silence can be penetrated by affording adequate protection to witnesses and by enacting laws which guarantee, by the provisions of immunity statutes, that testimony compelled will not be used against the witness in a criminal proceeding.

Florida now has what is known as a "transactional" immunity statute which cloaks a witness with an absolute insulation from prosecution for any transaction or matter about which he has testified. This immunity from prosecution has been construed to be applicable even if law enforcement investigation subsequently uncovers totally independent and unrelated evidence of the witness' complicity in the offense about which he was compelled to testify, and even if the witness's statement is not used against him.

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The problem with transactional immunity has been that if it is applied erroneously or without knowledge of the witnesses' offenses in other jurisdictions, it can seriously impede effective law enforcement and prosecution.

To improve the evidence-gathering capabilities of our State Attorneys, to assure that grants of immunity are made with full knowledge of a witness' background and possible violations in other circuits, and to safeguard the privilege against self-incrimination, I shall propose that you enact a measure that will continue the granting of transactional immunity by State Attorneys, but only after prior approval is obtained from the Governor, as the Chief Magistrate of the State under the Constitution. The Office of Governor would serve primarily as a "clearinghouse" for the necessary information to insure that blankets of immunity are not used to thwart other jurisdictional interests in the defendant.

CRIMINAL CODE REVISION

One of the most far-reaching opportunities before this Legislature is the opportunity to modernize our body of substantive criminal law. We are now in the third phase of Criminal Code Revision. We have already seen the adoption of new rules of criminal procedure by the Florida Supreme Court, and the Legislature recently made great progress in enacting uniform penalties for substantive crimes and in repealing some needless criminal statutes. I commend the Supreme Court and the 1971 Legislature for those great strides. But the major task in Code Revision is still ahead—the revision of Title 44, the Florida Criminal Code.

In recent years, there has been a nationwide, state-by-state effort to modernize the criminal law. According to the latest statistics compiled by the American Law Institute, 18 states have modernized their criminal laws. Delaware, Pennsylvania, North Dakota and Utah have acted within the past year. Sixteen other states, including Florida, have revised criminal code proposals yet to be enacted. Eight states have criminal code projects well under way. In addition, Congress is presently considering two proposals for the revision of Title 18, U. S. Code, the Federal Criminal Code.

In Florida, we have criminal offenses spread throughout the Florida Statutes. Title 44 abounds with inconsistencies and useless anachronisms. It is a conglomerate of separate statutes that are top-heavy with archaic references and short on effectiveness. If one would take time to examine the legislative history of many of the present provisions of Title 44, he would

find that most of these provisions were drafted in 1868, and only minor changes have been made since. It seems almost unbelievable that in 105 years, Florida has never mounted a full-scale revision of these statutes. We have the opportunity now to re-establish the credibility of the criminal justice system by adopting a modern criminal code tailored to the challenges of the 1970's.

There are some criminal statutes which may be outdated, not because society condones the moral conduct proscribed, but because experience has taught us that such laws are selectively enforced and many times too expensive to administer. Some of these statutes, moveover, constitute an unjustified burden on the criminal justice system itself. They crowd police blotters and clog court dockets. I am referring to the what have been called "victimless crimes."

In dealing with the "victimless crime" issue, the essential question is whether society has a prevailing interest such as would justify the continued imposition of *criminal* sanctions. Care should be taken to distinguish between crimes which are clearly without a victim and those in which the family or society itself is the victim. I believe that Florida should continue to strengthen its laws prohibiting gambling and prostitution, especially in the case of those who promote such activities as an illicit business. I believe that Florida should strengthen its laws prohibiting sex crimes, particularly those which involve the youth. Sexual offenses committed by force upon children should be subject to severe penalties.

There are certain improvements in the law contained in the "Third Tentative Draft" of the Criminal Code Revision which deserve special mention. For example, the chapter dealing with child abuse and neglect of dependents substantially broadens and strengthens our coverage of this area. The proposed chapter on bribery, corrupt influence and abuse of office sets a new standard in the area of official misconduct which is greatly needed. This coupled with changes previously recommended will improve our entire system of government. The provisions relating to obstruction of justice will effectively aid better law enforcement and give us the tools to combat those who would impede the orderly administration of justice.

Over the years there has been a proliferation of penal statutes because every minor offense, or violation of an administrative statute has been classed as a second degree misdemeanor. Decriminalization of such statutes by providing for a fine, forfeiture, or other adequate civil remedy would effectively relieve the criminal justice system of a huge, unnecessary, and expensive burden, and result in a more effective disposition and thus

serve as a more effective deterrent. The Myers Act is an excellent beginning.

An essential goal of Code Revision is to eliminate provisions which do not clearly prescribe criminal conduct. Criminal statutes should be in *plain language;* they should be written so that everyone can understand them. At a time when societal restraints are increasingly complex, so much so that citizens and law enforcement officials alike have great difficulty in correctly interpreting the requirements of law so as to conform their conduct to "acceptable standards," this Legislature could perform a great service by spelling out the basic standards of our state in clear terms.

Among other things, Criminal Code Revision has recommended an overhaul of statutes relating to bribery, corrupt practices, and official misconduct. I recommend this effort. One of the single most important, and yet one of the most fragile, assets that a government can have is the trust of the people it serves. Nothing can shatter that trust as quickly and thoroughly as corruption in public office. We should strengthen these laws.

To make equal the standards applicable to the average person and to the public official, I urge you to enact a bribery and corrupt practices act which is stronger than the one that is presently under consideration by the Code Revision Committees.

The bill which I will propose is modeled in part on the excellent beginning made in Criminal Code Revision, but it borrows from the landmark law enacted by the State of West Virginia in 1970.

The measure I propose would:

(1) expand the coverage of the bribery statute to include principal political party officials;

(2) clarify the definitions of "bribery;"

(3) include threats and retaliation in official and political matters under its terms; and

(4) make it unlawful for a public servant to solicit or accept a reward or compensation for past behavior.

For these reasons, it is imperative that decisive action be taken this year to modernize our criminal code. The piece-meal approach to reform of years past is no longer adequate. The Criminal Justice Committees, chaired by Senator Richard Pettigrew and Representative Jack Shreve are to be commended for their extremely valuable work towards this goal.

FLORIDA LAW ENFORCEMENT ACADEMY

I urge this Legislature to establish a law enforcement academy program to upgrade the capabilities of law enforcement personnel throughout our state.

A national standard recommended by the National Commission on Criminal Justice Standards and Goals underscores the importance of training and education of law enforcement officers:

> "Every state should, by 1978, guarantee the availability of state approved police training to every sworn police employee. Every state should encourage local, cooperative, or regional police training programs to satisfy state training requirements, and, when these cannot satisfy the requirements, criminal justice training centers including police training academies should be established by the state."

The State of Florida cannot, in my judgment, wait until 1978 to provide our law enforcement officers with adequate training.

J. Edgar Hoover, who repeatedly stressed the need for improved police training, said, "The efficiency of law enforcement today is commensurate with the degree of training of its officers. Only through modern police training can we keep abreast of the times in the unceasing fight against lawlessness."

The proposed Law Enforcement Academy will have two basic functions: (1) a field instruction program, and (2) a resident instruction program.

The field instruction staff program will assist local law enforcement agencies by providing a pool of instructional support for local recruit and specialized training. This field training will complement the efforts of local criminal justice institutes and academies. It will not supplant those efforts. Basic recruit and advanced training programs will continue to be held at the local level for city and county agencies.

The resident instruction program will provide basic recruit training for all state law enforcement agencies, except the Florida Highway Patrol. Moreover, specialized training will be available to all law enforcement agencies in the State.

Cities and counties have gone to great expense and effort to establish local training facilities and programs in coordination with the Florida Police Standards Board. The pro-

posed programs of the Florida Law Enforcement Academy will complement those efforts and capitalize on their experience. Significantly, the Academy will consolidate and improve the state's training capabilities for state law enforcement agencies such as the Florida Highway Patrol, Marine Patrol, Beverage Division, Game and Fish Commission, Florida Department of Law Enforcement, and State Attorney investigators.

Florida is not alone in this approach. According to a 1972 report of the International Association of Chiefs of Police, thirty-four state law enforcement departments have state training facilities which train state and local officers.

In accordance with the certification program of the Police Standards Board, the Florida Law Enforcement Academy will help fill many gaps in our present approach to law enforcement training. It will make available to the state and local agencies: an expert, full-time instructional staff, a resident facility for specialized training and research, a mobile training capability, a staff to support local programs, and a vehicle which will foster standardization and quality control in the state's law enforcement training efforts.

We recognize that the Academy, as with most innovative proposals, has been a cause of controversy. But in its present form, there appears to be significant support for its immediate implementation. The Executive Board of the Florida Police Chiefs Association voted unanimously in favor of the proposed Law Enforcement Academy. The Florida Sheriffs Association in executive session voted in favor of the proposed academy. A recent survey conducted by the Florida Department of Law Enforcement of all sheriffs and police departments in the state indicated that 90% of those departments support a law enforcement academy program which would be staffed and equipped to prove specialized "skills training" for all law enforcement officers.

Because law enforcement effectiveness hinges greatly on training and ability, to send a law enforcement officer forth without providing him with the expert knowledge and skills needed constitutes disservice to the public and to the officer himself.

I urge this Legislature to appropriate the necessary funds, as outlined in my budget recommendations, to implement the proposed Florida Law Enforcement Academy program.

HANDGUN CONTROL

The use of handguns in the commission of crime has become a problem of such magnitude that it can no longer be ignored.

While we must consider the individual's right to bear arms, we must also consider the rights of victims against whom these arms are all too frequently used.

In 1971, 51% of all homicides committed in the United States involved the use of handguns. During the same period in Florida, handguns played the major role in 54.6% of all homicides. This percentage of occurrence has risen to 58.1% during the 1972 reporting year. Significantly, the percentage of times handguns used in the commission of robbery, aggravated assault, assault on police officers and the killing of police officers in Florida is equal to, or higher than, the national averages for those crimes.

In addition, so called "Saturday Night Specials" are readily available for purchase and immediate use in Florida for prices ranging from $12 to $20, which in many cases includes the cost of ammunition.

Since the shooting of Governor George Wallace and Senator John Stennis, many have felt the need to do something about attempts on the lives of public figures, not to mention the 20,000 less publicized shooting deaths in the United States each year including more than 900 in Florida last year. The National Commission on the Causes and Prevention of Violence estimated that, as of 1968, there were 35 million rifles, 24 million handguns and 31 million shotguns in civilian hands. These weapons were used to commit 65% of all murders and more than 100,000 robberies annually. Moreover, guns are a common cause of accidental deaths and a favorite weapon in suicides.

In 1971, a million shortbarreled handguns were made in America, similar to the ones that were used to kill Senator Robert Kennedy and shoot Governor Wallace, and over 4,000 other citizens. Many of these weapons were fabricated from foreign parts. The Federal Gun Control Act of 1968, enacted in response to the murders of Senator Kennedy and Dr. Martin Luther King, Jr., banned the importation of handguns. As a result, parts are now imported for assembly in our country.

More people have died of civilian gunfire since the year 1900 (800,000) than in all wars since and including the American Revolution. Since 1835, there have been 41 documented assassination attempts against Presidents, governors, senators and representatives. All too many of these attempts have been successful.

While some form of handgun control is needed, a security measure that would protect persons and property from all harm is unattainable. The truth of that is conceded by The National Commission on Violence: "[I]t is difficult to prevent a determined assassin from killing, particularly when a men-

tally or emotionally distraught person acts alone to avenge some real or imagined wrong."

Accordingly, it has not been seriously proposed that the estimated 90-million firearms in private possession be confiscated. Certainly that is not a responsible position, but one nevertheless which is the apparent fear of the National Rifle Association which opposes any legislation as a step in that direction. The 1968 Gun Control Act banned interstate mail order sales, provided for the recording of purchases so as to trace owners and to limit imports. The Gun Control Act did not prevent Arthur Bremer from legally purchasing a snub-nosed revolver even though he had been arrested previously for carrying a concealed weapon. Last year the United States Senate passed a bill that would restrict sale of easily concealable small handguns to police agencies, the military and to those with lawful sporting purposes.

Our efforts in Florida are now in need of repair. In March of this year, Florida's "Saturday Night Special" law was declared unconstitutional by the Florida Supreme Court. The effect is that the unregulated importation of weapons parts from foreign sources for assembly, distribution and sale in our state is now permitted. We are without an enforceable law to control cheap handguns.

FBI Director J. Edgar Hoover said, "[W]e must eliminate 'Saturday-night specials' if we are to reduce the incidents of homicide". A carefully drafted statute in this area is needed. Additionally, I strongly recommend the enactment of legislation requiring a "cooling off period" between the time of purchase and the time of possession by the buyer.

CONCERN FOR VICTIMS

This year, more than ever before, government has become increasingly aware of the plight of those who are victims of serious crime. I share this concern. According to the President's Crime Commission Report, one of the most neglected subjects in the study of crime is its victims; it is the individual, his household and his business that bear the brunt of crime in the United States.

The United States Senate recently passed a bill which would provide monetary compensation to victims of certain serious crimes. The Florida Legislature will also be considering legislation for victim compensation. Although I have some philosophical reservations regarding the concept of victim compensation, I recommend that a meaningful effort—perhaps a pilot effort—be initiated this year.

PORNOGRAPHY

The rights of free speech and expression are cherished liberties guaranteed by the United States and Florida Constitutions. These cherished liberties must not be compromised. Our efforts to curtail the distribution of hard-core pornography are premised on the generally accepted fact that those rights are not absolute. And as we can be sanctioned for yelling "fire" in a crowded theatre, so may we be proscribed from conduct that could reasonably be expected to result in an increased threat to the personal safety on citizens and well-being of society.

Many Floridians have expressed indignation at the pandering of obscene materials in our State. The availability of hard-core pornography has increased drastically. Lurid advertisements and announcements daily assault the sensibilities of Floridians, young and old. Some drive-in theatres are exhibiting obscene movies in view of surrounding residents or passing motorists.

The primary reason for this proliferation is that Florida has no enforceable statute to control the distribution and sale of hard-core pornography. Enforcement of Florida's present statute has been stayed by the Supreme Court until its constitutionality is determined. When the Supreme Court will act is unclear. The case has been on appeal for almost three years. Meanwhile, Florida has been helpless against the deluge of pornography which has been openly and aggressively pandered in our state.

To stop this deluge, the Legislature should enact legislation that will give our law enforcement officers an effective tool against those who promote, distribute, and pander obscene matter. Such legislation would be a futile gesture, however, without some assurance that it would pass constitutional muster. Careful analysis should be made, therefore, to determine the constitutionally permissible latitude in this area of the law so that cherished constitutional rights are not abridged.

I will propose legislation that would effectively curtail the dissemination of hard-core pornography. It would be supplemental to the statutes now under court challenge. The major thrust of this legislation is aimed at those who promote obscene material. Carefully drawn definitions from other successful state statutes, such as those of Georgia, have been included.

The proposed legislation consists of three bills.

(1) A criminal statute enforceable against wholesalers, distributors, retailers, promoters, and manufacturers.

(2) A civil statute enabling a citizen to obtain injunctive relief or civil compensatory damages.

(3) A statute by which a prior adversary hearing would be held if it is finally determined that such a hearing is a constitutional requirement.

This program is designed to include a comprehensive, but enforceable criminal statute consistent with the Constitutions that will be an effective tool against the hard-core pornography in Florida. Under these proposals, the private citizen would be authorized to initiate civil action (either by injunction or by a suit for damages). In this way, each citizen would be able to assist in the control of obscene material in their own community.

BAIL REFORM

The present system of "money bail" in Florida discriminates against the indigent and poor.

The bail system is intended to assure an individual's attendance at trial, but the manner in which it is administered does not take into account the pertinent social, family or character traits which may indicate the probability of a person's appearance at trail. The present system simply measures one's ability to pay without regard to the potential threat to society which may be presented when the accused is returned to the streets, to his home or his job.

It is estimated by the Florida Department of Administration, from recent studies on bail and detention, that in 1971 at least 48% of the accused who were charged with bailable felonies and 20% of those charged with misdemeanors could *not* post the required money bail. This resulted in the pretrial incarceration in 1971 of approximately 38,255 persons in Florida jails at an average cost of $4.04 per day, per person.

The cost is staggering. The utility of the system in its present form is questionable, at best. Although it is not known how many of these persons were incarcerated on any given day, it is evident that substantial savings could result from changes in the system. This, of course, does not take into account the dollar cost to the public for welfare support to assist the dependant family or the economic and psychological cost to the families affected. This problem is further exacerbated by the damage done to the accused's work record and to his employability while he is awaiting trial.

The Department of Administration estimates that an adequate "release on recognizance investigation" costs approximately equal to the cost of incarcerating the individual for two weeks in the county jail. Considering the fact that accused persons are not infrequently incarcerated for periods of 8 to 12 weeks prior to trial, or other disposition, a tremendous savings of public money could potentially be derived by releasing on their own recognizance those accused who are found to be a potential threat to society. Bail reform would not only represent a savings in tax dollars, but it would also help to eliminate the serious overcrowding in Florida jails.

National studies conducted in areas where bail reform programs have been enacted demonstrate that of all those persons released on recognizance less than 1% have failed to appear for their court hearing or trial. Furthermore, those studies show that the rehabilitative process is significantly enhanced for those offenders who are ultimately convicted and placed on probation and who do not spend the time prior to trial, in jail. Finally, for those innocent persons who were accused and later acquitted of a crime, the release on recognizance system does not impose irreparable damage to their lives, families and occupations and sometimes forcing these families onto the welfare cycle. It is essential, therefore, that we modify our bail system in order to require the trial judge to release an offender on his own recognizance unless it is shown that the offender's employment record, family ties or past experience indicate a strong probability that he may not appear at trial or hearing.

In summary, reforming the bail bonding system in Florida would (1) eliminate the injustice imposed upon indigent and poor offenders, (2) save substantial tax dollars, and (3) maintain an assurance that the accused person will appear in court. such reform is overdue.

One final comment on bail reform. The President's President's Crime Commission advises that more "strictly enforced criminal penalties for willful non-appearance should provide a deterrent to flight." I agree. Bail reform in Florida should include swift and sure penalties for those who fail to appear.

PRE-TRIAL DIVERSION

The unmanaged flow of offenders through the state corrections system is the most critical problem facing Florida's correction system.

One of the reasons for the present overcrowding problem is that approximately 27.6% of the felony dispositions result in a prison commitment. That rate exceeds by approximately

one-half the prevailing rate throughout the country. The Division of Corrections is currently housing in excess of 10,000 inmates, and it has had to "close its doors" to new admissions twice during recent months. Many county jails are overcrowded, court dockets are congested, and in many areas no relief is in sight.

Based on a preliminary analysis of the 1972 Florida Uniform Crime Reports, Crime in Florida, nearly 46% of all Florida offenders are under the age of 25; this represents approximately 180,000 individuals. With recidivism rates ranging anywhere from 60% to 90%, it is obvious from these rates that the cost in wasted human lives, in property, and in tax dollars is appalling.

One alternative to the traditional approach rehabilitation is "pre-trial diversion". Pre-trial diversion affords for treatment immediately following apprehension, at the time when rehabilitative efforts should begin. A pre-trial diversion program makes available services such as comprehensive diagnosis and evaluation, intensive counseling and supervision, psychiatric treatment, vocational training, and job placement. These services are provided immediately after arrest and continue usually for periods of from three to six months. Satisfactory completion of the program results in the final discharge of the offender without the damaging stigma of a criminal record.

A survey of pre-trial diversionary programs indicates that present efforts in other states are demonstrating their value. A limited experience of seven major U. S. cities indicates a "success rate" ranging up to 87% when working with youthful offenders.

Based on a cost-benefit analysis of a pilot pre-trial program in Dade County, the costs of handling 125 cases by the method of diverting an offender to a pre-trial program in comparison to the traditional means of incarceration, trial and disposition may be summarized as follows:

Pre-Trial Intervention Costs (125 cases)	$ 86,925
Incarceration Costs (125 cases)	$309,443

Based on this limited comparison, it can be concluded that it may be significantly less costly to divert a case to a pre-trial program than to process it, in the traditional manner, through disposition in the criminal courts.

Circuit Judge Ben F. Overton, Chairman, Conference of Circuit Judges, advised a report on the recent National Conference of Criminal Justice, that of the "proposed standards affecting the courts, this (pre-trial diversion) should be examined

closely for possible full implementation in Florida." Clearly, then, new approaches working within recognized standards and goals for rehabilitating offenders, such as pre-trial diversion, should be thoroughly considered without delay.

Having recognized the importance of the pre-trial intervention treatment approach, my budget recommendations includes $156,000 from the U. S. Department of Labor and $377,500 from Law Enforcement Assistance Administration to be utilized for pre-trial diversionary programs. I invite the Legislature to study these proposals for possible expansion of this useful concept.

YOUTH CRIME AND DELINQUENCY

Nearly six years ago, the President's Commission on Law Enforcement and Administration of Justice stated that "... America's best hope for reducing crime is to reduce juvenile delinquency and youth crime. . ." It said that the best preventive medicine to the problems encountered in the adult correctional system was a more viable and effective rehabilitation services to youth.

In Florida the problem of delinquency and youth crime is particularly significant. School age youth, of ages between five and eighteen, represent less than one-fourth of our population, but account for more than one-half of all arrests for serious crimes.

Recognizing these facts, we must continue to strengthen our juvenile justice system, not only because neglect of the problem fosters careers of crime, but also because our youth are our most valuable natural resource. The juvenile justice objectives of this administration include policies and programs:

1) To proceed to implement a state-operated system of juvenile detention services.

2) To prohibt the use of jails in detaining children and to administratively restrict the detention of children under 12 years of age, except in the most rare and justified circumstances;

3) To expand the juvenile jurisdiction of circuit courts to include 17 year olds, phasing out this age group from our adult institutions to help reduce overcrowding and to provide more individualized treatment for youth of that age;

4) To establish a "youthful offender" statute, improved probation and parole supervision, and to increase the use of diversionary alternatives for non-capital offenders of ages between 18 and 25;

5) To continue development of community-based treatment facilities including foster-family group homes for delinquent children in order to offer more individualized attention, and to provide for more flexible transfer procedures within the Department of Health and Rehabilitative Services from one division to another to assure the most appropriate treatment of juvenile offenders.

6) To increase our attention to the needs of school-age youth, by encouraging citizen interest and involvement and developing preventive and diversionary alternatives and innovative programs to reduce juvenile delinquency and youth crime;

7) To undertake assessment of program accountability and cost effectiveness of our correctional efforts. Quality of service is as important as quantity of service, and efforts should be commenced to provide for maximum staff development and training, research, evaluation, and coordinated long-range planning for a more effective and just system.

Finally, we should also explore the advisability of revising the jurisdiction of circuit courts over school truants, runaways, incorrigible children and other "children in need of supervision" (CINS) and placing these children under the supervision of an administrative body that would prescribe appropriate preventive and diversionary action. I believe it is desirable to develop the capacity where only those "delinquent" acts considered a crime if committed by adults should require formal judicial action.

ADULT CORRECTIONS REFORM

In March, 1972, I initiated the Governor's Adult Corrections Reform project as an interagency planning effort involving the Department of Health and Rehabilitative Services, Parole and Probation Commission, Governor's Council on Criminal Justice and Department of Administration. The purpose of this effort was to focus on the long-range need for an effective and efficient adult corrections program and design a model system which would be capable of meeting those needs.

The "model" correctional system was developed over a one-year period through examination of nearly all major studies, other state systems, and commission reports, incorporating the best known evidence and practices into a viable and cohesive system. The model defines in detail what the goals and objectives of our correctional system should be as well as the activities and structure necessary to satisfy those goals and objectives.

Our approach to be employed will be a well developed, agency-based planning and evaluative mechanism which will

continue to improve on the model system by deferring its activities and thoroughly testing and evaluating its programs and concepts, as a prerequisite to improvement of corrections programs. This mechanism will provide the basis for an improved management process which integrates the planning and budgeting activities into a two-stage annual decision-making process, whereby we can examine plans on their contributive merit, prior to a detailed analysis of cost. Consequently, we will be in a stronger position to examine the growth and development of offender rehabilitations programs and monitor the long-range reform effort.

The corrections reform project has also produced a Problems and Needs Report, which is a complete analysis of where we are in corrections today, including our major problem areas, why they exist, and what to do about them. This document served as a guide for our FY 73-74 Budget recommendations, which were specifically directed at three major problem areas.

First, the ever-present problem of an unmanaged flow of offenders through our system, manifested by the fact that decisions as to who will enter the system, what will happen to them while they are there, and when they will leave the system has in the past escaped accountability, forcing us to merely accommodate ever-increasing populations rather than manage them.

To this end we have recommended that we attempt once more to accommodate our corrections population in a humane manner and provide the funds necessary for temporary facilities to ease institutional overcrowding immediately as well as funds to construct new facilities for future needs which will conform to the guidelines of our model system. However, the major emphasis within this problem area will continue to rest on our community-based programs and the alternatives they offer to mass incarceration. To this end I am recommending pilot projects in intensive supervision and pre-trial diversion with stringent evaluation in order to explore the actual benefits of such programs. We must also continue our Community Correctional Center program and expand its concept to one of small, community-based treatment centers as alternatives to full-scale imprisonment.

In the "State of the State" address to the 1971 Legislature, I stated that:

> ". . . [C]riminal Justice has suffered in this state because of a lack of coordination between the professional staffs of the Division of Corrections and the Probation and Parole Commission. I urge you to explore the possibility of

removing the field staff from the Parole Commission and placing it within the Department of Health and Rehabilitation Services."

The removal of the field staff was explored, but no definitive action was taken. Opponents to the concept suggested that the management problem could be resolved by increased funding. Each year since 1971 I have recommended substantial budget increases in the field services component of the Parole and Probation Commission, not only to keep pace with the ever-increasing workload demands but, more importantly, to foster the development of the rehabilitative and efficiency potential of our community-based supervision programs.

Efficiency and cost-savings are not insignificant considerations. The design of the present system breeds, if not requires, unnecessary duplication because of the maintenance of separate management and field staffs. The duplication of records and information systems maintained by the two agencies is reason alone to further explore the possibility of transferring the Parole Commission field staff or otherwise integrating the functions of these important agencies.

In view of the foregoing, I would support full consideration by this Legislature of all alternatives available which would more effectively coordinate our fragmented adult corrections services, with particular emphasis on the offender-flow problems of the system.

Second, is the critical need to develop a capability to evaluate our correctional programs and plan effectively toward future needs. We have been neglectful of this task in the past and as a consequence are confronted each year with spending vast amounts of money without knowing what the benefits will be, or even if there will be any. To this end I am recommending the creation of a basic planning and research capability within our corrections agencies to perform the much needed task of program evaluation and planning. Furthermore, I am recommending the transfer of the Governor's Council on Criminal Justice to the Department of Administration to function within the total state planning responsibilities of the Department. This will ensure the establishment of a comprehensive planning program for criminal justice by coordinating and supporting the planning activities of criminal justice agencies.

Third, is our tremendous task of providing an effective treatment program to offenders in order to ensure that upon release from our system, they do not again resort to crime and violence. In the past we have not fully recognized that a large percentage of offenders are people with serious problems

which either deny them the means to pursue legitimate goals or incline them toward abnormal behavior generally. We cannot pretend to understand the complex psycho-social dynamics of criminal behavior, but if criminals are to be effectively dealt with, then our programs and services must reflect a conscientious attempt at redirecting their lives toward legitimacy and self-sufficiency. Consequently, our programs must address the pyschological, social, and vocational needs of offenders and be measured by their ability to correct criminal behavior. To this end I am recommending the establishment of special treatment facilities on a pilot basis to explore these means as potentially more effective ways of delivering services to offenders and dealing with their problems. It is also necessary that we begin to separate offenders with severe psychological problems so as to more effectively bring treatment resources to bear on that potentially dangerous group.

The incarceration and treatment of the "criminally insane" inmate causes unique security problems. Recently, these problems have become acute in some segments of the corrections-mental health system. To alleviate this problem, I have submitted a supplemental budget recommendation calling for an appropriation of $3 million to construct a facility in which to maintain these inmates in a custodial environment which will minimize the possibility of escape or similar security breach, and also enhance the rehabilitative treatment of these inmates. I urge your support of this appropriation.

Summary of Recommendations
Areas of Major Concern
Parole and Probation

1.	To implement a pretrial intervention program and continue expansion of the Multi-Phasic Diagnostic and Treatment Program	$ 357,131
2.	To improve the current staffing ratio by excluding certain supervisors from the staffing formula	424,516
3.	To continue operation of the Intensive Supervision Programs (Parole and Probation) and reduce staffing ratio	530,011
4.	To provide a planning and research capability	110,324
5.	To provide a centralized Staff Development Center	110,443

6.	To develop and improve management information systems and interface with FCIC	279,473
7.	To provide attorneys' fees for parole violators (as required by the courts)	25,000
8.	To maintain current client/staff ratio and provide for increased workload	1,973,160
	TOTAL	3,808,058

Summary of Recommendations
Areas of Major Concern
Division of Corrections

1.	To increase discharge allowance from $50 to $75	$ 94,800
2.	To expand planning and research capabilities	152,034
3.	To improve recreational and food services	367,434
4.	To establish a pre-release training program	282,732
5.	To establish one Special Client Treatment facility and four special vocational training centers	1,742,123
6.	To maintain current client/staff ratio and provide for increased workload	2,572,945
7.	To provide for a comprehensive staff development program	555,074
8.	To provide temporary facilities for 1200 additional inmates	6,000,000
9.	To improve inmate housing capability (renovations and repairs - bed space related)	9,788,000
10.	Lump sum allocation for 1200 new beds by 1976	24,000,000
11.	Renovations and new construction for voc/ed facilities	2,349,000
12.	Additional Appropriation for criminally insane program	3,000,000
	TOTAL	50,949,142

I have made additional recommendations within the areas of staff development and management information systems,

as well as necessary increases in staffing to keep pace with rapidly growing workloads. These recommendations, combined with other requests for continuation funding, I believe, provides a very balanced attack on the problems confronting our adult corrections system and sets the stage for an all out effort of reform.

I urge each of you to study the Adult Corrections Reform document; it is available to you and to your committees upon request. I hope you will work with us in realizing not only its implications for reform but the continued utilization and development of the interagency, knowledge-based planning mechanism.

STATE ATTORNEYS AND PUBLIC DEFENDERS

In January of this year, Florida's judicial system began operating under a revised judicial article which made drastic and innovative improvements over the judicial system which had existed previously. Under our new judicial structure, Florida can be second to no other state in fair and prompt administration of justice. Indeed, Florida may be studied as a model by those states who hope to achieve excellence of structure in their own judiciary.

The Florida Supreme Court furnished great leadership not only in assisting in the adoption of our revised judicial article, but in implementing the new court system with a vast and progressive revision of the criminal rules of procedure. The new criminal rules complement the other judicial reform improvements.

The new challenge which you have before you is to allow this great system to achieve its ultimate potential by properly funding those who are directly charged with the responsibility of implementing the new procedures.

In an effort to determine the total impact of these changes on our state atorneys and public defenders, we are in the process of creating a new management information data system based upon case information reports submitted by each state attorney and public defender. This reporting system was developed as a result of a series of meetings of a committee composed of representatives from the Governor's Council on Criminal Justice, the Department of Administration, the Florida Department of Law Enforcement Data Center, the Auditor General's Office, the State Court Administrator's Office, and representatives of the state attorneys and public defenders.

A reporing system will be operational, on a test basis, April 16, and the system hopefully will be fully operational by June 1st of this year.

One of the greatest additional responsibilities which was not considered in the original budget request for state atorneys is that of total responsibility for all criminal justice intake. Criminal justice intake is at the "threshold" of the entire system. Criminal intake involves a thorough screening of all citizen complaints and reports of offenses to determine whether there is an adequate basis upon which to proceed. This intake function was previously done by the justices of the peace and county judges.

The new rules of criminal procedure mandate many functions which were previously not performed by the state attorney and public defenders. Under the new rules, advisory or "first appearance" hearings must be held daily, necessitating prosecutors and public defenders staffing these hearings on Saturdays and Sundays as well as during the week.

Under the revised system, state attorneys are now charged with the responsibility of prosecuting in the juvenile courts. The intake and prosecution in these courts has increased significantly the volume of work performed by each state attorney's office.

As a result of a recent Supreme Court decision (Argersinger v. Hamlin), indigent defendants charged with any offense for which conviction could result in imprisonment are entitled to legal services provided by the state. As a result the state now has the responsibility of representing those who are charged with most misdemeanors.

The complexities of handling any given case from its inception until its conclusion have also increased significantly. The prosecution and defense functions have been unusually dynamic in recent years, and they stand today as one of the most sophisticated functions of state government.

When my budget recommendations were submitted for state attorneys and public defenders, they were based upon budgets prepared with reference to the demands as they existed under the old system. State attorneys and public defenders did not, and could not have anticipated the tremendous change and increase in work load wrought by the revisions of Article V and the Florida Rules of Criminal Procedure.

As a former Chairman of the Senate Appropriations Committee, I am not unmindful of the many years of hard, conscien-

tious work of past Legislatures and their staffs in an attempt to devise an equitable basis for funding state attorneys and public defenders. Since being Governor, I have encouraged the Department of Administration, working in conjunction with the offices, to explore all reasonable funding formulae. The Management Information System, referred to above, is an attempt to devise an objective, data-based rationale for funding purposes. I am advised that the state attorneys and public defenders have made significant progress toward these goals and have presented workable formulae to the respective legislative committees. I sincerely hope that a formula can be agreed upon within the next few weeks for the funding of these important offices which would make a more equitable distribution of funds to the various circuits than has been possible under the per capita based formula used in past years.

APPELLATE REVIEW OF SENTENCES

One of the most striking ironies of the law is the manner in which sentences are imposed. The guilt-determining process of our criminal justice system is safeguarded by many procedural rules, by many rules of evidence, and by a carefully structured system of appellate review designed to expose error and injustice. However, in the great majority of criminal convictions in this country, the issue of guilt is not disputed. What is disputed, and what is becoming an ever increasing problem in our criminal justice system, is the question of the appropriate punishment.

After determination of guilt or innocence, an issue stipulated in more than 90% of criminal cases, the most important decision for the criminal offender, and the public itself, is the sentence. However, by comparison to the care with which the less-frequent problem of guilt is resolved, the protections afforded in the majority of jurisdictions to the sentencing process are indeed disproportionate. In short, the intricate protections and safeguards afforded to offenders during the pre-trial and trial stages, give way to the widest latitude of judicial discretion at the point of sentencing. In the majority of jurisdictions, the sole responsibility for this vital function rests in a single judge. Arbitrary sentencing decisions can be detrimental to the entire rehabilitation or correctional process. An offender who believes he has been sentenced unfairly in relation to other offenders will not be receptive to reformative efforts on his behalf. Additionally, as sentencing decision-making becomes more complex, the likelihood of disparate sentence increases.

In a recent study conducted by the Southeastern Correctional and Criminological Research Center, it was found that black men adjudged guilty of forcible rape are sentenced to terms of seven years longer than white men convicted for the same crime. For armed robbery, the disparity between blacks and whites is almost four years, for unarmed robbery, it is two years and for aggravated assault, one year. On the other hand, whites receive longer sentences than blacks for the crimes of grand larceny, auto theft, burglary and escape. In these cases, however, the discrepancy is *never* more than *one* year. When age is the comparative factor, the study found that, in general, blacks of all ages receive higher sentences than whites for crimes of personal violence.

Several jurisdictions, in an attempt to provide better safeguards at the sentencing stage, are implementing sentencing review techniques to reduce disparate and irrational sentencing. The American Bar Association Project on Minimum Standards for Criminal Justice examined the major ends to be served by a sentence review process. The project concluded that the most apparent benefit of sentence review is that it would provide the criminal justice system with a means by which the grossly excessive sentence can be corrected. Additionally, sentence review would force the sentencing decision much more into the open, thereby exposing for correction many of the mistakes that need not be made. Finally, sentence review would also induce respect for law in that a convicted offender who has an opportunity to air his grievance is much more likely to approach rehabilitation with a positive attitude than an offender who is convinced that one man did him wrong and concludes that he can do nothing about it.

Presently, a defendant in Florida cannot have his case reviewed if he feels that he is the victim of a legal, but excessive sentence. Absent legislative authority, the Florida Supreme Court has held on at least four occasions that an appellate court is not concerned with the term of the sentence imposed so long as it is within the lawful limits set by the Legislature. Additionally, the Supreme Court has held that the appellate court should refuse to consider whether the jury should have recommended leniency. Accordingly, it is within the province of the Legislature to initiate a sentence review procedure to address disparate and/or irrational sentencing.

A number of our sister states have instituted and maintain sentence review procedures. For example, in Hawaii the state supreme court may affirm, reverse or modify the order, judgment or sentence of the trial court. If in its opinion the sentence is illegal or excessive it may correct the sentence to

correspond with the verdict or finding or reduce the same, as the case may be. Massachusetts has an appellate division of superior court for review of sentences which consist of three judges. The appellate division has jurisdiction to consider an appeal with or without a hearing, review the judgment so far as it relates to the sentence imposed when the sentence appealed from was imposed and has jurisdiction to amend the judgment by ordering a different appropriate sentence or sentences or any other disposition of the case. No sentence can be increased without giving the defendant an opportunity to be heard.

New York statutes empower the appellate court to reverse, affirm or modify the judgment, or sentence and order a new trial. The appellate court can reduce the sentence imposed to a sentence not lighter than the minimum penalty provided by law.

The American Bar Association has recommended that, in principle, judicial review should be available for all sentences imposed in cases where provision is made for review of the conviction. This is specifically meant to include review of sentences imposed after a guilty plea, and of a resentence in the same class of cases.

Although review of every such sentence ought to be available, it is recognized that it may be desirable at least for an initial experimental period to place a reasonable limit on the length and kind of sentence that should be subject to review. I encourage your review of this subject with the hope that progress can be made this year toward implementing an effective review process.

COURTS

Florida enjoys an enviable position among other states. Thanks to the recent revision of the judicial article of our state constitution, our court system is unified and the administration of criminal justice streamlined and reformed. All of those who labored so hard for the reform of our court system are to be commended.

But, as pointed out in the preceding section, the effort and commitment to improve our judicial system cannot stop with the adoption of Article V. The new court system must be implemented and adequately funded if we are to keep our pledge to the electorate whose vote gave birth to the new system.

My budget message acknowledged these considerations by recommending increases in general revenue funding of 87.3% for the Supreme Court, from 12.8% to 30.2% for the District Courts of Appeal, approximately 50% for circuit courts, and 99.8% for county courts. I am confident that these recommendations, coupled with those of Chief Justice Vassar Carlton as set forth in his recent address to this Legislature, adequately demonstrate the needs of the Judicial Branch. I commend these recommendations to your thoughtful consideration.

I would like to express my appreciation to the House and Senate Criminal Justice Committees and their staffs and to Attorney General Robert L. Shevin for their advice and assistance in the preparation of parts of this message.

In conclusion, if we are to make our homes and our streets safe and if we are to be able to meet the myriad other challenges wrought by crime and delinquency, we must take bold and positive steps to improve our criminal justice system. The views and recommendations set forth in this message are not the *sine qua non* of meaningful reform and improvement in the system. These recommendations, with few exceptions, are intended as a catalyst and a point of departure, if you will, for further legislative consideration. As Governor, I pledge the continued cooperation of the Executive Branch so that meaningful improvements in the criminal justice system, as outlined above—and others which you have under consideration—will be enacted at this legislative session.

GOVERNOR'S COUNCIL ON CRIMINAL JUSTICE
307 East Seventh Avenue
Tallahassee, Florida 32301

Chairman PEPPER. This hearing is now adjourned.

[Whereupon, at 5 p.m., the hearing was adjourned, subject to the call of the Chair.]

[The following resolution, passed by the House of Representatives created the Select Committee on Crime in the 93d Congress:]

93D CONGRESS
1ST SESSION

H. RES. 256

[Report No. 93–31]

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 1973

Mr. PEPPER, from the Committee on Rules, reported the following resolution; which was referred to the House Calendar and ordered to be printed

FEBRUARY 28, 1973

Considered and agreed to

RESOLUTION

Resolved, That effective January 3, 1973, and until June 30, 1973, there is hereby created a select committee to be composed of eleven Members of the House of Representatives to be appointed by the Speaker, one of whom he shall designate as chairman. Any vacancy occurring in the membership of the select committee shall be filled in the same manner in which the original appointment was made.

SEC. 2. The select committee is authorized and directed to conduct a full and complete investigation and study of all aspects of crime affecting the United States, including, but not limited to, (1) its elements, causes, and extent; (2) the

preparation, collection, and dissemination of statistics and data; (3) the sharing of information, statistics, and data among law enforcement agencies, Federal, State, and local, including the exchange of information, statistics, and data with foreign nations; (4) the adequacy of law enforcement and the administration of justice, including constitutional issues and problems pertaining thereto; (5) the effect of crime and disturbances in the metropolitan urban areas; (6) the effect, directly or indirectly, of crime on the commerce of the Nation; (7) the treatment and rehabilitation of persons convicted of crime; (8) measures relating to the reduction, control, or prevention of crime; (9) measures relating to the improvement of (A) investigation and detection of crime, (B) law enforcement techniques, including, but not limited to, increased cooperation among the law enforcement agencies, and (C) the effective administration of justice; and (10) measures and programs for increased respect for the law and constitutional authority.

SEC. 3. For the purpose of making such investigations and studies, the committee or any subcommittee thereof is authorized to sit and act, subject to clause 31 of rule XI of the Rules of the House of Representatives, during the present Congress at such times and places within the United States, including any Commonwealth or possession thereof, whether the House is meeting, has recessed, or has ad-

journed, and to hold such hearings and require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents, as it deems necessary. Subpenas may be issued over the signature of the chairman of the committee or any member designated by him and may be served by any person designated by such chairman or member.

SEC. 4. The select committee shall report to the House as soon as possible with respect to the results of its investigations, hearings, and studies, together with such recommendations as it deems advisable and shall submit its final report not later than June 30, 1973. Any such report or reports which are made when the House is not in session shall be filed with the Clerk of the House. The select committee shall cease to exist on June 30, 1973, and its records, files, and all current material in its possession shall be transferred to the Committee on the Judiciary.

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