Summary of Proceedings of A Series of Regional Seminars on "State Legislative Options for Drug Laws Enforcement"

October 30 and 31, 1986, Hartford, Connecticut
January 22 and 23, 1987, Savannah, Georgia
February 26 and 27, 1987, Sacramento, California
March 26 and 27, 1987, Chicago, Illinois

Sponsored by

National Governors' Association
National Criminal Justice Association

In cooperation with

U.S. Department of Justice, Office of Legal Policy
U.S. Department of Justice, Bureau of Justice Assistance
Connecticut Office of Policy and Management, Justice Planning Division
Georgia Criminal Justice Coordinating Council
California Office of Criminal Justice Planning
Illinois Criminal Justice Information Authority

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Disclaimer

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PREFACE

The National Criminal Justice Association (NCJA) is the Washington, D.C.-based interest group representing states on crime control and public safety matters. The NCJA's principal purposes are to influence the development and implementation of national policy in the criminal justice field and to aid the states in formulating solutions to their criminal justice problems. Additionally, under a cooperative agreement with the National Governors' Association (NGA), the NCJA serves as the staff arm of the NGA Committee on Criminal Justice and Public Protection.

Drug trafficking control is a major concern of the governors, criminal justice professionals, and law enforcement officials across the country. For the past several years, the NCJA and the NGA have worked on drug laws enforcement issues in an effort to help state and local officials develop effective approaches to the drug problem.

One specific NCJA/NGA project was a series of four regional seminars on "State Legislative Options for Drug Laws Enforcement" that brought together state and local legislators, policymakers, law enforcement officials, prosecutors, judges, and other individuals with interest or expertise in the seminar subject areas to share their states' experiences to date and to explore legislative and other options for improving drug laws enforcement in the states. Individuals invited to participate were identified through contact with the governors' offices. The four regions encompassed all 50 states, the District of Columbia, and U. S. territories; representatives from 38 jurisdictions participated in the seminars.

The seminars were an outgrowth of an extensive NCJA/NGA study funded by the U. S. Department of Justice that analyzed the provisions and applications of state criminal laws and procedures related to drug trafficking control in 10 subject areas. These areas, which provided the basis of discussion at the seminars, included bail, sentencing, assets seizure and forfeiture, conspiracy and racketeering, grand jury proceedings, electronic surveillance, witness immunity and protection, currency transaction reporting, state revenue files access, and intergovernmental cooperation and sharing of resources and information. Not every subject area was covered at every seminar; specific topics for each seminar are indicated on the seminar agendas included in the appendices of this report.

The seminars were held Oct. 30-31, 1986, in Hartford, Conn.; Jan. 22-23, 1987, in Savannah, Ga.; Feb. 26-27, 1987, in Sacramento, Calif.; and March 26-27, 1987, in Chicago, Ill. The seminars themselves were conducted in an informal panel format. In advance of each program, seminar participants with expertise in the specific topics had been asked to lead off the discussions with brief descriptions of their states' experiences in the subject area. All participants were encouraged to participate in subsequent discussion. As background for discussion at each seminar, participants received materials researched by the NCJA staff that described recent legislative or other developments relevant to drug laws enforcement in states in the region.

This summary of proceedings contains an executive summary, an overview of proceedings and findings from all four seminars, and individual summaries of discussion at each regional seminar. In addition, this publication includes numerous appendices and resources, including selected federal legislation, seminar agendas, and seminar participant lists, that may be useful to individuals seeking additional information about seminar topics or state activity related to seminar subject areas.

ACKNOWLEDGMENTS

The series of regional seminars and the publication of this summary of proceedings were made possible through a grant from the Bureau of Justice Assistance, U. S. Department of Justice. The NCJA would like to thank R. John Gregrich, criminal justice manager at the BJA, for his support of the project. The NCJA also gratefully acknowledges the work of NCJA legal researchers Marc J. Fliedner and Andria T. Lure in researching and drafting background materials for each seminar; NCJA staff associate Mark R. Miller in recording seminar proceedings and drafting the proceeding summaries and overview; and NCJA staff associate Susan D. Schultz in providing graphics, editorial, and production assistance for the publication of the summary proceedings. The efforts of NCJA Associate General Counsel Penny Wakefield in coordinating and directing the project also are much appreciated.

Gwen A. Holden
Executive Vice President
National Criminal Justice Association

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EXECUTIVE SUMMARY

The National Criminal Justice Association and the National Governors' Association sponsored a series of four regional seminars on "State Legislative Options for Drug Laws Enforcement" from October 1986 through March 1987. The seminars brought together state and local legislators, policymakers, law enforcement officials, prosecutors, judges, and other individuals with interest or expertise in the seminar subject areas to share their states' experiences to date and to explore legislative and other options for improving drug laws enforcement in the states. Representatives from 38 jurisdictions participated in one or more of the seminars, held in Hartford, Conn.; Savannah, Ga.; Sacramento, Calif.; and Chicago, Ill.

The seminars were an outgrowth of an extensive NCJA/NGA study funded by the U. S. Department of Justice that analyzed the provisions and applications of state criminal laws and procedures related to drug trafficking control. Seminar discussions focused on the topics of assets seizure and forfeiture, financial investigations, electronic surveillance, racketeering and conspiracy laws, bail, sentencing, and intergovernmental cooperation and sharing of resources. In informal panel presentations and subsequent discussions, participants identified a number of trends in these subject areas.

Participants agreed that assets seizure and forfeiture may be one of the most effective means of depriving drug traffickers of the profits of criminal activity, but the use of forfeiture may be affected by statutory limitations on application, law enforcement and prosecutorial priorities, and availability of training. An issue raised at all of the seminars is that a state's formula for distributing forfeited assets and proceeds can create both motivation and conflicts for agencies involved in forfeiture actions. Participants also pointed out that financial investigations can complement states' efforts to increase forfeiture activity. A few states use such tools as currency transaction reports, money laundering provisions, and routine accounting procedures to trace the profits and proceeds of suspected drug trafficking activity.

Another investigative tool that states consider potentially valuable is electronic surveillance, although use of electronic surveillance is limited by the extensive funding, manpower, and sophisticated technology required to carry out such surveillance, as well as by public and legislative concerns about abuse of electronic surveillance authority.

Many states are addressing perceived limitations of monetary bail, which is not always effective in assuring drug traffickers' appearance for trial and which may allow these offenders to continue their illegal activity pending trial. States have adopted, or are considering, such alternatives as pretrial detention, non-monetary bail conditions, and pretrial drug testing. States also are responding to drug trafficking concerns through changes in sentencing policies. Several states have created new offenses, such as distribution of drugs to minors near schools, distribution resulting in death, and distribution of imitation or synthetic drugs, in state criminal codes or controlled substances statutes. A number of states also have adopted, or are considering, sentencing guidelines, mandatory minimum terms of incarceration, and increased penalties for drug-related offenses.

Finally, states reported that interagency sharing of manpower, intelligence, equipment, and other resources has enabled them to carry out enforcement efforts that they could not have undertaken alone. State officials generally expressed support for the task force approach to drug laws enforcement and indicated that the federal Anti-Drug Abuse Act of 1986 has fostered statewide planning and cooperation.

STATE LEGISLATIVE OPTIONS FOR DRUG LAWS ENFORCEMENT

Overview of Seminar Proceedings and Findings

The series of seminars on "State Legislative Options for Drug Laws Enforcement" brought together legislators, policymakers, law enforcement officials, judges, and other individuals with interest or expertise in the seminar topics to discuss the effectiveness of existing laws in aiding drug laws enforcement and options for legislative or policy changes that might improve drug control efforts. The seminars encompassed all parts of the country; representatives from the following states and territories participated in one or more of the seminars: Alabama, Alaska, American Samoa, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Idaho, Illinois, Indiana, Kentucky, Maine, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, Tennessee, Texas, Utah, Virginia, West Virginia, and Wisconsin.

This overview summarizes points raised in seminar participants' discussions of legislative and policy options that their states have considered, or decisions that their states have made, that affect drug laws enforcement. At each seminar, panelists provided general presentations of states' laws, procedures, and/or experiences in drug laws enforcement as they relate to seminar topics. Following the panel discussions, all participants were invited to ask questions of the panelists or offer additional comments on the topics.

Although there were some variations in subjects covered at each seminar, seminar panels generally covered the subjects of assets seizure and forfeiture, financial investigations, electronic surveillance, racketeering and conspiracy, bail, sentencing, and intergovernmental cooperation and sharing of resources. Based on the remarks and observations of seminar participants, this overview is intended primarily to highlight issues raised; discussions are described in more detail in the regional seminar summaries that follow this overview.

Assets Seizure and Forfeiture

* **Forfeiture may be one of the most effective means of depriving drug traffickers of the profits of criminal activity.**

* **Use of forfeiture provisions is affected by statutory limitations on application, law enforcement and prosecutorial priorities, and availability of training.**

* **A state's formula for distributing forfeited assets and proceeds can create both motivation and conflicts for agencies involved in forfeiture actions.**

The seizure and forfeiture of assets used in or derived from illegal activity is authorized in some form in virtually all the states and territories. Participants in all the seminars appeared to agree that assets seizure and forfeiture can be an important law enforcement tool in drug trafficking cases because it deprives offenders of working capital for, as well as profits from, their illegal activity; fines and sentences of incarceration, by contrast, are simply a cost of doing business. Participants noted that if the financial benefits associated with drug trafficking were eliminated, drug trafficking activity would be curbed significantly.

State and local officials' use of forfeiture provisions, however, appears to depend upon such variables among the states as the scope of authority, prosecutorial priorities, and extent of training or experience with forfeiture actions. Despite having some differing approaches and attitudes toward forfeiture, participants seemed to agree that in order to use forfeiture successfully over the long term, state and local agencies should receive and administer training and make forfeiture a routine part of the law enforcement or prosecution activity.

Factors discouraging use of forfeiture provisions in a number of states involve the distribution of forfeited assets to state or local law enforcement agencies. Participants pointed out that receipt of forfeited assets and proceeds can provide an important incentive for agencies to pursue forfeiture, but forfeiture provisions in some states direct forfeiture proceeds to funds that are unrelated to law enforcement. In other states, sharing of proceeds among state and local agencies involved in forfeiture actions may create conflicts, with the result that agencies sometimes refuse to cooperate or share information with one another. Participants indicated that these conflicts raise a basic and growing concern about law enforcement priorities in forfeiture cases: some agencies appear to see forfeiture as a means of obtaining additional funds for themselves rather than a means of combatting criminal activity.

Another factor affecting the use of forfeiture is the types of assets listed as forfeitable in a state's forfeiture provisions. States increasingly are seeking forfeiture of real property, and provisions in 15 states now authorize the forfeiture of such property. In many instances, however, these provisions are new and untested or have proven difficult to apply because of statutory requirements that the state show that proceeds of illegal drug transactions have financed the purchase of the real estate sought. Participants generally agreed, however, that states should adopt, or re-examine, provisions relating to the forfeiture of real estate and other profits and proceeds traceable to drug laws violations.

Participants also cited the size and type of staff dedicated to forfeiture investigations as a factor in agencies' use of forfeiture provisions. Although agencies in a few states have found it beneficial to maintain a separate staff of forfeiture experts and reported that such a staff can pay for itself within a few years, some participants noted that forfeiture investigations do not necessarily require such experts if officers receive training in uncovering financial records and conducting simple financial analyses.

Although most participants agreed that officials in their respective states generally favor civil forfeiture, when available, over criminal forfeiture because the state's burden of proof is less in civil cases, some participants expressed a concern that agencies may begin to place more emphasis on pursuing civil forfeiture cases in order to obtain assets than on seeking a defendant's conviction on related criminal charges. Administrative forfeiture is another option available in a few states; participants from those states indicated that it is an effective alternative in selected cases.

A majority of states, however, pursue forfeiture through cooperative efforts with federal agencies. Pursuant to the Comprehensive Crime Control Act of 1984, the U. S. attorney general issued guidelines in 1985 authorizing the federal government to share proceeds from forfeited property with state and local agencies in proportion to their participation in cooperative enforcement activities that have resulted in forfeiture of assets. Under the Anti-Drug Abuse Act of 1986, the attorney general has explicit authority to permit the sharing of forfeited assets or their proceeds with state and local agencies that

participate with federal agencies in the investigation of drug cases. States also may become eligible to share in assets proceeds by requesting federal prosecutors to "adopt" cases initiated by state or local agencies and applying for a share of the forfeited assets.

States appear to rely extensively on both means of sharing in assets. Seminar participants, however, differed on the extent to which states should use federal forfeiture provisions. Some noted that the federal forfeiture provisions are broader and more easily applied than those in many states' laws and that an agency that would not receive any share of forfeited assets under its state law clearly would favor use of federal provisions. Participants from numerous states, however, noted that their agencies had experienced lengthy delays in receiving forfeiture proceeds resulting from joint efforts with federal agencies.

Although some participants emphasized that forfeiture is only one part of the investigation and prosecution of drug cases, most participants appeared to support increased use of forfeiture as a law enforcement tool.

Financial Investigations

*** Financial investigations can complement states' efforts to increase forfeiture activity.**

*** Among tools available to uncover drug traffickers' profits are currency transaction reports, money laundering provisions, and routine accounting procedures.**

*** The few states that have adopted and used such tools to date report that tracing the profits and proceeds of suspected drug trafficking activity has become an important component of drug trafficking investigations.**

Because money is the primary motivation behind drug trafficking activity, a few states have turned to financial investigations, involving the tracing of movements of drug trafficking proceeds, to identify major drug traffickers and to initiate forfeiture actions against assets. Although seminar participants from only a few states were familiar with financial investigations, they said that successful forfeiture cases rely on efficient investigation procedures, and a number of other participants expressed interest in exploring the approach in their jurisdictions. Financial investigation seems to be an area that states may consider more closely, but it is unclear how many agencies are willing and able to incorporate financial investigations into more cases.

Participants indicated that successful financial investigations require effective statutes, committed law enforcement officials, training for both police officers and prosecutors, and cooperation of all agencies involved in investigations. If trained investigators have access to currency transaction reports (CTR's) and other financial reporting forms required for transactions involving large amounts of cash, state and federal income tax forms, and other records and information, they frequently can identify patterns of movements of large amounts of cash, which frequently indicate drug trafficking or money laundering activity.

Few states have statutes designed to address these kinds of investigations, however, and most agencies currently rely on federal officials to carry out any such activity under federal laws. Only three states have adopted their own CTR statutes to facilitate financial investigations by state officials. A few states have adopted, or are considering, state money

laundering provisions, generally patterned after legislative proposals leading up to the Money Laundering Control Act of 1986. Part of the federal Anti-Drug Abuse Act of 1986, the federal money laundering statute for the first time makes it a crime for an individual or individuals to knowingly conduct or attempt to conduct a financial transaction that involves the proceeds of illegal activity.

According to a New York participant who has been active in drafting money laundering legislation in his state, the advantages of such a law are that it can provide evidence of illegal activity, expose profits of such activity to forfeiture, and provide information helpful in further investigations. Arizona covers money laundering under its Racketeer Influenced and Corrupt Organization (RICO) law, and California recently adopted a state money laundering statute that covers financial institutions more broadly than does the federal statute. Officials from both Arizona and California indicated that money laundering laws generally are less effective than they would be if surrounding states had similar laws.

Experiential data on application of CTR and money laundering statutes is limited. Although state CTR statutes reportedly have provided state and federal officials with faster access to information than the similar federal provision affords, the money laundering statutes are too new to have generated much information to date concerning their application. Participants acknowledged that if agencies cannot trace funds to major drug dealers, or "kingpins," law enforcement officials generally will have difficulty targeting offenders beyond those involved in small rings.

One cited advantage of CTR requirements and money laundering statutes is that they may help investigators identify individuals who have violated state or federal income tax filing requirements. Such information may allow officials to prosecute violators under tax evasion provisions even if the officials have insufficient evidence to proceed with other criminal charges. Participants noted the importance of cooperation among banks, tax agencies, and law enforcement agencies in identifying and curtailing money laundering activity; the federal Internal Revenue Service offers a course on financial investigation techniques to encourage greater use of this tool.

Florida participants reported on another form of legislation that has been useful in financial investigations in that state. The state's corporate disclosure law, adopted in response to the problem of drug traffickers' purchasing real estate in the names of secret corporations located in foreign countries, requires any corporation that purchases real property in the state to identify the true owner of the property. If a corporation does not disclose a name, the state freezes that corporation's assets and fines the corporation $1,000 per day until it complies with the law.

A participant from Florida stated that financial investigations, conducted by a relatively large staff of attorneys and accountant, have become a routine part of most major cases in that state. He reported that forfeited assets obtained through such investigations have more than covered total costs, about $3 million a year. Some participants from other states also emphasized the importance of having lawyers, accountants, and other financial staff devoted solely to the financial component of cases. However, other participants said that agencies do not need large, specialized staffs to conduct financial investigations; officers can be trained to document a suspect's cash flow and unexplained income, a relatively simple process that can be useful in many types of cases.

Electronic Surveillance

* **State officials generally consider electronic surveillance a valuable tool in the investigation and prosecution of drug trafficking activity.**

* **A major limitation on states' use of electronic surveillance is that it requires extensive funding, manpower, and sophisticated technology.**

* **Obstacles to passage and use of state electronic surveillance provisions include the public's fear of invasion of privacy of innocent individuals.**

Although approximately half of the states have no statutes authorizing electronic surveillance, states officials who do have electronic surveillance available to them generally view it as one of their most valuable investigation and prosecution tools, specifically in the area of drug trafficking. A number of these states, however, rarely if ever consider using electronic surveillance because of the extensive resources required to support the activity. Participants from states that have electronic surveillance statutes indicated a need for revisions to state laws to address new, sophisticated technology; increased funding for equipment and manpower for electronic surveillance investigations; increased training for officers who conduct such investigations; and increased public awareness, particularly about the safeguards involved in these investigations. Participants from numerous states that do not have electronic surveillance statutes generally appeared to favor enactment of electronic surveillance statutes in some form.

An important consideration for officials seeking changes in existing laws or adoption of new authority is that electronic surveillance authority is governed by federal law, and state electronic surveillance laws must be at least as stringent as federal provisions. In light of 1986 amendments to federal law, state electronic surveillance statutes therefore are likely to receive considerable attention in upcoming legislative sessions as states re-examine provisions to ensure their consistency with the new federal provisions.

Modification of existing laws, or enactment of new laws, has proven difficult to accomplish in the states in the past, however. Electronic surveillance appears to be one of the most emotional legislative issues in the states, and law enforcement officials frequently have encountered substantial opposition to electronic surveillance legislation because of privacy concerns. State officials often have difficulty explaining to the public and legislators the procedures and safeguards involved in surveillance investigations. A Florida participant stated that "the public has a perception that police are listening to the whole community." Some participants indicated that although safeguards and penalties for misuse tend to make surveillance laws more complex, they are important components of such laws. According to proponents of the use of electronic surveillance, especially in drug trafficking cases, fears that electronic surveillance will violate innocent citizens' privacy rights generally are unfounded; states that have investigated electronic surveillance activity have found very little abuse of electronic surveillance provisions.

A more concrete obstacle to states' extensive use of electronic surveillance is the cost for manpower, equipment, and training. Some officials noted, however, that investigations may become cost-effective if they result in fines, forfeitures, and restitution from convicted offenders.

Other factors affecting use of electronic surveillance provisions are the growing number of optional telephone companies and the increased use of cordless phones and other sophisticated technology, some of which federal and state statutes do not address. A Florida official said, for example, that the federal statute is unclear concerning the interception of conversations by cordless phones; one could contend that a person using a cordless phone has no expectation of privacy because his conversation is like a radio transmission, but the person to whom he is speaking may be using a traditional telephone, the use of which has an expectation of privacy.

Some officials expressed concern that, as states investigate and prosecute drug traffickers more aggressively, the traffickers may move into states that do not have electronic surveillance laws in order to avoid detection. According to some participants, however, officials in states that have no electronic surveillance statutes still can conduct investigations that do not require court orders under state or federal law by using techniques such as consensual monitoring and tracking devices on cars.

Another issue in the consideration of state electronic surveillance statutes is the range of suspected offenses for which statutes authorize surveillance. Illinois officials, who have sought unsuccessfully for several years to persuade the state legislature to enact an electronic surveillance statute, first proposed legislation that encompassed a broad range of offenses, including murder, kidnapping, and child sexual offenses. They now are trying to gain the legislature's acceptance of a narrower range that includes only four types of serious drug offenses. Like other participants, an Illinois official emphasized the importance of safeguards, such as a stringent reporting system and training standards for officials conducting such investigations, to ensure that a law will not be overly intrusive.

Regardless of whether their states have state electronic surveillance statutes, however, most participants agreed that there are numerous advantages to seeking federal agencies' assistance and using federal electronic surveillance provisions. One advantage is that, unlike state agencies, federal agencies have interstate jurisdiction and thus can conduct multijurisdictional investigations or follow suspects from one state to another. Another advantage is that states do not have to provide the total funding and manpower necessary for investigations when they work in cooperation with federal authorities. Finally, states without their own statutes can benefit from electronic surveillance investigations conducted by federal agents within the states.

RICO and Conspiracy Provisions

*** RICO and conspiracy laws often can be used with, or instead of, other provisions in prosecuting organized drug trafficking and other types of crime.**

*** The forfeiture provisions and higher penalties generally contained in RICO laws make use of such laws advantageous in drug trafficking cases.**

*** Most jurisdictions rarely, if ever, use RICO or conspiracy laws because of statutory complexities and the time and resources generally required to develop RICO or conspiracy cases.**

State racketeering laws, generally in the form of Racketeer Influenced and Corrupt Organizations (RICO) statutes, and state conspiracy statutes frequently are considered a means of attacking the underlying structures and ongoing enterprises that frequently

support organized drug trafficking. Using such laws, enforcement officials may be able to dismantle both the personnel hierarchy and business dealings of entire criminal organizations.

Although a number of states have RICO statutes or similar provisions, and although most states have conspiracy laws, participants agreed that the complexity of such laws and the demands of prosecuting the numerous defendants in such cases have discouraged use of these provisions in most instances. Participants from states that have RICO provisions stated, however, that those provisions are particularly useful in drug trafficking and other types of cases because they not only reach criminal networks but also provide for civil and/or criminal forfeiture and enhanced penalties for offenders who operate criminal enterprises or infiltrate legitimate enterprises.

Arizona officials have applied that state's RICO statute to develop several large cases involving white collar crime and organized crime. Such cases are expensive and time-consuming, but they often can pay for themselves through resulting forfeitures, according to a participant from Arizona. Agencies lacking the manpower and technology required for sophisticated cases can use RICO provisions as a mechanism to coordinate prosecutions for smaller cases, the participant stated.

Bail

*** Monetary bail is not always effective in assuring drug trafficking offenders' appearance for trial, and drug trafficking offenders may continue their illegal activity while out on bail.**

*** Several states have amended their constitutions to permit pretrial detention for offenders, including drug traffickers, who pose a risk to particular individuals or to the community.**

*** Other states have not considered pretrial detention provisions because of concerns about the constitutionality of such provisions or because of impacts of such provisions on already-crowded conditions in jails and prisons.**

*** Some states have explored the use of non-monetary bail conditions, pretrial drug testing programs, or other measures as alternatives to bail.**

The primary objective of bail or conditional release traditionally has been to ensure a defendant's appearance in court by requiring him to post a monetary sum that he forfeits to the state if he fails to appear. However, many states have found this approach ineffective as applied in many drug trafficking cases because a drug trafficker often has sufficient amounts of cash at his disposal to pay bail and leave the jurisdiction and because a trafficker can easily continue his illegal activity while on bail.

States have taken several different approaches to maintaining control over individuals for whom bail provisions are ineffective. Several states have adopted, or are considering adopting, legislation or court rules permitting pretrial detention; non-monetary bail conditions instead of, or in addition to, monetary sums; and pretrial drug testing programs, under which defendants who test positive for drug use pending trial must return to pretrial detention. In a number of states, there is a reluctance to approve pretrial detention

provisions because of concerns about constitutional issues, prison and jail crowding, and difficulties in setting standards for imposing pretrial detention.

Unlike the U. S. Constitution, many state constitutions guarantee offenders the right to bail; adoption of provisions to authorize denial of bail therefore requires constitutional amendments. At least three states--California, Illinois, and Rhode Island--recently have adopted constitutional amendments to deny bail to offenders in certain situations; Rhode Island's amendment specifically authorizes denial of bail for offenses "involving the unlawful sale, distribution, or delivery of any controlled substance punishable by imprisonment for ten years or more."

Some seminar participants objected to the use of pretrial detention because of the already-crowded conditions in states' prisons. A participant from Maine, for example, stated, "We don't have room for the people we convict. How can we jail people we haven't convicted?"

As an alternative to pretrial detention, a number of states have expanded the types of factors that judges may or must consider in making bail decisions; in most cases, these changes permit or require judges to consider the potential danger an offender's release would pose to the community.

Judges from several states indicated that they would like to have more options when setting bail conditions. Some states are experimenting with conditional release programs that may involve drug testing, strict curfews, electronic monitoring, frequent check-ins, and other conditions. Participants from a number of states commented that, in lieu of pretrial detention provisions, judges sometimes use high bail as a means of detaining offenders who they believe pose a threat to the community.

Sentencing

*** Newly created drug offenses in a number of states include distribution of drugs to minors or near schools, distribution resulting in death, and distribution of imitation or synthetic drugs.**

*** Many states recently have increased penalties or have adopted mandatory minimum sentence provisions for drug-related offenses.**

*** A number of states that have adopted sentencing guidelines report mixed results from efforts to ensure more predictability and consistency in sentencing.**

*** Judicial discretion is only one of numerous factors that affect sentencing outcomes; prison and jail crowding, for example, reportedly has become an overriding concern in sentencing decisions in some jurisdictions.**

Seminar participants identified a number of developments in state sentencing policies that specifically relate to drug laws enforcement. Current activity includes the creation of additional drug-related offenses, adoption of mandatory minimum sentences, and consideration of state sentencing guidelines systems.

Participants agreed that any changes in sentencing provisions designed to attack the drug problem must be part of a comprehensive crime control strategy that includes

prevention and treatment, as well as enforcement. Many participants stressed the limited effect of changes in sentencing policy absent an accompanying change in public attitudes toward drug use. "Tolerance is one of the biggest factors [in drug abuse]," one judge said. "It is socially acceptable."

Participants generally agreed that state and local responses to the drug control problem are reactions to the demands of the public, which wants officials to address immediate community crime control concerns, rather than long-term strategies to reduce drug supply and demand and the crime it generates. In legislatures, this reaction is reflected in the creation of new drug-related offenses, such as distribution on or near school grounds, distribution resulting in death, distribution of "imitation" or "synthetic" drugs, and driving under the influence of drugs. States also have adopted, or are considering adopting, mandatory minimum sentences of incarceration and are increasing maximum penalties and fines for drug-related offenses.

States also have demonstrated a growing interest in developing and implementing state sentencing guidelines. Many states have responded to demands for more precision and consistency in sentencing decisions by adopting guidelines that judges are required or urged to follow in determining sentences. The reported effectiveness of and response to sentencing guidelines has varied. In numerous states, the debate continues over whether sentences are too lenient or too severe or whether guidelines give judges too much or too little discretion.

Judges who attended the seminars generally do not object to provisions that set out factors that judges must consider in sentencing decisions, but they strongly oppose provisions that limit the factors that they are permitted to consider. The judges also said that they have little control over punishments imposed on offenders because of other impacts on sentences served, such as parole boards, plea bargaining, good-time provisions, and, because of prison and jail crowding, emergency release provisions.

A legislator from Montana indicated that increased penalties and enhancements for certain drug offenses have increased the strain on that state's prisons and jails. Judges are "very aware of unstated pressure to be selective in whom they send to prison," he said. Several state officials argued that state legislatures should not pass mandatory sentencing laws unless they also provide space to handle additional prison inmates.

Despite the nationwide problem of prison and jail crowding, there does not seem to be widespread activity in using, studying, developing, or adopting alternatives to incarceration. One innovation reportedly working well in Georgia is a program that confines first-time offenders in "boot camps," requiring offenders to face rigid standards and strict military discipline. Designed to improve offenders' chances for avoiding recidivism upon release, the program has been quite successful with drug offenders. In many states, however, there may be some reluctance to make non-incarcerative sentences available to drug laws offenders because they may be able to continue their illegal activity while serving an alternative sentence, such as home confinement.

Intergovernmental Cooperation and Sharing of Resources

* **Interagency sharing of manpower, intelligence, equipment, and other resources has enabled many jurisdictions to carry out enforcement efforts they could not have undertaken alone.**

* **State officials generally support the task force approach in drug laws enforcement.**

* **The willingness of agencies to share intelligence with other agencies in developing new cases varies from state to state.**

* **The federal Anti-Drug Abuse Act of 1986 has fostered statewide planning and cooperation.**

States are increasing their use of intergovernmental and interagency cooperation and coordination in cases involving drug laws violations to overcome individual agencies' limitations in funding, manpower, intelligence, equipment, and other resources. In general, states reported a high degree of cooperation among federal, state, and local agencies; in some small jurisdictions, cooperation among agencies is sometimes a necessity because of limited funding in those areas. States participate in both formal and informal agreements and, in general, strongly support the use of task forces to address particular law enforcement problems. In addition to state and local cooperative efforts, several states have strong, ongoing relationships with the U. S. Drug Enforcement Administration, the Federal Bureau of Investigation, and other federal agencies.

One prominent early example of intergovernmental cooperation in drug laws enforcement is the South Florida Task Force. Created in 1982, the task force formalized interaction among federal, state, and local drug laws enforcement officials in an intensive attack on major drug trafficking networks in that area. A seminar participant from Florida, however, warned that task force efforts sometimes may detract from law enforcement agencies' responsibilities to their respective states, counties, or cities. In other instances, creating a separate entity such as a task force is duplicative of other efforts or ineffective because of inadequate support or organization, he said.

Although most seminar participants expressed willingness to share information to help one another investigate current cases and initiate new investigations, officials from some states reported that sharing had led to disagreements over jurisdictional authority or the distribution of forfeited funds. Because forfeited assets are a major consideration for many agencies, state and local agencies often develop written guidelines to cover the distribution of these assets, as well as the participating agencies' respective responsibilities and jurisdiction.

Another development that participants suggested may foster further state and local cooperation is the drug laws enforcement grants program established under the Anti-Drug Abuse Act of 1986. Officials from several states reported substantial cooperation among agencies to develop a statewide drug control strategy, as required under the act, to assist their respective states in targeting available resources for activities related to their drug problems.

Northern Region Seminar
Hartford, Connecticut
October 30 and 31, 1986

The northern region includes the states of Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.

Opening Session

William H. Carbone, under secretary for justice planning in Connecticut, welcomed participants to the northern region seminar on "State Legislative Options for Drug Laws Enforcement" on behalf of Gov. William A. O'Neill. Carbone said that Connecticut officials recognize the drug problem in the state and have taken a number of initiatives to deal with the problem. The state is implementing new programs regarding enforcement, treatment, and education; expanding its regional narcotics squads; hiring more state troopers; and strengthening its drug laws, particularly for the form of cocaine known as "crack." The most significant long-range solution to the problem of drug abuse is educating students and the public, Carbone said; 120 Connecticut communities have established prevention and education programs involving parents, students, police, and other interested individuals.

Stanley Twardy, U. S. attorney for Connecticut, said in his opening remarks, "It's only through the cooperation of state, local, and federal groups that efforts against drugs can be successful." Noting that federal guidelines adopted pursuant to the Comprehensive Crime Control Act of 1984 provide an opportunity for joint efforts by authorizing the U. S. attorney general to transfer seized and forfeited proceeds to any federal, state, or local law enforcement agency, Twardy emphasized that the federal government and the states share the goal of protecting people by arresting and prosecuting drug dealers. He called the seminar an important forum to develop and implement policy to combat drug trafficking.

Gwen A. Holden, executive vice president of the National Criminal Justice Association (NCJA), sponsor of the seminar, explained that the regional seminars are part of a follow-up to the NCJA's 1985 report, State Laws and Procedures Affecting Drug Trafficking Control: A National Overview. While the original study documents existing and pending laws and procedures in the area of drug laws enforcement, the seminars provide a means for hearing from individuals, including judges, legislators, policymakers, prosecutors, and enforcement officials, who are developing and implementing the procedures. The purpose of the seminars is to provide an opportunity for participants to learn about programs and procedures that have worked--or have not worked--in other states. Both the 1985 study and the seminar series have been funded through grants from the U. S. Department of Justice.

Penny Wakefield, NCJA associate director for legal affairs, outlined the seminar agenda and briefly summarized the major topics and issues.

Electronic Surveillance

The panel on electronic surveillance was moderated by Nolan E. Jones, staff director of the National Governors' Association's Committee on Criminal Justice and Public Protection. Other panelists were John H. Stamler, director of the County Prosecutors' Association of

New Jersey and a Union County prosecutor in New Jersey; and Robert L. Keuch, executive director and general counsel of Pennsylvania's Judiciary Inquiry and Review Board.

Jones said that an inherent problem with electronic surveillance is that the public often views such investigations as violating constitutional provisions protecting citizens from unreasonable searches. In a 1967 court case, Berger v. New York, the U. S. Supreme Court determined that electronic surveillance constitutes a search and seizure subject to warrant requirements under the Fourth Amendment, and the Court set out guidelines for the conditions necessary for interception of wire or oral communications to be authorized.

In addition to privacy concerns, another obstacle to the use of electronic surveillance is the high cost of the technology necessary for such investigations, Jones said.

Stamler explained that states are limited by federal electronic privacy provisions, because while states are allowed to enact their own surveillance legislation, any state legislation must be as strict or stricter than the federal law. In New Jersey, where officials use electronic surveillance more extensively than other states, publicity about the extent of organized criminal activity generated debate over the need for electronic surveillance, because many federal authorities have suggested that electronic surveillance may be the most effective way to detect organized criminal activity, Stamler said.

The public's perception of electronic surveillance often is shaped by Watergate and unrealistic movies, Stamler said. The public often does not realize the differences between unlawful acts by private individuals and professional law enforcement functioning in accordance with state law, he said. Many citizens perceive electronic surveillance as government intrusion, but this objection generally comes from people who are not involved in, or informed about, electronic surveillance, Stamler said. The challenge to the states is to balance the need to ensure individual privacy and the need to protect the public from criminals. New Jersey is one of 31 states with electronic surveillance provisions. Stamler indicated that as states become more aggressive in investigating and prosecuting drug dealers, many offenders who aren't detected may decide to operate in those states that do not authorize electronic surveillance.

There is no question of the value of electronic surveillance as an investigatory tool, Stamler said. It provides "dramatic and conclusive evidence" that is valuable in prosecuting criminal offenders. In New Jersey, more than 60 percent of intercepted communications in 1984 were related to the activity for which the order was signed--a high success rate, he said, because the statistics include accidental interception of calls by the targeted person's family. Law enforcement officials who conduct electronic surveillance investigations exhibit a high level of professionalism and do not install wiretaps on innocent citizens, Stamler said. Because they know how to do their job, he said, "there is very little chance of an innocent citizen being intercepted." No abuse has been found in New Jersey.

Another consideration for states using electronic surveillance is cost. States need to budget and administer funds for electronic surveillance carefully, Stamler said. One way that states may conduct surveillance without providing the total funding for such investigations is to turn over large cases to the federal government. However, Stamler called this "a way to pass the costs of your responsibility onto someone else" and said that it denies state law enforcement officials the "thrill of victory" associated with uncovering criminal activity. While states can receive assistance from federal officials, states also can help in federal cases: federal officials sometimes seek assistance from New Jersey officials because the state officials can get an order more quickly, he said. In closing, Stamler

urged states without electronic surveillance statutes to persuade their legislatures to adopt them.

Keuch said that it generally is recognized that electronic surveillance is an effective, important method of law enforcement, and that there is little abuse of surveillance. He supports a broad inclusion of criminal activity under surveillance statutes. Some statutes authorize interception only for the most serious crimes, he said, but people involved in organized crime may be more vulnerable in such areas as bookmaking and loansharking. Therefore, limiting the interception of less serious offenses is a mistake, he said.

Also, an effective statute should have a built-in review process to address concerns and problems and to draw public support for the law, Keuch said. As a safeguard, Pennsylvania permits the attorney general to submit to the governor reports on electronic surveillance investigations that are open to the public. The state also limits the number of judges who can authorize surveillance and requires training for officers who monitor such investigations; officers must be recertified whenever there are changes in procedures, he said.

Two current areas of difficulty related to electronic surveillance are the growing number of optional phone companies and the use of cordless phones, about which the law is unclear, Keuch said. "We need to look to the federal government to make some changes [in the federal law] so we can modify ours," Keuch said.

Contributing to the high cost of electronic surveillance are officers' time, reports, equipment, and training. But Keuch said electronic surveillance often can be cost-effective, because 90 percent of the offenders intercepted are convicted, resulting in fines, forfeiture, and restitution.

Law enforcement officials must continue to avoid instances of abuse, he said, because "all you need are one or two situations where there's an abuse, and you're beaten over the head with it."

Financial Investigation Tools

The panel on financial investigation tools, including the topics of money laundering provisions and bank and tax information, was moderated by Robert L. Keuch, executive director and general counsel of the Pennsylvania Judiciary Inquiry and Review Board. Other panelists were William P. Breen, of the Internal Revenue Service in Hartford; and Martin Marcus, first assistant deputy attorney general of the New York Governor's Organized Crime Task Force.

Keuch said that money is one of the best pieces of evidence in the prosecution of suspected offenders, especially those facing charges related to drug trafficking and other organized criminal activity. Officials are using many new techniques to detect money obtained through illegal activity and new tools for prosecuting individuals who attempt to hide such profits, he said.

Breen said that about half of the cases involving criminal violation of financial laws that the Internal Revenue Service (IRS) investigates involve money from narcotics and\or organized crime. The other half involve persons who fail to file for money derived from

legal sources. Financial investigators for the IRS usually have an accounting degrees and a legal background, he said.

The Bank Security Act gives the IRS authority to enforce provisions related to money laundering and currency transaction reports. In September 1986, there were more than 345 currency transaction reports filed. To date, a total of 3 million forms have been filed. The reports can help in identifying and investigating both criminals with illegal sources of income and people who do not file forms to the IRS. Some states require that financial institutions file such forms with the state, and others are considering such a requirement, Breen said.

Marcus said that the New York Governor's Drug Task Force is drafting legislation, including provisions for money laundering, to combat the drug problem. He said that the provisions will have three purposes: to identify criminal proceeds and trace them to target financial investigations or to provide evidence of related crimes; to seize illegal profits that will support law enforcement operations; and to follow assets to third parties.

The offense of money laundering requires direct attention, Marcus said, because it facilitates criminal conduct and hides illegal income from taxation. The federal Racketeer Influenced and Corrupt Organizations (RICO) Act prohibits investment of criminal proceeds into a legitimate enterprise, he said, making the investment itself a crime, in addition to the activity from which it was obtained. Some state and federal officials are broadening this concept by lessening the requirements for prosecution for such offenses and by shifting the focus to people who facilitate crime.

Currently, money laundering is covered in New York by two traditional law concepts: criminal facilitation (aiding a criminal) and hindering prosecution (assisting a criminal in benefiting from crime). However, Marcus said, these provisions do not work very well because both violations usually are misdemeanors; both require knowledge of the specific crime; and neither is designed to deal with transactions that are independent of criminal conduct.

Marcus listed several issues that states should consider when drafting money laundering legislation:

- o What kind of conduct should the statute include?
- o What kinds of transfers should it cover?
- o Should real property be included? Should sellers be required to ask where buyers' money is from?
- o How should the term "financial institution" be defined?
- o What size of transaction should be covered?
- o What kind of criminal activity should be covered?

Statutes also should address the suspected offender's state of mind, Marcus said. A statute can cover persons who were negligent and should have known that the money involved was from criminal activity; persons who had knowledge that the money was generally of crime origin; or persons who have knowledge of a specific crime. All these factors are related, Marcus said, and each state must weigh the issues and determine appropriate penalties.

The Money Laundering Control Act, included in the federal Anti-Drug Abuse Act of 1986, addresses both monetary transactions and financial transactions. The monetary transaction provisions contain a lesser state-of-mind requirement--knowledge of a criminal

source--and covers transactions of at least $10,000. The financial transaction provisions require knowledge or intent of facilitation, with greater penalties and no minimum amount. There is some overlap in the provisions, Marcus said, and a problem he sees in the law is that the intent to promote the crime is not treated as more serious than the intent to hide profits.

In discussion following the panel presentations, New Jersey Assemblyman Walter M. D. Kern, Jr., asked if the panelists knew of any guidelines available to states drafting money laundering statutes. Marcus said he is not aware of any such guidelines.

Assets Seizure and Forfeiture

The panel on assets seizure and forfeiture was moderated by Robert L. Keuch, executive director and general counsel of the Pennsylvania Judiciary Inquiry and Review Board. Other panelists were Richard T. Carley, assistant attorney general and head of the New Jersey Narcotics Task Force; Sgt. Henry Carpenito, head of the New Hampshire Drug Task Force; and Leslie C. Ohta, U. S. assistant attorney in New Haven, Conn.

Carley said that forfeiture unfortunately never has been regarded as a prosecutorial tool. However, it is a natural extension of the enforcement process to take the profit out of criminal activity, he said.

States should find ways to identify and seize assets, should establish units for a limited number of cases, and should follow civil processes carefully, Carley said. To uncover illegal sources of cash, a state needs good statutes, including a RICO statute and a separate forfeiture statute, that give law enforcement officials the ability to seize property derived from illegal activity. Because there are so many drug trafficking cases subject to forfeiture, Carley said, it may be useful to have a separate staff of experts dedicated solely to forfeiture. Such a staff can pay for itself in one or two years, he said.

Forfeiture should not be regarded as a separate process from a drug arrest case, Carley said. Search warrants should allow the seizure of financial records, and wiretap orders should allow the interception of conversations about where the money is going. Police who monitor wiretaps should be instructed to intercept what appear to be legitimate business calls, he said.

States should identify the types of forfeiture cases they want to pursue and then should establish guidelines based on those cases that will be worthwhile and feasible, he said. Carley said that, in his opinion, the U. S. Constitution would allow states to draft a statute that would make forfeitable any property used in drug-related activity.

Carpenito said that New Hampshire's forfeiture law, adopted in 1981, allows forfeiture in felony offenses and requires seven-day notice and 30-day period in which the court can be petitioned for a hearing. In 1985, the law was modified to allow the forfeiture of real property, such as stocks and jewelry. In 1986, the state established a Drug Forfeiture Fund, authorized for drug laws enforcement.

One problem the state often encounters is that money loses value as evidence once it is invested; therefore, Carpenito said, it is often a good idea to keep money in its original form if it is to be used for evidence.

Ohta called the federal forfeiture system a "tremendously powerful" law enforcement tool. For example, in federal forfeiture cases, the criminal has the burden of defense, and the prosecutor has no burden of proof; a car found with cocaine residue or a single marijuana seed can be subject to forfeiture if it was used to transport the substance; innocence is not a defense; hearsay is admissible evidence; acquittal of the offender or dismissal of the case does not affect the civil case; and informants are paid only if the case is successful. In addition, the government has the authority to order an offender to pay rent to a marshal while the offender remains in his house and to order an offender to make the marshal his benefactor; if he refuses to sign an agreement, the marshal can have the locks in the house changed.

In most cases, 90 percent of forfeited assets and proceeds go to the state and 10 percent is placed in the federal Assets Forfeiture Fund. The amount that a state receives is based on the extent of participation of the seizing authority; sometimes the authority receives 100 percent of the forfeited assets or proceeds, Ohta said. Agencies may use the money for anything related to drug enforcement, excluding salaries. States may find that incorporating federal provisions into their own forfeiture laws will make those laws more effective, she said.

In discussion following the panel presentations, Lincoln T. Soldati, Strafford County attorney in Dover, N. H., told Carpenito that he thinks that a competition is being set up between the federal government and the state. As a prosecutor, Soldati said, he sees no incentive for a state to pursue forfeiture under its own law and he would rather use the federal law because it's the only way for the county to benefit from the forfeiture. He asked Carpenito about the advantages of using state law rather than federal law in forfeiture cases. Carpenito responded by stating that although a county may not benefit directly under a state law, forfeited assets help fund the New Hampshire Drug Task Force, which in turn may benefit the county.

Ohta added that forfeited funds are disbursed solely on the basis of involvement of enforcement agencies--not of any other agencies involved in the case. The attorney's office, as a non-enforcement authority, therefore is not entitled to such funds for its involvement in the case. Ohta said that eligibility for such funds is based solely on the actual seizure; successful prosecution is irrelevant to the forfeiture case. About the incentive for pursuing forfeiture cases, Carley added that while getting money back is one advantage to pursuing forfeiture, there also is a remedial and punitive reward to it.

Rep. Richard D. Tulisano, of Rocky Hill, Conn., asked whether the federal law requires states to account in their budgets for forfeited funds. Ohta said that there is no federal oversight of the process but that state authorities are trusted to use the funds properly. Chief Carl LaBianca of the Norwalk Department of Police Services in Connecticut, added that he oversees budget reports in the department, and "you have to account for every nickel you utilize. There is strict accountability."

Tulisano said that it seems that in forfeiture cases, the government is shifting the burden to the citizen. "There may be some people who still believe in the principle of innocent before proven guilty," he said. He added that he doesn't understand how people can be prosecuted without being educated of this apparent shift in the American attitude.

Bail

The panel on bail was moderated by W. Bradley Crowther, executive director of the Rhode Island Governor's Justice Commission. Other panelists were Paul Brown, chief bail commissioner of the Connecticut Superior Court Bail Commission; and Fernand LaRochelle, deputy attorney general in Maine.

Crowther said that drug trafficking can be such a lucrative enterprise that bail is not always effective in detaining convicted dealers or assuring that they will appear for trial. The Rhode Island Constitution Convention proposed an amendment to the state constitution to allow denial of bail for the unlawful sale, distribution, or delivery of controlled substances when the offense is punishable by imprisonment for 10 years or more and the proof of guilt is evident or the presumption great. Although the proposal initially raised controversy, there was little opposition after the convention recommended the change, Crowther said. Those who opposed the amendment felt that the court would be presuming unfairly that a suspected offender is guilty before a trial is held. (Rhode Island passed the amendment in a statewide referendum on Nov. 4, 1986.)

Brown said that there is no statute in Connecticut allowing preventive detention; the state is required to set bail. "I have a real problem with locking someone up because you're afraid they might do something in the future," Brown said. "How do you define what is a dangerous individual?" Another problem with preventive detention would be the pressure it would place on the already-crowded jail system, he said. He would oppose jailing a person who has not been convicted and releasing someone who has been convicted of a crime, he said. States should focus on convicting criminals instead of jailing persons who have not been convicted, he said. "If you can get a conviction quickly, you can lessen the time he's loose."

Brown added that although judges are not supposed to consider dangerousness when setting bail, "everyone does."

LaRochelle's comments paralleled Brown's. "I frankly don't see bail as a powerful weapon in the war on drugs," he said. A bill to amend Maine's constitution to authorize pretrial detention was withdrawn prior to the end of the 1986 legislative session. If the state were to allow preventive detention, it would require another level of hearings, he said, and the caseload already is large. One option that states may find attractive is using the federal bail statute, under which federal officials can subpoena people all over the nation. He encouraged states to work with the federal government to take advantage of federal legislation and resources.

In Maine, there does not seem to be enough interest in or a perceived need for changing the state constitution to allow pretrial detention. LaRochelle said that drug traffickers do not pose a more serious problem prior to trial than do other types of offenders. Drug traffickers tend to appear for trial in the state, and without evidence that there is a problem with offenders not appearing, legislators and the public will not support a change in the constitution. Judges set reasonable bail and will continue to do so as long as defendants come back for trial, he said. "I don't believe in jailing people who haven't been convicted of anything. . . . We don't have room for the people we convict. How can we jail people we haven't convicted?"

In discussion following the panel presentations, John P. McCarthy, Jr., assistant director for criminal practice in the New Jersey Administrative Office of the Courts, asked

the panelists about other alternatives to detention, such as curfews, wire monitoring, frequent check-ins, and other conditions, that may not conflict with defendants' rights under state constitutions. Brown said that Connecticut has explored a conditional release program, but it would be difficult to enforce many types of conditions. Also, there is a question of fairness and privacy: "Even if they've been convicted before, they haven't been proven guilty of the crime."

Col. Allan Weeks, superintendent of the Maine State Police, said he doesn't like the idea of avoiding possible solutions because of prison crowding. "My concern is that this attitude will work down the ladder to law enforcement" and that police will not arrest people because there is no place to put them, he said. "Is this ever going to be corrected if we don't face the problem head on?"

Sentencing

The panel on sentencing was moderated by Jay M. Cohen, deputy commissioner of the New York Division of Criminal Justice Services. Other panelists were Theodore A. McKee, judge in the Court of Common Pleas in Philadelphia, Pa.; and Thomas J. Quinn, executive director of the Delaware Criminal Justice Council.

Cohen said that New York always will be associated with certain kinds of major drug cases, but mandatory and longer sentences are not as common as they once were. Moreover, most people convicted under "tough" laws rarely serve the term of sentence imposed. The New York state legislature did not accept a set of guidelines proposed by a state sentencing guidelines commission; the sentences under the guidelines were perceived as too short or too long. However, New York has adopted tougher sentences for selling drugs near schools, selling or possessing crack, and other offenses, Cohen said. New York now is seeking more creative sentencing alternatives, such as renovating two Staten Island ferries for use as detention facilities.

McKee discussed Pennsylvania's sentencing guidelines, which provide for indeterminate sentencing. All drug possession offenses are misdemeanors. The provisions are similar to the federal guidelines, McKee said, with offenses assigned a numerical value based on severity and weighed with other factors such as prior record. Judges can deviate from the guidelines but must give reasons for doing so. Both the prosecution and defense can appeal the decision, which McKee said he thinks is an important part of the system. The rate of conformity with the guidelines is about 80 to 85 percent, and drug trafficking cases have the greatest degree of deviation, mostly with sentences lower than the guidelines recommend. The state is considering increasing penalties for the most serious drug offenses--in some cases by as much as three to four times.

McKee said that it is important for policymakers to react to the drug problem with a logical, measured response instead of reacting to the media and public outcry without considering their responsibility to the public. When considering drug offenses, policymakers should ask how serious the crimes are compared with other offenses. States need to determine for whom they want to reserve the jail and prison beds.

He said that he does not oppose legislation that tells judges what factors should be considered when setting appropriate sentences, because a judge's job is to consider all relevant factors. However, he said he strongly opposes any limitation on the factors that a judge is <u>permitted</u> to consider. McKee said that it could be helpful to increase penalties for

dealers who employ persons under 18 to sell drugs. Currently, many dealers in Pennsylvania employ juveniles because juveniles cannot be tried as adults in the state.

Quinn said that drug abuse and drug trafficking "is not a new crisis. . . . It's an ongoing problem and has been there for a long time." He said that states need a comprehensive strategy against drugs to be successful; new federal resources must be used as efficiently as possible or they will have little long-term impact. Sentencing is not the answer to the nation's drug problem, he said. For example, increased penalties do not respond to problems such as the 60 percent of emergency room admissions for drug abuse that result from misuse of legal drugs. Therefore, "we need to have an overall strategy for drug demand reduction," he said. "Our input through sentencing will be very small." States should create effective education, treatment, and counseling programs to change citizens' attitudes and to reduce the demand for drugs, he said.

States also should re-examine the role of incarceration, Quinn said. Prisons tend to harden offenders' attitudes rather than rehabilitating them and deterring them from further criminal activity, he said, and states' limited prison space should be used in the most effective way possible. Delaware uses such alternatives as electronic monitoring, home detention, intensive supervision, and drug testing. He said that he supports shorter sentences in combination with creative alternatives. "We're not going to divert or cure all of our offenders, but we should give it a shot." He said that states need to overcome the inertia of doing things the way they've always been done in order to make new progress.

Following the panel presentations, Patrick M. Hamilton, executive director of the Massachusetts Committee on Criminal Justice, said that a problem in Boston is dealers who recruit juveniles who have no prior record and use them until they are arrested. They tell them they will receive only a slap on the wrist from the courts, but "don't turn on us or you're dead meat," he said. The juveniles will not testify because the dealers "can do a lot more harm than the criminal justice system," he said. He asked McKee if he knew of any way to address that problem, and McKee said he does not.

Intergovernmental Cooperation, Demand Reduction, and Racketeering

The final panel was moderated by James Thomas, executive director of the Pennsylvania Commission on Crime and Delinquency. Sgt. Henry Carpenito, head of the New Hampshire Drug Task Force, addressed intergovernmental cooperation; Richard Carley, assistant attorney general on the New Jersey Narcotics Task Force, spoke on demand reduction; and Martin Marcus, first assistant attorney general on the New York Organized Crime Task Force, discussed racketeering.

Thomas said that states could double the number of agents and supply twice as much sophisticated equipment as they currently do, but "we won't be in any better shape in 10 years" without a comprehensive strategy that includes drug demand reduction." A successful plan must include prevention and treatment as well as enforcement, he said.

Carpenito said that New Hampshire recently organized a law enforcement task force, with 11 members, including two police officers, two sheriffs, and other law enforcement officials. The task force gives officers formal training to show them how to use laws effectively in drug cases. The task force also is developing a drug intelligence computer network that will provide local law enforcement officials with information about individual drug traffickers.

Carley said that illegal drug use is not just a law enforcement problem. Law enforcement officials will not be able to suppress drug trafficking as long as citizens want to use drugs, he said; therefore, anti-drug programs should focus on the buyers as well as the sellers. Since schools are assuming what normally would be a parental responsibility in educating youth about drug abuse, Carley said, education programs will be more valuable if they are implemented by the community, instead of being forced on communities by the state. "If parents and the community demand education, the value will be greater."

Education is important but, like enforcement, will not solve the drug problem alone, Carley said. "Until such time as demand reduction takes hold and reduces the amount of drugs around, you'll need rehabilitation and enforcement," he said. Educating the current generation is crucial for the future, he said. One decision that has to be made is whether the nation wants to stress choice or outright rejection of drugs. Availability of drugs leads to acceptability, which leads to indulgence, which ultimately leads to moral decay, Carley said.

In discussion following the panel on drug demand reduction, Geraldine Sylvester, director of the New Hampshire Office of Alcohol and Drug Abuse, said that there never will be enough money or resources to make as much change as is needed, and she's concerned that the federal money that is being made available will be ineffective because of a lack of coordination and planning within the states. "I'm afraid we're going to waste the money instead of making an impact on the nation," she said. She suggested that the federal government work out guidelines for states to coordinate a comprehensive prevention effort and avoid mass confusion. Now, she said, "nobody knows what the other guy is doing."

Marcus discussed the growing use of the federal Racketeer Influenced and Corrupt Organization (RICO) law and state RICO laws. The two main concepts of RICO provisions are enterprises--legal or illegal--and patterns of criminal activity. These statutes are useful because they include enhanced penalties, criminal forfeiture, and other provisions for offenders who operate criminal enterprises or who infiltrate legitimate enterprises. An effective statute should define clearly such terms as "criminal enterprise" and should have a definitive purpose, Marcus said.

Southern Region Seminar
Savannah, Georgia
January 22 and 23, 1987

The southern region includes the states and territories of Alabama, Arkansas, the District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, Puerto Rico, South Carolina, Tennessee, Texas, Virginia, the Virgin Islands, and West Virginia.

Opening Session

Henry S. Pinyan, III, executive assistant of the Georgia Criminal Justice Coordinating Council, welcomed participants to the southern region seminar on "Legislative Options for Drug Laws Enforcement" on behalf of the state and introduced Hinton R. Pierce, U. S. attorney for the Southern District of Georgia.

Pierce said that there has been a lot of cooperation in the past among federal, state, and local drug laws enforcement agencies in Georgia, and it seems to have increased following passage of the 1984 Comprehensive Crime Control Act, which allows the federal government to share the proceeds of forfeited assets with the states. In 1985, states in the southern region received more than $10.8 million in forfeiture proceeds under the federal assets sharing program, he said.

Pinyan said that the seminar was being held at an opportune time, with funds now available under the federal Anti-Drug Abuse Act of 1986 and states in the process of developing comprehensive strategies against drug abuse. One of the problems with prosecuting drug offenders in Georgia, as in other states, Pinyan said, is that "we have no place to put them" because of jail and prison crowding.

Law enforcement officials in Georgia are effective in apprehending drug laws offenders and have a good relationship with other segments of the criminal justice system, he said. "We have some pretty good laws, we think," Pinyan said, but state officials would like to make improvements in some areas.

Because three separate agencies--the U. S. Department of Justice's Bureau of Justice Assistance, the U. S. Department of Education, and the U. S. Department of Health and Human Services' Alcohol, Drug Abuse, and Mental Health Administration--will distribute funds under the federal anti-drug abuse law, there is potential for the procedure to be divisive and ineffective, Pinyan said. He suggested that states consider creating councils to coordinate strategies and funding for programs related to drug laws enforcement, treatment, and prevention.

Gwen A. Holden, executive vice president of the National Criminal Justice Association (NCJA), sponsor of the seminar, explained that the regional seminars are part of a follow-up to the NCJA's 1985 report, State Laws and Procedures Affecting Drug Trafficking Control: A National Overview. While the original study documents existing and pending laws and procedures in the area of drug laws enforcement, the seminars provide a means for hearing from individuals, including judges, legislators, policymakers, prosecutors, and enforcement officials, who are developing and implementing the procedures. The purpose of the seminars is to provide an opportunity for participants to learn about programs and procedures that have worked--or have not worked--in other states. Both the 1985 study

and the seminar series have been funded through grants from the U. S. Department of Justice.

She noted that some changes in the program schedule and agenda were necessary because bad weather had forced a number of speakers and participants to cancel or delay their arrival. The primary agenda change was the combination of the sessions on racketeering and forfeiture into one, longer segment of the program.

RICO and Forfeiture

The panel on Racketeer Influenced and Corrupt Organizations (RICO) legislation and forfeiture provisions was moderated by Chief James Nursey of the Thornton Police Department in Colorado. Other panelists were Gary L. Conover, assistant attorney general in the Florida Department of Legal Affairs; Arzo Carson, director of the Tennessee Bureau of Investigation; Cuyler Windham, assistant director of the North Carolina Bureau of Investigation; and Commander Arthur Nehrbass of the Metro Dade Police Department in Miami, Fla.

Nursey outlined some of the issues related to civil, criminal, and administrative forfeiture. Many officials prefer to use civil forfeiture, he said, because the burden of proof--"preponderance of evidence"--is less than is needed in criminal forfeiture--"beyond a reasonable doubt." Many factors vary in states' forfeiture provisions, including the types of property that can be forfeited and types of offenses that are punishable by forfeiture. The purpose of forfeiture often is not clear, Nursey said: is it to punish people for criminal activity or to raise money for an agency?

States handle investigations of forfeiture and RICO cases differently, Nursey said. Some have part-time, ad hoc groups of experts for forfeiture cases; others have full-time professionals who deal exclusively with RICO or forfeiture cases. The Florida attorney general has an academy of attorneys throughout the state who work solely on RICO cases.

Nursey said that it is important to keep in mind that RICO and asset seizure and forfeiture make up only one component of the overall effort against drug abuse.

Conover opened his presentation by saying that the first question regarding forfeiture is "Why pursue forfeiture?" The answer, he said, is that "if you don't include that (forfeiture) as a component of your law enforcement efforts, they will not be successful." Money that is funneled into legitimate businesses increases drug traffickers' ability to conceal and continue their illegal activity, he said. Merely placing drug traffickers in prison will not change their behavior, because "the profits of the crime will continue to be a motivating factor to continue their operations" once they are released, Conover said.

Furthermore, drug money corrupts legitimate officials and citizens, Conover said. If drug traffickers continue to profit from their activity, communities, families, and the economy will suffer substantially. Conover said that it is difficult to target the profits involved in drug trafficking and offered a list of components needed for a successful forfeiture program:

o Adequate tools. "If you don't have effective statutes, you can't do the job," he said.

o Committed law enforcement officials.

o Training for police officers and attorneys. Financial investigation is a new area and requires a whole new expertise, he said. Potential law enforcement officers should be committed and willing to learn new things. Attorneys should be willing to cooperate with police officers on a day-to-day basis and should be willing to investigate forfeiture cases intensively.

o Cooperation of all people and agencies involved in financial investigations.

o Good cases. Officials need to put time and effort into investigations to develop strong cases, he said.

Conover said that states should adopt provisions for contraband forfeiture, real property forfeiture (provided for under RICO), and freezing assets. Civil forfeiture is better than other types because it is more flexible and has a lower burden of proof, and because certain constitutional provisions do not apply in civil cases.

Officials also need to be able to monitor currency transactions, Conover said, because "the name of the game in drug trafficking is 'hide the money.'"

Carson discussed the use of administrative forfeiture, which has been the most popular type of forfeiture in Tennessee since the early 1970's. While administrative forfeiture has some advantages, Carson said, "you must keep in mind that administrative forfeiture is not a quick fix related to forfeiture actions."

As a district attorney, Carson said, he handled cases for local police agencies and found that police investigations often are inadequate as they relate to forfeiture of property. There is a vast difference between the type of evidence required to trace assets and the type of evidence required to prosecute an offender, he said, and "failure to realize that will always result in a weak forfeiture case."

Carson contrasted administrative forfeiture with judicial forfeiture. In judicial forfeiture, he said, judges apply strict rules of court procedures and evidence and eliminate evidence that is not competent. Administrative forfeiture, on the other hand, involves a less formal proceeding, and a lot of evidence that would not be accepted in a judicial case can be presented. A disadvantage to this process is that all the evidence from the case goes before an appeals court. If the appeals court identifies a large amount of incompetent evidence, it may send the case back.

Another problem with administrative forfeiture is that they often are not decided for a long time. Carson said that statutes should require a decision within 30 days, because otherwise, forfeiture cases may be given a lower priority than other types of cases. He added that statutes should make administrative forfeiture procedures more precise and more strict than those involved in judicial cases.

To prevent weaknesses related to administrative forfeiture, police departments and state agencies should write a base document of procedure to identify how forfeiture cases will be commenced, Carson said. The document should require an early evaluation of the items in the seizure to determine whether the action is likely to be beneficial. This should not be determined solely by the amount of money involved, he said, because the purpose of a forfeiture is to hurt the offender. Once an agency has decided to pursue a case, it

should appoint one person to oversee the investigation and procedure until the case is complete.

Officials should approach an administrative forfeiture just as they would a judicial forfeiture, Carson said. "Don't be deceived because it's not judicial; the same safeguards and procedures must be followed."

Windham said that North Carolina is "the new kid on the block," as it just passed a RICO statute in 1986. The North Carolina Justice Department has filed one case under the new statute and probably will file more next month. State officials were not prepared for the statute when it passed, he said, so they set up a training program. A problem with the statute is that the state constitution mandates that all funds from forfeitures be deposited in the state school fund. Windham said that officials in the state are expecting the school board to file suit to receive all funds forfeited under the new statute, which could limit the state's ability to qualify for equitable sharing in federal prosecutions.

However, Windham said that the state attorney general is not concerned with who gets the money, because the purpose of forfeiture is to "let the bad guys have it," he said. State officials cannot stop the flow of drugs into the state and cannot buy all the drugs, he said. Therefore, "the only way we're going to get the drug trafficker is to go into his pocketbook."

Following the panel presentations, Nursey added that prosecutors, law enforcement officials, and attorneys need training, but also reorientation and redirection. Examining the possibility of forfeiture and prosecution under RICO should be a natural response in drug cases, he said.

H. Allen Moye, assistant district attorney in Atlanta, Ga., said that the sharing process with law enforcement agencies often creates a severe problem: officers may ignore possible drug charges and instead merely seize a suspect's car. Nursey responded that agencies can't forget the need to pursue criminal charges, and they need to ask whether they are losing focus and whether the public perceives that they are losing focus.

Nehrbass said that some agencies see forfeiture as an end rather than a means. "If you use forfeiture, your officers can't become bounty hunters," he said. "There's nothing that can destroy a forfeiture statute faster than the legislature's opinion that it's made officers bounty hunters."

When the issue of paying informants and witnesses in forfeiture cases was raised, Conover said, "It's just plain a bad idea to pay witnesses, especially on a pecuniary basis. It destroys their credibility and the credibility of law enforcement officers."

About officers themselves becoming "bounty hunters," Conover said that seizing cars, boats, and planes alone is not an effective way to combat drug trafficking; drug dealers consider the loss of such items an expected expense of business. "Some (drug traffickers) are willing to go to jail as long as they don't have to give up their investments," he said.

However, Ron Fields, a prosecuting attorney in Ft. Smith, Ark., said that forfeiture in small jurisdictions is considerably different from cases in large cities. Big-time drug traffickers in Atlanta are "far beyond my scope," he said. In smaller jurisdictions, it may not be a bad idea to focus police officers on forfeitures. Seizing a car from a street-level drug dealer can have a substantial impact on a community, he said, and such a seizure not

only can immediately limit a dealer's ability to distribute drugs, but also can damage his reputation. In addition, "a car can be an incredible asset to a small police department as an ordinance vehicle."

Carson agreed with Fields and added that seizing a car from a street-level dealer also hurts his chances of buying a new car, if financial institutions take note of such actions.

Conover responded by explaining that he does not think that police agencies should not seize boats, cars, and airplanes; rather, he thinks that agencies need to go further to become more effective. For example, officials should try to determine how much money street-level dealers make and enhance their efforts to pursue forfeiture of their illegal income.

Fields again stated that seizing a car is an effective way of hurting a drug dealer. Eighty-five percent of drug offenders are given probation, and "we've got to hit them somehow." Forfeiture is something an agency can show the public and use to increase officers' morale and confidence, he said.

Windham agreed that RICO and forfeiture statutes, when applied effectively, attract the public's attention. He discussed a recent case in North Carolina in which a woman reported to authorities that her husband was distributing drugs. She said, "I worked hard to pay for my house and I don't want it seized because my husband's dealing drugs." Windham said, "That's a credit to the RICO statute: it gets attention."

Financial Investigation Tools

The panel on financial investigation tools, including money laundering provisions and bank and tax information, was moderated by Clifford L. Karchmer, associate director of the Police Executive Research Forum. Also participating as a panelist was Gary L. Conover, assistant attorney general at the Florida Department of Legal Affairs.

Karchmer said that officials need to ask the appropriate questions when conducting financial investigations. How much does a dealer make? What are his sources of financing? What happens to his proceeds? Who benefits from the proceeds? Are financial institutions or other legitimate businesses involved? Are the profits recycled?

"Without financial investigative capabilities, it's going to be hard to be very difficult to go beyond small rings," he said. "Any drug case can be greatly enhanced by adding some financial emphasis," such as asking where the money came from and where it went, Karchmer said.

Karchmer listed three capabilities that are useful in financial investigations:

o Paper trail investigations. Investigators should be able to understand the basic paper flow and investments involved in a drug case. This is not a very difficult skill, he added.

o Careful financial analysis. Investigators should be able to document an offender's unexplainable income. A net worth analysis can document the individual's legal income and his excess income, which may be from illegal sources.

o Investigative accountants who specialize in tracing the movement of funds.

"In general," Karchmer said, "financial investigative evidence seems to provide another type of circumstantial evidence that can help make a strong case and will help you in an asset forfeiture." These investigations also offer officials an opportunity to prosecute suspects under IRS penalties if they can't prosecute them for criminal offenses. Officials also can prosecute an individual under both criminal charges and IRS provisions.

Conover said that in Florida, major investigations are handled by a team consisting of members from the prosecution, the financial investigation and forfeiture process, and the law enforcement agency involved. On the arrest day, civil attorneys seize the assets that they can show are linked to the drug enterprise and freeze all other assets.

Every major case in Florida is opened with the financial component, Conover said. Officials use the same, simple procedure in every case, and any agency can use the procedure, he said. First, officials document drug importations and compute the suspect's probable drug income, which requires only an estimate of the retail cost of the drugs involved. Next, they identify the suspect's assets by checking public records listed under his name and aliases. Then they examine real estate public records and other types of assets. Finally, they compare all this information with the suspect's legal income to determine whether the suspect can explain the income legitimately.

Concerning money laundering, Conover said that no single statute can eliminate the concealment of assets. Enacting and using money laundering statutes is a good method to uncover income, but it addresses only currency connected with financial institutions.

Conover explained Florida's law regarding corporate disclosure, which has been useful in deterring drug trafficking enterprises from moving to the state. Many drug traffickers invest in real estate under the names of secret corporations located in other countries, so Florida's corporate disclosure law mandates that any corporation that purchases real property in the state must document the owner. If the corporation does not disclose a name, the state freezes the corporation's assets and fines the corporation $1,000 a day until it complies with the law.

Conover said that the Department of Legal Affairs has a staff of 12 attorneys and 23 other employees and investigates about 60 cases at a time, involving 500 to 650 subjects. The department generates from RICO and forfeiture cases more than its total cost of operation, which is about $3 million a year.

Electronic Surveillance

The panel on electronic surveillance was moderated by Chief James Nursey of the Thornton Police Department in Colorado. Other panelists were H. Allen Moye, assistant district attorney in Atlanta, and Commander Arthur Nehrbass of the Metro Dade Police Department in Miami, Fla.

Moye began by stating that many electronic surveillance tools are available to law enforcement officials even in states without electronic surveillance statutes. "People tend to think that if they don't have a true electronic surveillance statute, there are certain types of investigations they can't conduct," he said, "and that's just not true." Many types of investigations involving modern technology do not require use of an electronic surveillance statute, he said.

One example of surveillance that does not require court authority under federal law and Georgia law is consensual monitoring, such as the use of undercover agents with body bugs or tape recorders, Moye said. Under the federal Electronic Communications Privacy Act of 1986, tracking devices on cars also are allowed without a court order. However, officials must obtain a court order before installing pen registers, devices that allow officials to record the numbers dialed on a particular telephone.

Some areas of the federal law still are unclear, Moye said, but it appears that computer transactions are covered in the section dealing with electronically-stored information. If information on a transaction of currency has been stored for fewer than 180 days, officials need only a search warrant to gain access to it. If the data has been stored for 180 days or more, officials need a court order showing the relevance of the information.

Georgia's electronic surveillance statute has two purposes--to protect the privacy of citizens and to make use of modern methods to detect crime. Moye said the statute is used often, with very little abuse. Law enforcement officials have worked closely with the state legislature to modify the statute to increase its effectiveness.

One problem with electronic surveillance, Moye said, is that officers using surveillance often become complacent and often give other aspects of an investigation a lower priority. He said that officials have to realize that electronic surveillance is only one method to develop a case against a suspect. A problem in Georgia is that there are few officers who can interpret intercepted conversations in foreign languages, he said.

Electronic surveillance cases encourage and foster coordination among all individuals involved in an investigation, Moye said. Police need to cooperate with each other to share background information, and police need to cooperate with district attorneys, who head surveillance investigations in Georgia.

Georgia has a great need for manpower in electronic surveillance investigations. Atlanta contains one of the largest areas in the world in which individuals can call with no long distance fee, Moye said, and one warrant can be used to develop cases in several jurisdictions.

Nehrbass discussed issues surrounding electronic surveillance that officials have faced in southern Florida. Surveillance operations are tremendously expensive, he said, and sometimes police do not have support from the public, because "the public has a perception that police are listening to the whole community." Because of the cost required, Florida officials use electronic surveillance only when there is no other way to obtain evidence about a suspect's activity. Florida's law enforcement trust fund provides overtime pay and other costs of surveillance investigations, which often require about 30 officials, Nehrbass said.

He also addressed the language barrier in electronic surveillance. Many intercepted conversations in drug cases are in Spanish, and translations by Spanish-speaking police officers often are not credible in court. Therefore, the department usually hires court-approved translators to transcribe tapes that will be presented as evidence against an individual.

Interception of conversations by a cordless phone is an area that the federal wiretap law does not address clearly, he said. One could say that a person using a cordless phone has no expectation of privacy, because his conversation can be picked up as a radio transmission can, but on the other hand, the person to whom he is speaking may be using a traditional phone and therefore may have an expectation of privacy, Nehrbass said.

Several participants asked about sources of funding electronic surveillance investigations. Some states, like Florida, allow overtime pay but not salaries to come from the law enforcement trust fund. Some states, however, do not permit such funds to any costs for personnel.

Sentencing

The panel on sentencing was moderated by Joseph W. Dean, secretary of the North Carolina Department of Crime Control and Public Safety. Other panelists were Circuit Court Judge Edward D. Cowart, of Miami, Fla.; and Superior Court Judge James E. Findley, of Reidsville, Ga.

Dean opened the discussion by raising the issue of prison crowding as it relates to sentencing. "If you catch them, can you do anything with them?" he asked. North Carolina has determinate sentencing, but the impact of sentences is affected by prison crowding and a "good time" provision, which, in effect, can reduce an inmate's sentence by 50 percent. For each day that an inmate serves, he receives one day of "good time." Moreover, with emergency release provisions as well, "if a judge wants an offender to serve three years, he has to give him 10 years."

Officials in North Carolina have drafted a proposal to abolish the good time provision so all inmates would serve between 83 percent and 100 percent of the sentences that judges assign. Some officials also support the creation of a mandatory parole period that would begin after an inmate is released, Dean said. Under the proposal, an inmate could be sent back to prison if he violated his parole provisions. For example, a judge could sentence an offender to two years' imprisonment and two years' parole. If he violated his parole provisions, he then would serve the remainder of the two years in prison.

Cowart discussed Florida's sentencing guidelines, which have been operative since 1982. Because of the state's "basic" and "incentive" good time provisions, it is possible for incarcerated offenders to spend only 53 percent of the prison time that judges impose. A further limitation to judges is that although they may impose aggravated sentences, they cannot use as an aggravating factor any factor that already is considered under the guidelines. For example, the state supreme court has held that habitual offenses are covered within the guidelines, so a judge may not impose an aggravated sentence on the basis that an individual has been charged with previous offenses.

Cowart said that judges in Florida rarely enhance sentences and that sentences under the guidelines should be increased. He favors abolishing the guidelines because of the limitations they place on judges.

Findley explained the sentencing structure in Georgia and said that since the parole board has the final say in all sentencing decisions and has almost no limitations, trial judges have very little control over sentencing decisions. Legislation passed in 1986 establishes stiff mandatory minimum sentences for the trafficking of cocaine, marijuana, and other

illegal drugs, he said. Sentences are fixed on a sliding scale, with larger monetary penalties and longer incarcerative sentences required for larger amounts of controlled substances.

Findley said that the incarceration of drug traffickers has little impact on prison crowding. The maximum penalty for possession of marijuana with intent to distribute is seven years, but realistically, an offender would serve three years in prison, spend four years on parole, and pay a fine of up to $10,000. "Mandatory sentencing doesn't mean mandatory service," he said. Some offenders wait up to six months in city jails before they are admitted to prison, he added. To make more room for serious offenders, Findley said that one option would be decriminalizing possession of marijuana. "We really don't know how to deal with it," he said.

Because of the perception that offenders are getting away with light sentences, many judges, police officers, and citizens feel that offenders are serving time in prison but are paying no real retribution, he said. The legislature is considering adding prison space, but Findley said he does not know if more space will solve the problem.

Of the 16 categories of offenders who spend the most time in prison, four are drug related, but this group compose a small proportion of the total number of inmates, he said. "The parole board hasn't given drugs as much weight as other offenses," Findley said. "It's my duty to make sure drugs aren't in the community. Imposing sentences doesn't accomplish that." Everyone, not only judges, needs to address the problem of drug abuse, he said.

Arzo Carson, director of the Tennessee Bureau of Investigation, agreed with Findley about the limited impact of sentences on the drug abuse problem and said that he thinks establishing effective statewide education programs is the only answer to the problem. Drug trafficking is a unique criminal justice problem, Carson said, because both the offender--the drug dealer--and the victim--the buyer--are willing participants in the crime. Therefore, the situation cannot be treated in the same way as officials can address other areas of criminal enforcement, he said.

Cowart added that effective education programs are difficult to establish and fund because of a lack of support from the general public. "Tolerance is one of the biggest factors--it (drug abuse) is socially acceptable."

Intergovernmental Cooperation and Demand Reduction

Panelists on the topics of intergovernmental cooperation and drug demand reduction were Irvin C. Swank, law enforcement coordinator of the Texans' War on Drugs; and Commander Arthur Nehrbass of the Metro Dade Police Department in Miami, Fla. Gwen A. Holden, executive vice president of the National Criminal Justice Association (NCJA), introduced the panelists and noted that the NCJA's 1985 report, State Laws and Procedures Affecting Drug Trafficking Control: A National Overview, discusses task forces as a key part of law enforcement. The report also acknowledges that the problem of drug abuse cannot be solved without reducing citizens' demand for drugs.

Swank said that states can hire people and spend money, but they can't stop drug trafficking if people want to abuse drugs. The Texans' War on Drugs, under the Department of Public Safety, forms community groups in churches and schools throughout the state and lobbies for stronger laws against drug offenders. As law enforcement coordinator for the

group, Swank encourages communication between law enforcement officers and citizens and coordinates training programs for officers.

Nehrbass began his presentation by stating that he is not "anti-task force" but that he thinks police agencies should evaluate their responsibility in their respective county, state, or city and make that their first priority. "Anything that detracts from that is taking away from our responsibility," he said.

Southern Florida is the center of cocaine importation and distribution for the entire country, Nehrbass said. The U. S. Customs Service, the U. S. Drug Enforcement Administration (DEA), and the Federal Bureau of Investigation (FBI) have primary responsibility for controlling drug importation and major distribution, while the Metro Dade Police Department is responsible for controlling retail sales, drug users, and wholesalers. While the department has written agreements with the DEA and the FBI, "we have to look at how we're serving the citizens of Dade County before we get involved in other cases," Nehrbass said. "We try to keep away from that 'big case' syndrome as much as we can."

Task forces are good for public relations, because the public perceives that someone is working on an existing problem, he said, but creating a new agency when there already are agencies capable of dealing with a problem often is not the most efficient solution. "Don't we have too many agencies working on the same problems already?" he asked. Another disadvantage of police serving on task forces is that officers may lose their identity, Nehrbass said. When officers lose their police identity, "we impact what we ought to be doing adversely."

The Southern Florida Task Force has been effective in reducing the amount of certain drugs in the region, he said. Quaaludes are no longer a major problem, and the amount of available marijuana is decreasing while the price of that drug is increasing substantially. By contrast, the price of cocaine is falling dramatically while the purity is rising, because other countries are overproducing. Although seizures of cocaine have doubled, the problem still is getting worse, he said.

Western Region Seminar
Sacramento, Calif.
February 26-27, 1987

The western region includes the states and territories of Alaska, American Samoa, Arizona, California, Colorado, Guam, Hawaii, Idaho, Montana, Nevada, New Mexico, Northern Mariana Islands, Oregon, the Trust Territories of the Pacific, Utah, Washington, and Wyoming.

Opening Session

G. Albert Howenstein, Jr., director of the California Office of Criminal Justice Planning, welcomed participants to the western region seminar on "State Legislative Options for Drug LAws Enforcement" on behalf of the state of California and discussed California's efforts to develop a statewide strategy to combat drug trafficking. Vance W. Raye, secretary of legal affairs for the Office of the Governor, added his welcome to the participants. He noted that California, as a diverse state, has diverse criminal justice problems, including those related to drug trafficking.

David F. Levi, U. S. attorney for the Eastern District of California, said that drug abuse is a major threat to the nation and is "completely inconsistent with what we believe in." The U. S. Department of Justice views drug control as its highest priority, Levi said; it was the main focus of a recent conference of U. S. attorneys. He said that U. S. attorneys around the country are willing to work with organizations attempting to combat drug abuse, but no one entity can solve the national problem. To be effective, any strategy must take a unified approach. Traditional law enforcement is not the only way to attack the problem, he said; other techniques, such as education and forfeiture, could be used more extensively than they currently are.

Gwen A. Holden, executive vice president of the National Criminal Justice Association (NCJA), sponsor of the seminar, said that the seminar is a demonstration of the belief that "dealing with the drug problem is an intergovernmental affair." She explained that the regional seminars are part of a follow-up to the NCJA's 1985 report, State Laws and Procedures Affecting Drug Trafficking Control: A National Overview. While the original study documents existing and pending laws and procedures in the area of drug laws enforcement, the seminars provide a means for hearing from individuals, including judges, legislators, policymakers, prosecutors, and enforcement officials, who are developing and implementing the procedures. The purpose of the seminars is to provide an opportunity for participants to learn about programs and procedures that have worked--or have not worked--in other states. Both the 1985 study and the seminar series have been funded through grants from the U. S. Department of Justice.

Penny Wakefield, NCJA associate director for legal affairs, outlined the agenda and briefly discussed the topics to be covered in the seminar.

RICO and Assets Seizure and Forfeiture

The panel on Racketeer Influenced and Corrupt Organizations (RICO) and conspiracy provisions and assets seizure and forfeiture was moderated by Chief James Nursey, of the Thornton, Colo., Police Department. Other panelists were Cameron H. Holmes, assistant

attorney general in the Arizona attorney general's financial fraud division; George J. Doane, chief of the California Bureau of Narcotics Enforcement; Tom Gruber, district attorney and president of the Oklahoma District Attorneys Association; and Kent Morgan, Salt Lake County, Utah, deputy attorney.

RICO and forfeiture are different processes, Nursey said, but "they are so closely related that we need to deal with them together." Some of the factors that vary in states' forfeiture provisions are the types of forfeiture available, types of property that are forfeitable, asset tracking, maintenance of seized assets, and sharing of forfeited assets. Nursey emphasized that forfeiture is only one component of an overall drug strategy, and law enforcement officials should use it more broadly to develop other cases and to dismantle criminal organizations.

Holmes said that law enforcement officials in Arizona have developed several large cases involving organized crime and white collar crime since the state began its forfeiture program in 1980. Such cases are expensive and time-consuming but often pay for themselves through resulting proceeds from forfeitures. Officials have been successful in dismantling organizations such as massage parlors through forfeiture actions, he said. "Forfeiture is the secret to a real warfare against a criminal entity," Holmes said. He discussed the economic organization of a criminal enterprise such as a drug trafficking organization and explained that without financing outside of the structure and money laundering, individuals in the organization cannot continue to profit from their activity.

Arizona law enforcement officials are attempting to reduce the proceeds of organized criminal activity by concentrating on the profits rather than the low-level participants, he said. "Instead of trying to put buyers or prostitutes in jail, we're trying to put their support mechanisms a few steps back."

Forfeitures in drug trafficking and other types of cases, such as trafficking of stolen property, raise legal and ethical questions about law enforcement's goals and priorities, Holmes said. There is nothing wrong with law enforcement agencies using the possible receipt of forfeited assets as an incentive, as long as they keep their priorities in mind, he said. "If our goal is to bring down a criminal enterprise, we won't get sidetracked by making money on the side."

Competitiveness among agencies and questions about priorities also arise in California, Doane said. "We need to use caution in our forfeiture," he said. "The real purpose is to hurt the drug trafficker or racketeer--not to make money." The state has adopted a forfeiture law, effective Jan. 1, 1987, that strengthens previous forfeiture provisions, which previously were ineffective and enforced rarely, he said. Under the revised law, California plans to centralize its forfeiture program to train investigators and to gather data useful in forfeiture investigations, he said.

Doane said that he perceives a trend of decreased forfeiture actions because of the amount of time and effort required. "We can mandate people to make forfeitures, but if they are not motivated, they won't do it," he said.

A past problem related to forfeiture in the state was that law enforcement agencies received only a small share of forfeited assets. Previously, 50 percent of such funds went to the Department of Mental Health and the remainder was distributed to agencies and state funds. Now, however, 65 percent goes to the agency or agencies responsible for the

seizure; 20 percent to the mental health fund; 10 percent to the prosecutor; and five percent to a narcotics fund.

Gruber said that in 1985-86, officials in Oklahoma attempted to develop and pass a RICO statute, but "it went nowhere," partly because "the senate is run by criminal defense attorneys." The state's forfeiture provisions involve civil proceedings, but the standard of proof required to demonstrate that the property was used in connection with a drug offense is criminal. The "beyond a reasonable doubt" standard results in many local prosecutors turning over to federal officials many cases that they otherwise would prosecute on the state level, he said.

Pursuing forfeiture under federal provisions is appealing, Gruber said, because it is easier for state officials and because state and local agencies that participate in investigations receive a share of the proceeds. However, he added, distribution of proceeds still sometimes creates competitiveness among agencies. Officials "argue over who gets the Mercedes--not who will prosecute the case," he said. The receipt of forfeited assets can serve as an incentive to agencies, Gruber said, but "if we lose sight of the drug prosecution and the importance of putting the offender in jail," forfeiture becomes less significant.

Morgan said that forfeiture often becomes part of plea bargaining since many jurisdictions do not have adequate personnel to pursue all potential forfeiture cases. Forfeiting businesses involved in drug trafficking is difficult, he said, because officials must show that the illegal activity actually funds the business. For example, a massage parlor in which prostitution occurs may be closed because the prostitution is the source of the business' profit. On the other hand, a restaurant or bar that continually is involved in drug trafficking on the premises can be sanctioned for such violations, but cannot be forfeited unless drug sales themselves finance the organization.

Utah is a "pipeline" state, through which drug traffickers travel to distribution points, Morgan said, and forfeiture can allow officials to seize a car even if they cannot prosecute the offender.

Currently, all forfeited assets in the state go to the school fund, but beginning June 30, 1987, funds will be distributed to law enforcement, prosecution, and other agencies that participate in the cases that result in assets seizure and forfeiture.

Following the panel presentations, several participants expressed concern over the time it takes the federal government to distribute proceeds from forfeitures to state and local agencies. Some participants said that the potential of forfeitures is extensive, but the delays in receiving funds affects officers' morale and lessens the incentive for pursuing forfeitures.

Alyce H. Hanley, of the Alaska House of Representatives, indicated that Alaska is the only state without a RICO or conspiracy statute and asked if RICO investigations require extensive manpower and sophisticated technology. Holmes responded that officials can use RICO statutes to develop large, sophisticated cases, but these statutes are only a tool and may be used in other, smaller types of cases as well. Officials in Alaska probably are doing all the investigation necessary for such cases, he said, but RICO provisions could be used to coordinate prosecutions and could reduce the number of trials. "You need more resources not to have the statute," Holmes said.

Financial Investigation Tools

The panel on financial investigation tools, money laundering, and bank and tax information was moderated by Cameron H. Holmes, assistant attorney general in the Arizona attorney general's financial fraud division. Also on the panel were Steven V. Giorgi, chief of the criminal investigation division of the U. S. Internal Revenue Service in Sacramento; and Brian Taugher, special assistant attorney general in Sacramento.

"Money laundering is the building block that is the most critical in the drug trafficking process," Holmes said. "Disposing of assets is the most major day-to-day headache of the drug dealer." If officials could brand every dollar that is used in drug trafficking as "bad money," dealers would no longer have an incentive to continue the activity. Unfortunately, that is not possible to do, he said, but officials still can find ways to attack the profit motive associated with drug trafficking.

Similarly, Giorgi said that drug trafficking "is nothing more than a big business" operated by individuals who are motivated by greed. A large portion of the $100 billion that is not reported to the IRS each year is profits from illegal drug activity, he said.

The IRS is "more than willing to teach people how to conduct financial investigations," Giorgi said. Officials conducting investigations should examine records of suspects and their associates to determine where the money involved in criminal activity is coming from and where it is going. Giorgi called the Money Laundering Control Act of 1986, under the Anti-Drug Abuse Act of 1986, "the most important legislation we've seen in a long time." Money laundering provisions and currency transaction reporting requirements can help uncover not only narcotics activity, but also other white collar crime and other organized crime. "It's an extremely effective tool that we can't wait to fully utilize," he said.

Taugher said that financial investigations are especially important in drug trafficking cases, because high-level drug dealers are not close to the drugs but are close to the cash. "If you find the money, you'll find them," he said. In 1985, California officials pushed for a state currency transaction reporting statute after a flood of cash, presumably from organized criminal activity, was detected in the state and after a U. S. Department of Justice study found that several California banks were not filing forms required under the Bank Secrecy Act. Another factor in their decision to develop state requirements was the extensive time involved in receiving federal reports for state investigations, Taugher said.

When the state first considered a money laundering statute, bank officials did not support any further statutory regulations, Taugher said. They were worried about being held liable in money laundering cases, about being seen as accomplices to money launderers, and about having to complete more paperwork. Officials considered the banks' concerns and drafted state currency transaction reporting provisions requiring banks to file with the state the same report that they file with the federal government.

The California statute covers more financial institutions than does the federal statute. "If you require some but not others [to file reports], criminals will go to places where they can get away with it," Taugher said. To address defense attorneys' fears of being considered participants in money laundering by accepting payment from individuals involved in criminal activity, the state included a provision that exempts defense attorneys from prosecution under the law unless there is evidence that an attorney knew that he was paid with "bad" money and attempted to disguise it.

In Arizona, money laundering has been added to the list of offenses included in the definition of racketeering under the state's RICO statute, Holmes said. Money laundering now is the most serious non-murder felony in the state. The state's attorney general recently requested that financial institutions file currency transaction reports on cash transactions that employees have reason to believe may constitute money laundering. Unlike California's law, however, failure to file a report is not an offense itself.

Training is available for institutions that want to learn how to detect possible money laundering violations, Holmes said. States' statutes and regulations are most effective if other states' practices are similar, he said. "It is absolutely abhorrent for one of the states to become a haven for dirty money," he said.

Bail and Sentencing

The panel on bail and sentencing was moderated by Chief James Nursey of the Thornton, Colo., Police Department. Other panelists were John A. Dougherty, district attorney for Sacramento County; Fred Van Valkenburg, democratic floor leader of the Montana State Senate; David L. Nimmo, associate district judge in Ada, Okla.; and Raymond Harding, district judge in Provo, Utah.

Nursey said that since many drug traffickers and other offenders easily can make bail payments of $1 million or more, some officials wonder if detaining offenders before trial is the only way to assure their appearance in court. He explained that the bail and sentencing panel would cover pretrial options as well as sentencing in general and would attempt to determine whether sentencing is actually a deterrent to drug trafficking.

Dougherty discussed California's determinate sentencing system, adopted in 1977, which sets appropriate sentences based on the facts presented and allows prisoners to know how much time they will serve. Under this system, there are low-, medium-, and high-base terms, determined by mitigating and aggravating factors. Enhancements to the base terms exist for such factors as prior convictions and the use of a firearm in commission of an offense.

From 1977 to 1982, Dougherty said, the public perceived a need for tougher penalties under the determinate sentencing law. As a result, the law has undergone more than 150 revisions since it was adopted, including increased base terms and increased enhancements. The law also now includes new offenses, such as possession and sale of "rock" cocaine, and enhancements for the use of minors in a drug offense, prior drug-related felonies, crimes committed while on bail, and large amounts of drugs involved in an offense.

One result of the changes in the determinate sentencing in California, Dougherty said, has been a large increase in the numbers of offenders who are incarcerated. Prisons in the state currently are filled 30 percent to 60 percent over their intended capacity. The number of incarcerated offenders has risen from 21,000 in 1977 to 50,000 in 1985. Some legislators examining the crowding situation support increased use of "good time" provisions or decreased use of sentence enhancements, Dougherty said.

Van Valkenburg said that Montana is a large, sparsely populated state with relatively few financial resources to address the problems associated with drug trafficking. The state's indeterminate sentencing structure is simple, with some minimum penalties and some

enhancements. The penalty for the sale of any dangerous drug is a minimum of two years and a maximum of life imprisonment. The maximum penalty for possession of any felony drug is five years for a first offense, 10 years for a second offense, and 20 years for a third offense.

Increased penalties for drug offenses has increased the state's prison and jail population, Van Valkenburg said; the state prison, with an intended capacity of 750, now houses 1,000 offenders, and the population of offenders in pre-release centers has doubled. Judges are "very aware of unstated pressure to be selective in who they send to prison," he said, and the public seems to be most concerned about violent crime.

As far as drug laws violations, judges sometimes give repeat drug offenders long prison sentences, but they usually place first and second offenders on probation, Van Valkenburg said. Fines sometimes are effective, he said; large fines "slow them down as much as anything."

Legislation passed in Montana in 1985 requires judges to set bail amounts sufficient in each case to ensure both the presence of the defendant and the protection of any person from bodily injury, with consideration of the defendant's family ties, community ties, and employment status. The legislation also expands the list of conditions that judges may require defendants to meet while out on bail; a number of these conditions restrict activities traditionally linked with drug trafficking activity. For example, defendants may be required to remain in the custody of a designated person, to abide by a curfew, or to abide by specified travel restrictions, all of which would limit severely the mobility necessary to carry out organized drug trafficking activity. Also under the legislation, defendants may be required to avoid all contact with potential witnesses who may testify against them, to refrain from alcohol and/or drug use, or to undergo treatment for drug dependency.

Bail amounts set in Montana usually do not exceed $50,000, Van Valkenburg said, except in homicide cases, in which bail sometimes is set as high as $100,000. The state has a severe bail-jumping statute, which officials "use every chance we get," he said. Bail-jumping provisions are easy to enforce, he said, because if a defendant does not appear in court as required, the court has sufficient proof that he has jumped bail.

Concerning prison and jail crowding, Van Valkenburg said that he thinks that the states have a responsibility to help local governments explore pretrial alternatives to detention in crowded city jails, such as house arrest.

Nimmo said that Oklahoma is a rural state similar to Montana, with similar problems related to prison and jail crowding. The state's sentencing provisions are adequate, he said, with minimum penalties doubled for second offenses. Under legislation passed in 1986, persons 18 or older who are convicted of distributing controlled substances to persons under 18 may receive sentences of twice the monetary fines and twice the incarcerative sentences otherwise authorized by statute.

One problem in Oklahoma is that increased mandatory minimum sentences passed in Texas for the manufacture of drugs have resulted in many offenders moving their operations to Oklahoma. Nimmo said that he has doubts about mandatory minimums in jury trials, because juries may find an offender not guilty because they feel that a mandatory sentence is too severe for the offense involved.

By contrast, the state's bail provisions need to be strengthened, because bail jumping is a problem in Oklahoma, he said. There is some question whether the state constitution permits pretrial detention; officials need clear and convincing evidence that the defendant poses substantial danger to another person.

Harding discussed Utah's court-adopted guidelines, which have been in effect since December 1985. Under the guidelines, felony cases are classified as either first degree, with a prison sentence of five years to life; second degree, one year to 15 years; or third degree, five years or fewer. After an offense has been classified by degree, judges consider mitigating and aggravating factors. Most first-time felonies are second degree offenses; sale to minors is a first degree felony.

Although there are few offenses that carry mandatory minimum sentences, judges can impose mandatory minimum sentences for second or subsequent offenses, using as a minimum half of the minimum sentence, Harding said. For example, for a third degree offense, with a five-year maximum sentence, a judge can impose a two-and-a-half-year mandatory minimum.

Legislation adopted in 1986 established severe mandatory sentences for those convicted of distributing controlled substances on or around school property or to any minor. The offense carries a mandatory minimum of five years in prison with no parole or suspension of sentence if the offender would have been charged with a first degree felony if the offense had not involved a minor or occurred on or near school property. If the offender otherwise would have been charged with less than a first degree felony, the maximum penalty is increased one degree.

Intergovernmental Cooperation and Demand Reduction Programs

The panel on intergovernmental sharing of resources and information and demand reduction programs was moderated by Gwen A. Holden, executive vice president of the National Criminal Justice Association. Other panelists were Neil W. Moloney, director of the Colorado Bureau of Investigation; David A. Haneline, chief of the investigations division of the Nevada Department of Motor Vehicles and Public Safety; Rollin Klink, special agent-in-charge of the U. S. Customs Service in San Francisco; and James C. Day, special assistant to the U. S. attorney in Sacramento.

Holden explained that the final panel was to be a "catch-all" discussion covering the need for states and agencies to share resources and information to coordinate law enforcement efforts against drug trafficking and the need to reduce the demand for drugs through enforcement, education, prevention, and treatment.

Moloney began by describing Colorado as a mostly rural state, with the exceptions of a few large urban areas such as Denver and Boulder. The state has 65 counties, several one-person police departments, and low salaries for police, which contribute to a high turnover in the law enforcement field. Cocaine and other narcotics are prevalent and available in the state, and there are few interdiction efforts. There are some anti-drug abuse programs in the state, but they are concentrated primarily in the Denver area, Moloney said. Large amounts of drugs pass through the state by highway, rail, and air with little trouble, he said.

In general, Moloney said, the drug trafficking business is better organized and better funded than law enforcement because of a lack of coordination in the state. "The failure of the state, in my opinion, to coordinate an attack accounts for our severe crime problem," he said.

However, some interagency agreements do exist. For example, a new interdiction program at Stapleton International Airport in Denver has resulted in the seizure of $.5 million in cash and more than 500 arrests, Moloney said. Under other agreements, the Drug Enforcement Administration oversees a task force of six to eight agencies that deals with narcotics and other areas; the U. S. Marshals Service works with 10 other agencies to apprehend felon fugitives; and 20 law enforcement agencies work together under a justice department grant to target drug smuggling by air. In addition, the Colorado Association of Chiefs of Police is helping to initiate a drug abuse project similar to the Texans' War on Drugs.

Some problems have arisen in efforts that do not involve written agreements, Moloney said. To be effective and avoid problems, officials should make sure that written agreements contain specific objectives; effective dates; participating agencies and their roles, authority, and financial responsibilities; provisions relating to seizure and distribution of assets; and information on any other areas that could cause conflicts among agencies. The head agency of a joint project should evaluate the effort at least monthly, Moloney said.

Finally, about demand reduction, Moloney said, "The country is heading toward a 'lock 'em up' mentality, but unless we do something early on for prevention, we're talking about locking up a whole generation." Law enforcement's first responsibility is to keep people out of prison and jail, he said, and its second responsibility is to put people in jail or prison if it fails.

Narcotics task forces in Nevada, a state with two large metropolitan areas and a lot of rural areas, are very beneficial, Haneline said. One advantage of task force participation is that experts in drug laws enforcement train officers, who then can assist their respective agencies in their operations. The easiest way for state agencies to avoid jurisdictional conflicts is to allow local agencies to participate and share any resulting assets, he said.

Task force agreements should outline salary and overtime compensation, other costs, responsibility, liability and jurisdictional authority, Haneline said. Agencies can work out the type of agreement that best suits their needs. He said that assets should be distributed equally among participating agencies, regardless of manpower, to avoid disagreements.

Klink discussed federal cooperative efforts with state and local agencies and said that local task forces are crucial to the success of national anti-drug efforts. Federal agencies supply equipment to local agencies and share forfeited assets with them. Other joint efforts in California target money laundering and the smuggling of drugs by aircraft and ships.

Enforcing money laundering provisions is a key to reducing drug distribution in states and in the country, Klink said. Currency transaction reports are current to about a week, he said, and the information can be shared with federal and state agencies to assist investigations of drug trafficking and organized crime.

Day discussed Law Enforcement Coordinating Councils (LECC's), which he said can provide useful tools to law enforcement efforts, especially to rural areas. However, he added, the LECC is "the Rodney Dangerfield of law enforcement--it doesn't get any respect."

The purpose of LECC's is to build mutual trust and respect and improve coordination and communication among agencies. When LECC's first were created in 1981, coordination and cooperation generally were low, Day said, and there were not enough resources or manpower. Since 1984, however, LECC's have had more participation and have been better coordinated and more successful.

In California, law enforcement cooperation has improved over the last 10 years, he said, largely because state agencies' attitudes toward local agencies have become more respectful. Coordinated efforts allow agencies to share resources and reduce duplicative efforts, thereby making money available for other purposes. Each LECC is flexible and "can be molded to address agencies' respective needs," Day said.

The northern California LECC has subcommittees that deal with such areas as drug abuse, white collar crime, and motorcycle gangs. Some of the programs that the LECC sponsors include training in many law enforcement areas and a drug education summer camp.

Midwestern Region Seminar
Chicago, Illinois
March 26 and 27, 1987

The midwestern region includes the states of Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin.

Opening Session

J. David Coldren, president of the National Criminal Justice Association (NCJA) and executive director of the Illinois Criminal Justice Information Authority, welcomed participants to the midwestern region seminar on "State Legislative Options for Drug Laws Enforcement" and emphasized the "urgent need to deal effectively with drug trafficking and drug abuse." He said that the seminar provided a good opportunity for officials to discuss legislative and other options for an overall strategy against drugs. Interagency cooperation is an important component of an effective state strategy, he said; for example, to use forfeiture successfully, a state needs strong legislation and specially-trained prosecutors and other officials.

Anton R. Valukas, U. S. attorney for the Northern District of Illinois, said in his opening remarks that drug abuse is "the largest single social problem" in the nation. He said that drug trafficking is a "crime of greed" rather than a "crime of passion"; the only incentive for the crime is money. Valukas discussed the increasing use of assets seizure and forfeiture in drug cases and said that some drawbacks to equitable sharing of resources are the difficult process involved and delays in the distribution of forfeited assets. Cooperation among law enforcement agencies and other criminal justice agencies in northern Illinois is strong, he said. Most of the major problems in drug laws enforcement in Illinois need to be addressed legislatively, he added.

Gwen A. Holden, executive vice president of the National Criminal Justice Association (NCJA), sponsor of the seminar, explained that the regional seminars are part of a follow-up to the NCJA's 1985 report, State Laws and Procedures Affecting Drug Trafficking Control: A National Overview. While the original study documents existing and pending laws and procedures in the area of drug laws enforcement, the seminars provide a means for hearing from individuals, including judges, legislators, policymakers, prosecutors, and enforcement officials, who are developing and implementing the procedures. The purpose of the seminars is to provide an opportunity for participants to learn about programs and procedures that have worked--or have not worked--in other states. Both the 1985 study and the seminar series have been funded through grants from the U. S. Department of Justice. She also discussed future NCJA projects, including a report describing states' Controlled Substances Acts and a study of treatment programs for drug-dependent offenders.

Penny Wakefield, NCJA associate director for legal affairs, outlined the seminar agenda and briefly summarized the major topics and issues. She noted that, compared with other regions, the midwest has little activity in the area of financial investigation.

Assets Seizure and Forfeiture

The panel on assets seizure and forfeiture was moderated by William Doster, superintendent of the Division of Criminal Investigation of the Illinois Department of State

Police. Other panelists were Bernard Hoffman, legal advisor for the Illinois Department of State Police; Tim Mosby, deputy prosecuting attorney in Marion County, Ind.; Mike Robinson, inspector for the Michigan State Police; John W. Killian, director of the Wisconsin Narcotics and Vice Bureau; Robert Wilson, chief of criminal investigations for the U. S. Internal Revenue Service (IRS) in Chicago; and Oscar Simon, supervisor of the Divisional Intelligence Group of the U. S. Drug Enforcement Administration in Chicago.

Doster said that asset seizure and forfeiture is a timely issue because the federal government is encouraging states to use forfeited proceeds to continue existing program funding. The general attitude in Illinois concerning forfeiture is changing, Doster said; many people used to think that pursuing forfeitures would detract from the main purpose of apprehending and prosecuting drug traffickers, but forfeiture has been successful without adversely affecting other areas of law enforcement. The money furthers law enforcement efforts, and the offender loses his profits and also may be imprisoned.

Hoffman stated that a 1982 Illinois statute enhanced the potential of forfeiture cases by giving the claimant the burden of proving that money or other assets found "in close proximity" to contraband at the time of arrest are not connected with illegal activity. Significant increases in the number and size of civil forfeitures has not affected criminal cases, as some officials had feared, he said. Criminal forfeiture cases held after an individual has been convicted have "enormous potential," he said. Under a new law, the Department of State Police is pursuing forfeiture of more derivative assets, such as real estate. One problem with forfeiture is the long and cumbersome process involved in receiving funds forfeited in joint efforts with federal agencies, Hoffman said.

Mosby discussed Indiana's forfeiture statute, which became effective in 1981 but was not used until about June 1986. Unlike Illinois, Indiana rejected a provision placing the burden of defense on the claimant and did not include a requirement that assets be in close proximity to the contraband as long as evidence shows that they are proceeds of illegal activity. Because all forfeited proceeds go to the state's school fund, there is little incentive for law enforcement officers to pursue seizure and forfeiture of money and other assets under the state provisions, he noted. Such cases require extra time and offer little benefit to law enforcement. However, under federal provisions, funds are placed in a law enforcement fund, which is used to cover the costs of training and equipment.

Doster added to Mosby's remarks that people generally work harder when they are rewarded. Forfeited proceeds enhance undercover investigations and the morale of the agents involved in such cases, Doster said. Law enforcement officials should place more emphasis on conducting financial investigations during routine questioning, he said; for example, officials should seek initial information for future investigations by asking arrestees about their employment, bank, and investments.

Robinson described Michigan's administrative forfeiture law, which was patterned after federal laws and adopted in 1985. Forfeiture cases often are delayed until the criminal case has been completed. Under the administrative forfeiture process, officials notify the owner that his property has been seized and that he has 20 days to respond and challenge the forfeiture. If the owner does not respond, the property is forfeited automatically. If the individual challenges the forfeiture, he must post bond of $250 plus surety. If he eventually loses the case in court, he also must pay court costs. Objections that the administrative procedure violated defendants' due process rights have been defeated in the courts.

All forfeiture proceeds go to the seizing agency for further drug laws enforcement; previously, 75 percent went toward drug enforcement and 25 percent went to substance abuse treatment services. One drawback to the increased use of forfeiture is that some agencies focus on pursuing assets and are reluctant to share information with other agencies because they do not want to share the assets.

Killian said that under Wisconsin's forfeiture statute, up to 50 percent of forfeitures can be returned to the seizing agency; the rest goes to the school fund. Law enforcement agencies may use vehicles for up to one year, sell them, and turn the proceeds over to the school fund. Since half of the proceeds must go to the school fund, Killian said, there is little incentive for officers to pursue forfeitures.

Occasionally, civil cases are set aside until the criminal case is completed, but having the civil case before the criminal case probably benefits the defendant, he said, since further sources of money and evidence may arise from the criminal case whether or not the defendant is convicted.

Wisconsin increasingly is concentrating on the profits of illegal drug activity and using the federal forfeiture statute, under which agencies may receive all forfeited assets, Killian said. "We can't believe how much money we are finding is involved in drug trafficking because the traffickers are investing," he said. All prosecutors in the state are trained in seizure cases, and agents are becoming more involved in money laundering cases and other types of financial investigations. One advantage to financial investigations is that they often identify offenders who agents previously had not suspected, he said.

Wilson said that agencies conduct financial investigations, they should identify their goals and then determine the best method to achieve those goals. "We have to ask: 'What are we trying to do?'" he said. If an agency's goal is to minimize the adverse impact of drugs in the community, the agency should focus on the high-level dealers and attempt to take away their profits however possible. The degree of cooperation between banks and the IRS in criminal investigations has increased in the past two or three years, Wilson said. Enforcement of financial regulations requires the involvement of financial institutions, he said.

The criminal division of the federal IRS offers a one- to two-week course on financial investigation techniques to state and local agencies. Law enforcement agents should consider information obtained during electronic surveillance operations for possible evidence in forfeiture cases, Wilson said. The course also instructs officials to document the income of suspected offenders and to use other, indirect methods of proof.

Simon said that, in addition to the problems officials have with state forfeiture provisions, the federal provisions also have loopholes. Federal agents have the same incentive as state and local agents to seize assets, he noted. The federal law offers potentially powerful tools, but it requires trained agents to use the provisions effectively. One potential problem with forfeitures is that a forfeiture case cannot begin until the criminal case has been completed, giving the suspect time to transfer, sell, and otherwise conceal assets, Simon said. He offered the following advice to law enforcement officials: "Grab it quick and then take him to trial."

Forfeiture is a powerful and long-term method of dealing with drug traffickers, he said. "Before, people got out of jail, got their money from foreign banks, and were happy and rich. Now they have to work for a living." Items that are forfeitable under the

federal law include all controlled substances; raw materials and equipment; property used to transport drugs, including vehicles, boats, and airplanes; books, records, and research; and all monies and other items exchanged for drugs.

Electronic Surveillance

The panel on electronic surveillance was moderated by Nolan E. Jones, staff director of the National Governors' Association's Committee on Criminal Justice and Public Protection. Other panelists were Susan C. Weidel, legal counselor for the Office of the Illinois Inspector General, in Chicago; and Peg Tarrant, assistant district attorney in Milwaukee County, Wisc.

Jones said that the topic of electronic surveillance raises many concerns over the possible intrusion on citizens' rights to privacy. State and local agencies must consider the high cost of surveillance operations and the use of increasingly sophisticated technologies. However, officials recognize that electronic surveillance can be a potent tool in penetrating the secrecy associated with drug trafficking, racketeering, and other criminal activity.

Weidel said that electronic surveillance is one of the most emotional issues for legislators and the public. A problem with attempting to adopt electronic surveillance provisions and with using such provisions is a lack of understanding among people. Electronic surveillance "is frightening for people who don't understand the safeguards," she said. In Illinois, officials have tried unsuccessfully for several years to adopt an electronic surveillance statute. Proponents of such a statute initially wanted the statute to cover a wide range of offenses, including murder, kidnapping, and child sexual offenses, but now they have narrowed the offenses to four drug offenses in an attempt to pass legislation that will cover one of the most secretive and important areas of law enforcement.

They also plan to include numerous safeguards, which will make the legislation longer and more complex, but which are necessary to ensure that the law will not be overly intrusive, Weidel said. Officials need to discuss the safeguards with groups that have raised concerns about electronic surveillance in the past, such as the American Civil Liberties Union, the media, and physicians, Weidel said. Since the Illinois constitution prevents "unreasonable interception of communications," state officials are emphasizing the "reasonableness" of appropriate electronic surveillance investigations.

The legislation is being drafted carefully to include a stringent reporting system, training standards and courses, and a narrow number of applicable offenses. The legislation might be more likely to pass if state officials focused on a single electronic surveillance bill, she said; in the past, several bills have competed against one another in the same legislative session.

Tarrant said that Wisconsin's statute, adopted in 1969 and based primarily on the federal law, is not used very often, partly because such investigations require a lot of time, paperwork, and additional effort. In order to use the statute, officials must have probable cause that an interception will provide evidence of the commission of murder, kidnapping, commercial gambling, bribery, extortion, dealing in controlled substances, felonious computer crime, or any conspiracy to commit any of these offenses. They also must show that other types of investigations have failed or are likely to fail, or that they are too dangerous to try.

The statute contains strict limitations on, and penalties for, the disclosure of knowledge relating to intercepted wire or oral communications, as well as severe penalties for unauthorized surveillance. In addition, the statute mandates that officials carrying out the investigation must cease interception of unrelated conversations; this type of provision should be included in any surveillance statute and enforced, Tarrant said.

Tarrant expressed concern over a clause that states that the statute does not "allow the interception of any wire or oral communication between an attorney and a client." With the increased number of drug cases involving professionals, Tarrant said that lawyers should not be excluded from the statute. Under the clause, even if a client waives his attorney/client privilege, communications between him and his lawyer may not be intercepted.

Another problem area in the statute is a section that allows officials to place a body wire on an informant and to listen to the informant's communications, but does not allow officials to use such recordings in court. Therefore, an informant may testify about the activity that has been recorded, but the recording may not be used to show that he is telling the truth, except in a perjury proceeding.

Bail and Sentencing

The panel on bail and sentencing was moderated by J. David Coldren, NCJA president and executive director of the Illinois Criminal Justice Information Authority. Other panelists included Robert H. Dierker, circuit judge in St. Louis, Mo.; Victor Manian, circuit judge in Milwaukee, Wisc.; William A. Marovitz, chairman of the Illinois Senate Judiciary Committee; and Sheriff Richard E. Artison, of the Milwaukee County Sheriff's Department.

Dierker said that sentencing is only one component of the fight against drug abuse in the United States, because "drugs have become an accepted part of society" and the demand side also must be addressed. He said that middle-class jurors may be reluctant to support high penalties for drug-related offenses if they themselves use drugs.

About money that will go to state and local agencies under the Anti-Drug Abuse Act of 1986, Dierker said that agencies should be cautious, because "where federal money goes, federal power often goes." He said that he also is concerned about the increasing use of sentencing guidelines, because creating a point system to determine sentences "trivializes" the judicial process. Guidelines may achieve the opposite effect than is desired by restricting judges who want to hand out harsher penalties than the range determined by the guidelines allows. In this way, guidelines may "trap" judges and reduce the potential for rehabilitation, he said.

The state "certainly is not limp-wristed in authorizing stiff penalties" for drug offenses, Dierker said. Missouri permits sentencing enhancements and denial of probation or parole after a second serious drug conviction. Judges in Missouri have enough flexibility in determining appropriate penalties for drug-related and other offenses, he said. "The goal is to see that the law is enforced and offenders get what they deserve, and the law does not preclude that." Dierker said that he doubts that fines are effective, but he want law enforcement officials to tell him whether or not they are.

created mandatory enhanced penalties for carrying weapons and selling drugs on school property. Juveniles 15 to 16 years old who violate the act are transferred automatically to criminal courts and are tried as adults, Marovitz said.

Artison said that the best way to fight drug abuse, which has been linked to violent crime, burglaries, and robberies, is to adopt stiff penalties and rigidly enforce them. Too often, state officials pass legislation increasing penalties for offenses and then congratulate themselves for solving the problem. However, for several reasons, laws alone cannot reduce the negative behavior targeted, he said.

First of all, laws are subjected to interpretation by the courts and legal authorities, and if they are determined to have penalties that are too severe, the penalties often are used only in the plea bargaining process to obtain a guilty plea to a lesser offense. In addition, existing criminal laws sometimes immediately counter new laws that are passed.

Another factor that erodes the intent of laws is prison crowding. Under Wisconsin law, all persons convicted of a felony and sentenced to state prisons are eligible for early release under a "good time" provision. State law permits the department of corrections to parole an inmate in the state prison after the inmate has served 25 percent of the sentence imposed or six months, whichever is greater. Therefore, actual time served may be reduced from the sentence imposed by a judge by as much as three-fourths, Artison said.

The reasoning behind the good time provision is that correctional facilities are intended to rehabilitate offenders and then allow them to contribute to society, Artison said. However, he suggested that "there is little correlation between obeying prison rules and becoming a law-abiding, productive citizen on the outside." High recidivism rates support this view, he added.

Artison said that he supports adoption of a "truth in sentencing" law giving drug dealers priority in the crowded prison system. A special provision could require that drug dealers serve all time prescribed by trial judges and that offenders not be allowed to plead guilty to the lesser crime of possession. All statutes and state administrative practices providing for early release would not apply to those in custody for the sale of cocaine. Such a measure would be costly but is necessary, Artison said. "American cities are at a point of no return," he said. "The cost of doing nothing or ignoring this situation will be dramatically more if we do not seek new ideas and change old concepts."

Intergovernmental Cooperation and Mutual Aid

The panel on intergovernmental cooperation, sharing of information, and demand reduction programs was moderated by Richard N. Harris, director of the Virginia Department of Criminal Justice Services. Other panelists included Major Thomas Rakestraw, of the Kentucky State Police; Robert Taylor, Metropolitan Enforcement Group coordinator for the Illinois Department of State Police; and Major Gene Duckworth, director of the criminal investigation bureau of the Missouri State Highway Patrol.

Rakestraw said that enforcement of drug laws requires coordinated efforts with sufficient resources and intelligence. There are numerous formal and informal cooperative operations involving federal, state, county, and local agencies in Kentucky, he said, some ongoing and some on a case-by-case basis. Rakestraw emphasized the need for formal, written agreements for continuing task forces, largely because of the importance of

While denying bail or probation helps assure a defendant's appearance in court and protect the community, state officials also must consider prison and jail crowding, Dierker said. In order to detain more drug offenders, officials may have to release more serious offenders, such as convicted murderers, who pose a greater threat to the community.

Manian said that Wisconsin has a lot of the same concerns as Missouri. The sophisticated business of drug trafficking involves "enormous profits" and "corrupts entire governments" around the nation, he said. Wisconsin is attempting to fit drug trafficking offenses into a fair system of sentencing guidelines.

Wisconsin officials have determined that most offenders in the state abuse drugs themselves and sell them to support their own habit. An estimated 70 percent to 80 percent of all offenses are related to drugs, he said. Sentencing is a difficult area for state officials, who have tried the rehabilitative approach and tough sentencing, and "nothing's worked yet," he said.

A pretrial detention law in Wisconsin is ineffective and has only been used twice, according to Manian, because it requires that a full-scale pretrial hearing trial be held within 10 days and that the actual trial be held within the next 60 days. With a large existing backlog of cases already, "the manpower and resources needed to use the law is overwhelming."

As a result of ineffective pretrial detention provisions, judges in the state often set bail at an amount higher than they think a defendant can meet in an effort to ensure their appearance in court and/or to protect the community, Manian said. Some people have questions about this practice, Manian indicated, but "our goal is to treat everyone fairly" by protecting constitutional rights but punishing offenders appropriately.

Marovitz agreed that judges and legislators need to balance the interests of society and individual liberties when considering appropriate sentences and pretrial actions. Illinois recently passed a constitutional amendment permitting pretrial detention of persons charged with felony offenses that carry a mandatory sentence of imprisonment when the proof is evident and the presumption great. Previously, the state constitution mandated that no person be detained prior to trial except in cases involving offenses punishable by death or life imprisonment, and judges could only set high bail for "dangerous" offenders.

The legislature also is looking into the possible use of electronic monitoring as an alternative to jail or prison; a pilot program currently is in effect in the state.

Illinois, which bases the severity of sentences on the amount of a controlled substance involved in an offense, also adopted legislation in 1986 to lower the amount of cocaine necessary to trigger harsh penalties for all offenses involving cocaine. Under the new law, the trafficking of 15 grams of cocaine, rather than the former 30 grams, constitutes a Class X felony punishable by six to 30 years in prison. Simple possession of cocaine now constitutes a Class 1 felony if the offense involves 15 grams or more.

Illinois also has adopted legislation dealing with the problem of drug distribution involving minors. The state has doubled the maximum sentence available for all drug trafficking offenses in cases in which an offender over age 18 has engaged a minor in the drug trafficking activity, in an attempt to create "safe school zones." Marovitz said that the legislation, adopted in response to an increasing dropout rate and widespread drug availability in the schools, "puts the emphasis where it should be." Similarly, the legislature

designating a single official to oversee the operation. In general, task forces work best when they involve only one federal agency, Rakestraw said, because disagreements often occur among federal agencies involved in joint operations.

The U. S. Drug Enforcement Administration has been particularly cooperative with state and local agencies in Kentucky, he said. The role and jurisdiction of agents who participate in joint investigations are specified in formal agreements. Several joint operations in Kentucky concentrate on drug abuse prevention and education, including the Drug Abuse Resistance Education (DARE) program and the Governor's Champions Against Drugs program.

Taylor outlined the structure and operations of the Metropolitan Enforcement Groups (MEG's), local units of government formed under Illinois' Intergovernmental Drug Laws Enforcement Act. The Department of State Police now oversees 10 MEG's and six similar task forces, covering about 80 percent of the state. The units, which enforce only drug laws, are cost-effective because participating agencies share the expenses of MEG operations.

One of the benefits for agencies that participate in the MEG's is that their officers receive additional training in specific areas of narcotics enforcement, Taylor said, including the use of search warrants, court documents, electronic surveillance, and informants. After working with the MEG's, officers can apply these skills to their respective agencies' operations.

Taylor also discussed the Law Enforcement Intelligence Network (LEIN), a formalized data system, based on Iowa's LEIN, through which agencies exchange information, concentrating on narcotics data.

Education efforts in the state include a DARE program in which uniformed police officers meet with fifth and sixth graders and attempt to develop their confidence and decisionmaking skills. After initiation of a DARE pilot program, vandalism and gang activity dropped in the district. While this type of effort seems to be effective, "none of these programs are cheap," Taylor said. Like other law enforcement efforts, though, these joint programs involve shared cost and often result in more effective programs.

Duckworth discussed Missouri's statewide eradication project called Operation Cash Crop, which is coordinated by the state highway patrol and involves the DEA, the U. S. Forest Service, sheriffs, and police. The highway patrol operates a toll-free hotline and coordinates efforts to identify and eradicate marijuana crops around the state. The program has been more successful each year since it began in 1983, Duckworth said.

Missouri officials also coordinate investigations of clandestine methamphetamine laboratories, motorcycle gangs involved in illegal drug activities, and the transport of cocaine, methamphetamine, and marijuana.

AGENDA

NORTHERN REGION SEMINAR

"STATE LEGISLATIVE OPTIONS FOR DRUG LAWS ENFORCEMENT"

October 30-31, 1986
Summit Hotel, Hartford, Conn.

Sponsored by:

National Governors' Association
National Criminal Justice Association

in cooperation with

U. S. Department of Justice
Connecticut Office of Policy and Management,
Justice Planning Division

Thursday, October 30

1:00 p.m.	Welcome	William H. Carbone Under Secretary for Justice Planning State of Connecticut Stanley Twardy U. S. Attorney, Connecticut
1:30 p.m.	Program Overview	Gwen A. Holden NCJA Executive Vice President Penny Wakefield NCJA Associate Director for Legal Affairs
2:00 p.m.	Electronic Surveillance	Nolan E. Jones, Moderator National Governors' Association John H. Stamler New Jersey Robert L. Keuch Pennsylvania
2:45 p.m.	Financial Investigation Tools: Money Laundering Provisions Bank and Tax Information	Robert L. Keuch, Moderator Pennsylvania

		William P. Breen U. S. Internal Revenue Service Hartford Martin Marcus New York
3:30 p.m.	Break	
3:45 p.m.	Asset Seizure and Forfeiture	Robert L. Keuch, Moderator Pennsylvania Richard T. Carley New Jersey Henry Carpenito New Hampshire Leslie H. Ohta U. S. Attorney's Office New Haven, Conn.
5:00 p.m.	No Host Reception	

Friday, October 31

8:30 a.m.	Coffee and Danish	
9:00 a.m.	Bail	W. Bradley Crowther, Moderator Rhode Island Paul Brown Connecticut Fernand LaRochelle Maine
9:30 a.m.	Sentencing	Jay M. Cohen, Moderator New York Theodore A. McKee Pennsylvania Thomas J. Quinn Delaware
10:30 a.m.	Other Issues: Conspiracy, Racketeering, Witness Immunity and Protection, Grand Jury Procedures, Intergovernmental Cooperation, Demand Reduction	James Thomas, Moderator Pennsylvania Henry Carpenito New Hampshire

		Richard T. Carley New Jersey Martin Marcus New York
11:30 a.m.	Review of 1986 Federal Drug Law and its Impact on States	James K. Knapp Deputy Associate Attorney General U. S. Department of Justice
Noon	Adjourn	

AGENDA

SOUTHERN REGION SEMINAR

"STATE LEGISLATIVE OPTIONS FOR DRUG LAWS ENFORCEMENT"

January 22-23, 1987
Hyatt Regency, Savannah, Ga.

Sponsored by:

National Governors' Association
National Criminal Justice Association

in cooperation with

U. S. Department of Justice
Georgia Criminal Justice Coordinating Council

Thursday, January 22

1:00 p.m.	Welcome	Henry S. Pinyan Georgia Criminal Justice Coordinating Council
		Hinton R. Pierce U. S. Attorney Southern District of Georgia
	Program Overview	Gwen A. Holden NCJA Executive Vice President
		Penny Wakefield NCJA Associate Director for Legal Affiars
1:30 p.m.	RICO and Conspiracy Provisions; Asset Seizure and Forfeiture	Jim Nursey, Moderator Florida
		Gary Conover Florida
		Arzo Carson Tennessee
		Cuyler L. Windham North Carolina
		Arthur Nehrbass Florida

3:30 p.m.	Break	
3:45 p.m.	Financial Investigation Tools: Money Laundering Provisions; Bank and Tax Information	Cliff Karchmer, Moderator Police Executive Research Forum Gary Conover Florida
5:00 p.m.	No Host Reception	

<u>Friday, January 23</u>

8:00 a.m.	Continental Breakfast	
8:30 a.m.	Electronic Surveillance	Jim Nursey, Moderator Florida H. Allen Moye Georgia Arthur Nehrbass Florida
9:15 a.m.	Sentencing	Joseph Dean, Moderator North Carolina Edward D. Cowart Florida James E. Findley Georgia
10:15 a.m.	Break	
10:30 a.m.	Intergovernmental Cooperation and Demand Reduction Programs	Gwen A. Holden, Moderator NCJA Executive Vice President Irvin C. Swank Texas Arthur Nehrbass Florida
11:30 a.m.	Review of Federal Anti-Drug Abuse Act of 1986 and its Impact on States	Joe D. Whitley U. S. Attorney Middle District of Georgia
Noon	Adjourn	

AGENDA

WESTERN REGION SEMINAR
"STATE LEGISLATIVE OPTIONS FOR DRUG LAWS ENFORCEMENT"

February 26-27, 1987
Sacramento Inn, Sacramento, Calif.

Sponsored by:

National Governors' Association
National Criminal Justice Association

in cooperation with

U. S. Department of Justice
California Office of Criminal Justice Planning

<u>Thursday, February 26</u>

1:00 p.m.	Welcome	G. Albert Howenstein, Jr., Director California Office of Criminal Justice Planning
		Vance W. Ray Legal Affairs Secretary Office of the Governor of California
		David F. Levi U. S. Attorney Eastern District of California
	Program Overview	Gwen A. Holden NCJA Executive Vice President
		Penny Wakefield NCJA Associate Director for Legal Affairs
1:30 p.m.	RICO and Conspiracy Provisions Asset Seizure and Forfeiture	Jim Nursey, Moderator Colorado
		Cameron Holmes Arizona
		Joe Doane California
		Tom Gruber Oklahoma

		Kent Morgan Utah
3:30 p.m.	Break	
3:45 p.m.	Financial Investigation Tools: Money Laundering Provisions; Bank and Tax Information	Cameron Holmes, Moderator Arizona Steven V. Giorgi U. S. Internal Revenue Service Sacramento Brian Taugher California
5:00 p.m.	No Host Reception	

<u>Friday, February 27</u>

8:30 a.m.	Continental Breakfast	
9:00 a.m.	Bail and Sentencing	Jim Nursey, Moderator Colorado John Dougherty California Fred Van Valkenburg Montana David Nimmo Oklahoma Raymond Harding Utah
10:15 a.m.	Break	
10:30 a.m.	Intergovernmental Cooperation: Sharing of Resources and Information; Demand Reduction Programs	Gwen A. Holden, Moderator NCJA Executive Vice President Neil Moloney Colorado David Haneline Nevada Rollin Klink U. S. Customs Service San Francisco

		James C. Day U. S. Attorney's Office Sacramento
11:30 a.m.	Review of Federal Anti-Drug Abuse Act of 1986 and its Impact on States	James Knapp Deputy Associate Attorney General U. S. Department of Justice
Noon	Adjourn	

AGENDA

MIDWESTERN REGION SEMINAR

"STATE LEGISLATIVE OPTIONS FOR DRUG LAWS ENFORCEMENT"

March 26-27, 1987
Hyatt Regency Hotel, Chicago, Ill.

Sponsored by:

National Governors' Association
National Criminal Justice Association

in cooperation with

U. S. Department of Justice
Illinois Criminal Justice Information Authority

Thursday, March 26

1:00 p.m.	Welcome	J. David Coldren Illinois Criminal Justice Information Authority
		Anton R. Valukas U. S. Attorney Northern District of Illinois
	Program Overview	Gwen A. Holden NCJA Executive Vice President
		Penny Wakefield NCJA Associate Director for Legal Affairs
1:30 p.m.	Asset Seizure and Forfeiture and RICO Provisions; Financial Investigation Tools	Bill Doster, Moderator Illinois
		Bernard Hoffman Illinois
		Tim Mosby Indiana
		Mike Robinson Michigan
		John Killian Wisconsin

		Bob Wilson U. S. Internal Revenue Service Chicago Oscar Simon U. S. Drug Enforcement Administration Chicago
3:30 p.m.	Break	
3:45 p.m.	Electronic Surveillance	Nolan Jones, Moderator National Governors' Association Susan Weidel Illinois Peg Tarrant Wisconsin
5:00 p.m.	No Host Reception	

Friday, March 27

8:30 a.m.	Continental Breakfast	
9:00 a.m.	Bail and Sentencing	J. David Coldren, Moderator Illinois Robert H. Dierker Missouri Victor Manian Wisconsin William A. Marovitz Illinois Richard Artison Wisconsin
10:15 a.m.	Break	
10:30 a.m.	Intergovernmental Cooperation: Sharing of Resources and Information; Demand Reduction Programs	Richard N. Harris, Moderator Virginia Thomas Rakestraw Kentucky

		Robert Taylor Illinois
		Gene Duckworth Missouri
11:30 a.m.	Review of Federal Anti-Drug Abuse Act of 1986 and Its Impact on States	Charles Blau Deputy Associate Attorney General U. S. Department of Justice
Noon	Adjourn	

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Recorganization Court directed us to act on C&E's application by June 27, 1985.

C&S petitioned for waiver of the information requirements of 49 CFR Part 1180, Subpart B. It contends that the proposed purchase is a minor transaction involkving terminal track that would be exempt from Commission jurisdiction under 49 U.S.C. 10907. However, the exemption is not available because the transaction is governed by the MRR. C&E requests that we treat its proposal as if it were an exemption request and waive the information requirements of our regulations.

I will grant the waiver petition. C&E's petition contains the information required by our regulations.

A copy of verified statements must be served on the Attorney General of the United States and the United States Secretary of Transportation.

It is ordered:

1. C&E's petition for waiver is grnated, and the proposal is accepted for consideration.

1. C&E's petition for waiver is granted, and the proposl is accepted for consideration.

2. Parties must comply with all provisions stated above.

3. This decision will be effective on date it is served.

Decided:June 5, 1985.

By the Commission. Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85-13982 Filed 6-6-85; 10:37 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

Attorney General's Guidelines on Seized and Forfeited Property

AGENCY: Office of the Attorney General, Justice.

ACTION: Notice of Department of Procedures for Seized and Forfeited Property.

SUMMARY: This document sets forth the Department's policy under 21 U.S.C. 881(e) regarding the handling of seized and forfeited property. It is exempt from the notice and comment requirements of the Administration Procedure Act, 5 U.S.C. 553(b) by virtue of 5 U.S.C. 553(a)(2). The Department of Justice has determined that it is not a "major rule" within the meaning of Executive Order No. 12291 or a rule within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601(1).

FOR FURTHER INFORMATION CONTACT: Director, Asset Forfeiture Office, Criminal Division, Room 916, Federal Triangle Building, 315 9th Street, NW., Washington, D.C. 20530. (202) 272-6420.

ATTORNEY GENERAL'S GUIDELINES ON SEIZED AND FORFEITED PROPERTY

I. Statement of Policy

The following guidelines are designed to implement certain asset forfeiture provisions of the Comprehensive Crime Control Act of 1984 pertaining to the disposition of forfeited property, the management and use of the Department of Justice Assets Forfeiture Fund, and the discontinuance of federal forfeiture actions to permit forfeiture by State or local procedures.

The statute directs, "The Attorney General shall ensure the equitable transfer . . . of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property."

This authority is consistent with the Department of Justice's purpose of promoting cooperative law enforcement efforts in drug trafficking and other investigations. The Department intends to manage its asset forfeiture program in a manner designed to enhance this Federal, State and local cooperation.

Title 21, United States Code (U.S.C.), section 881(e), authorizes the Attorney General to dispose of forfeited property by (1) retaining the property for official use; (2) transferring custody or ownership of the property to any Federal, State or local agency pursuant to the Tariff Act of 1930, Title 19, USC, Section 1616; or (3) placing the forfeited cash or proceeds of sale of forfeited property in an appropriation called the Department of Justice Assets Forfeiture Fund (hereinafter "the Fund"). A decision of the Attorney General regarding placing the forfeited property into official use or transferred the property to another agency is not subject to judicial review.

The Law Enforcement Coordinating Committee program will inform State and local law enforcement agencies as to the procedures for requesting an equitable transfer of forfeited property, help facilities the application for transfer of such property, and see that the spirit and letter of the forfeiture provisions of the Comprehensive Crime Control Act of 1984 are implemented in each Federal district.

II. Definitions

A. "Department of Justice investigative bureau" refers to the investigative unit within the Department of Justice that participated in the investigation and seizure of property and is responsible for the precessing of the forfeiture arising from the seizure.

B. "Head of the Department of Justice investigative bureau" means the head of that bureau or his headquarters-level designee.

C' "Placing property into official use" means use of forfeited property by a Department of Justice bureau for any official purpose.

D. "Property" means tangible property and cash.

E. "Cash" means currency, negotiable instruments and securities.

F. "State and local agencies" means State and local law enforcement agencies.

G. "Appraised value" means fair market value.

III. Use and Transfer of Forfeited Property

A. Retention of Property for Official Use

a. The Attorney General has the authority to retain any civilly or criminally forfeited tangible property for official use by any Department of Justice bureau.

2. No forfeited cash, nor any proceeds from sales of forfeited property may be transferred to, or retained by, federal law enforcement agencies under the provisions of 21 U.S.C. 881(e) for disposition of forfeited property.

3. Payment of liens and mortgages pursuant to an authorization to place property into official use.

a. Liens and mortgages cumulatively amounting to less than one third of the appraised value of the asset and totalling less than $50,000 will be paid from the Fund at the request of the head of the Department investigative bureau.

b. Payments of liens or mortgages that, in the aggregate, total $50,000 or greater or exceed one third of the appraised value of the asset, will be paid from the Fund at the request of the Department of Justice investigative bureau subject to the concurrence of the Deputy Attorney General.

B. Official Use by Department of Justice Investigative Bureau

1. The Attorney General's authority to place tangible property into official use is delegated to the head of the Department of Justice investigative bureau.

a. In making a decision concerning placing forfeited property into official

use, the head of the Department investigative bureau must consider the financial status of the Department of Justice Assets Forfeiture Fund.

b. Exercise of this delegation of authority is subject to concurrence by the Deputy Attorney General for all property appraised at $750,000 or more.

C. Official Use by Other Department of Justice Bureaus

1. If the Department investigative bureau does not choose to place the forfeited property into official use, the Director, United States Marshals Service will determine appropriate disposal including screening any remaining property suitable for official use by other Department of Justice bureaus.

a. A decision to place such property into official use is subject to concurrence by the Deputy Attorney General for all property appraised at $750,000 or more.

2. If more than one Department of Justice component wants to retain for official use the same piece of seized and forfeited property, the Deputy Attorney General will determine which component may place such property in official use.

D. Transfer of Property to State or Local Law Enforcement Agencies

1. Attorney General's Authority for Equitable Transfer of Seized Property

a. The Act authorizes the Attorney General to transfer forfeited property to state or local law enforcement agencies that directly participated in the acts which led to the seizure or forfeiture.

b. Tangible property not retained for official use by the Department of Justice investigative bureau is eligible for equitable transfer.

c. Where a participating law enforcement agency petitions for a share in the forfeited property, the Attorney General shall determine an equitable transfer of the property that generally reflects the relative contribution of the participating agencies.

2. Procedure for Determining Equitable Transfer

a. Any state or local law enforcement agency that participates in the acts leading to a Department of Justice seizure for forfeiture may file a request for an equitable transfer of the property.

b. The criteria for determining the equitable transfer of the property will be the same for all requests.

c. In all cases the final decision-making authority rests with the Attorney General or his designee.

3. Requests from Participating Law Enforcement Agencies

a. Within thirty days following the seizure for forfeiture, a state or local agency should submit a written request for an equitable transfer of the property subject to forfeiture.

b. This request must be filed with the local or regional office of the Department investigative bureau responsible for processing the forfeiture.

c. The request must include the following information:

(1) Identification of the property against which the claim is made;

(2) Details regarding the requesting agency's participation, including the amount of money and manpower expended by the state or local agency in pursuing the case;

(3) A statement of the intended use for the property;

(4) A designation of the proper fiscal officer to whom cash or check disbursements can be made;

(5) A designation of the proper official to whom transfer documents should be delivered by the United States;

(6) A designation of the proper party to whom possession should be delivered;

(7) A statement indicating that the transfer is not prohibited under the applicable state or local law;

(8) In instances of a joint application by several state or local agencies, the relative share of each state or local agency; and

(9) A statement that all fees and expenses necessary to effect transfer of title will be paid by or on behalf of the requesting agency not later than the time of transfer.

d. The requesting agency must certify that the information contained in 3(c)(4–7) above is true and correct.

e. Property will be transferred only in cases where the tangible property or cash will be credited to the budget of the state or local agency that directly participated in the seizure or forfeiture, resulting in an increase of law enforcement resources for that specific state or local agency.

f. An information copy of any request will be forwarded to the United States Attorney in the district where the transfer request originated.

4. Procedure for Processing Requests for Equitable Transfer

a. In all cases, the Department investigative bureau field unit receiving the request will prepare a written report that will evaluate the degree of assistance provided by the requesting agency or agencies in the underlying investigation.

b. The equitable share for a participating state or local agency should generally reflect the contribution of the agency participating directly in any of the acts which led to the seizure or forfeiture of the property, including, but not limited to, the following factors:

(1) Which agency initiated the case;

(2) Which agency identified the asset;

(3) The amount of money and manpower expended by the state or local agency in pursuing the case;

(4) Whether or not the state or local agency seized other assets during the course of the same investigation and whether such seizures were made pursuant to state or local law; and

(5) Whether or not the state or local agency could have achieved forfeiture under state law, with favorable consideration given to a state or local agency which could have forfeited the asset(s) on its own but joined forces with the United States to make a more effective investigation.

c. The head of the Department investigative bureau may place tangible property forfeited administratively or judicially into official use in cases in which a state or local agency has filed a request for an equitable share of that property.

(1) In making this decision, the head of the Department investigative bureau must consider the following factors:

(a) The relative needs of both the requesting law enforcement agency and the Department investigative bureau for the particular asset;

(b) The uniqueness of the asset and the likely ability to secure such an asset by other seizures in the near future;

(c) The relative significance of the requesting law enforcement agency's participation in the case, as well as all the other factors pertinent to the determination of equitable distribution as set forth in Part III.B.4.c. above;

(d) The potential of, or likelihood that, the requesting agency will be eligible for an equitable share of property from additional seizures arising from the same investigation or from other seizures in the near future; and

(e) The impact that a decision to place the property into official use might have on Federal, state and local relations in that District.

5. Decision-Making Authority for Determining Equitable Transfer

a. The equitable distribution of an asset forfeited administratively with an appraised value of $100,000 or less will be determined by the head of the Department investigative bureau.

(1) The Department investigative bureau's field unit shall forward its report and recommendation to the bureau head for decision.

(2) In making this decision, the head of the Department investigative bureau will consider the report and recommendation forwarded by the field

unit and issue to the requesting agency a written ruling on the request.

(3) A copy of the decision document will be forwarded to the United States Attorney, or to the Criminal Division section chief in a Criminal Division case, and to the Director, United States Marshals Service.

(4) A copy of the decision document will be made available upon request to the Director, Asset Forfeiture Office.

b. In the case of all administratively forfeited property with an appraised value greater than $100,000 and with all judicially forfeited property, the evaluation and recommendation will be forwarded to the appropriate United States Attorney or to the Criminal Division section chief in a Criminal Division case.

(1) The equitable distribution of an asset forfeited judicially with an appraised value of $100,000 or less will be determined by the United States Attorney or the Criminal Division section chief.

(2) In making this decision, the United States Attorney or section chief will consider the reports and recommendations forwarded by the head of the Department of Justice investigative bureau and will consult with the United States Marshals Service.

(3) A copy of the decision document will be forwarded to the Department of Justice investigative bureau, the Director, United States Marshals Service and the Director, Asset Forfeiture Office.

c. In the case of all property with an appraised value greater than $100,000, the United States Attorney or section chief will forward the evaluation and recommendation of the Department investigative bureau, along with his own recommendation, to the Director, Asset Forfeiture Office, who will determine the equitable distribution of those assets.

(1) In making this decision, the Director will consider the reports and recommendations forwarded by the head of the Department of Justice investigative bureau and the United States Attorney or section chief and will consult with the United States Marshals Service.

(2) A copy of the decision document will be forwarded to the Department of Justice investigative bureau, the United States Marshals Service and the United States Attorney or section chief.

d. The Deputy Attorney General will make the final determination of equitable distribution of any asset with an appraised value of $750,000 or greater.

(1) The request will be processed as in 5 c. above.

(2) A copy of the decision document will be forwarded to the Director, Asset Forfeiture Office, the Director, United States Marshals Service, the United States Attorney or section chief and the Department of Justice investigative bureau.

e. In all cases in which judicially forfeited property is located in a judicial district other than where the judicial proceedings are taking place, the party determining the equitable distribution must consult with the respective United States Attorney prior to determining equitable distribution.

6. Proceeds Placed in the Department of Justice Assets Forfeiture Fund

a. If the federal forfeiture action is not deferred, and the property is not placed into official use or transferred to a state or local agency, it will be sold and the net proceeds of sale will be placed in the Assets Forfeiture Fund.

b. Forfeited cash will be placed in the Assets Forfeiture Fund.

c. All Department of Justice bureaus will promptly notify the United States Marshals Service of any facts affecting seized property. Some relevant facts would include bills, invoices, orders of mitigation and remission, orders of sharing with state or local agencies, orders of designation for official use by Department of Justice components, and appraisals. Based upon these and other factors, the United States Marshals Service should appropriately dispose of the property.

7. Disposition of Forfeited Property

a. State or local agencies may share in seized and forfeited tangible property, and seized and forfeited cash.

b. Any property that cannot be used for law enforcement purposes must be liquidated.

c. Where tangible property is transferred to qualifying state or local agencies, monies from the Assets Forfeiture Fund will not be used to pay liens or mortgages on the property, to equip the property for law enforcement purposes, or to pay salaries.

d. The recipient state or local agency must pay the valid liens and mortgages on the forfeited tangible property prior to the transfer of such property.

e. The recipient state or local agency may be required to pay direct expenses pertaining to the seizure prior to the transfer of tangible property.

f. In the event of an interlocutory sale of property pending forfeiture, the Director, United States Marshals Service first must consult with the United States Attorney, Criminal Division section chief or the Director of the Asset Forfeiture Office in the case of judicially forfeited property, or the head of the pertinent Department investigative bureau in the case of administrative forfeitures, to determine the status of any state or local law enforcement agency requests for equitable sharing.

IV. Department of Justice Assets Forfeiture Fund

A. Administration of the Fund

1. The Attorney General delegates the administration of the Department of Justice Assets Forfeiture Fund to the United States Marshals Service. It will operate under guidelines developed by the Subcommittee on Asset Forfeiture of the Department's Forum for Cooperative Strategy and in accordance with Department of Justice financial management policy.

2. The United States Marshals Service will submit to the Deputy Attorney General on a quarterly basis a financial statement as to the current status of the fund.

3. Copies of the quarterly United States Marshals Service statement will be provided to the Federal Bureau of Investigation, Drug Enforcement Administration, Immigration and Naturalization Service and the Asset Forfeiture Office to assist the recipients in making decisions as to the use and transfer of forfeited property.

B. Payments Allowable Under Department of Justice Assets Forfeiture Fund

1. Forfeiture cash and proceeds from the sale of forfeited property are to be deposited in the Department of Justice Assets Forfeiture Fund.

2. Money from the Fund may be used for the following:

a. Payment of liens and mortgages pursuant to an order of remission or mitigation;

b. Payment of liens and mortgages pursuant to an order to place into official use.

c. Payment of liens and mortgages pursuant to court order.

d. Payment to equip, for law enforcement purposes, conveyances placed into official use by the Drug Enforcement Administration, and the Immigration and Naturalization Service.

e. Payment of awards;

f. Purchase of evidence; and

g. Reversion to the United States Treasury at the end of the fiscal year of all amounts in excess of $5,000,000.

C. The Following, in Order of Priority, Will Be the Uses of the Forfeited Cash and the Proceeds of Sale of Forfeited Property

1. Payment of expenses incurred by the Department of Justice for the care,

custody and disposal of the seized and forfeited property;

2. Payment of expenses incurred by the Department of Justice in the seizure and forfeiture of the property;

3. Payment of expenses relative to the detention, inventory, safeguarding, maintenance, or disposal of the seized and forfeited property incurred by state and local agencies which assist in the seizure and forfeiture of the property;

4. Payments of orders of mitigation or remission;

5. Payments for orders of equitable sharing with state or local law enforcement agencies;

6. Payments for liens on vehicles placed into official use;

7. Payment of awards;

8. Payment to equip, for law enforcement purposes, conveyances placed into official use by the Drug Enforcement Administration Immigration and Naturalization Service; and

9. Purchase of evidence.

D. Limitation on Use of the Fund

1. The Department of Justice Assets Forfeiture Fund cannot be used to pay any of the following:

a. Salaries; and

b. Where property is transferred to state or local law enforcement agencies,

(1) Liens or mortgages on the property; and

(2) Payments to equip the property for law enforcement purposes.

2. Liens and mortgages shall be paid from the Fund only pursuant to an order of remission or mitigation, an order of the court, or an order to place the property into official use.

V. Discontinuance of Federal Forfeiture Actions

A. Deferral of Federal Judicial Forfeiture Proceedings

1. A decision to forego an federal judicial forfeiture proceeding against any seized asset in favor of a state or local forfeiture proceeding requires the personal approval of the United States Attorney after review of the evaluation and recommendation of the concerned investigative bureau.

2. In making this decision, the United States Attorney must consider the status of the Department of Justice Assets Forfeiture Fund.

3. Judicial forfeitures foregone in favor of state or local proceedings are to be reported by the United States Attorney in writing, within five days, to the Director, Asset Forfeiture Office, Criminal Division, United States Department of Justice, Washington, D.C. 20530.

B. Deferral of Federal Administrative Forfeiture Proceedings

1. A decision to forego a federal administrative forfeiture proceeding against any seized asset in favor of a state or local forfeiture proceeding requires the approval of the head of the Department investigative bureau.

2. In making this decision, the head of the Department investigative bureau must consider the status of the Assets Forfeiture Fund and, where appropriate, consult with the United States Marshals Service.

3. Department of Justice investigative bureaus must develop procedures for recording these decisions and providing reports as required.

VI. United States Customs Service Forfeitures

A. Pursuant to Title 28 United States Code, section 524(c), all proceeds from the forfeiture of property under any law enforced or administered by the Department of Justice remaining after payment of expenses for forfeiture and sale authorized by law are to be deposited in the Department of Justice Assets Forfeiture Fund, except to the extent that the seizure was effected by a United States Customs Service officer or that custody was maintaned by the Customs Service, in which case the provisions of 19 U.S.C. 1613a (Customs Forfeiture Fund) shall apply.

B. To the extent that the United States Marshals Service may have the capacity to do so, it may store and maintain seized property for the Customs Service.

1. Where the United States Marshals Service maintains custody of property seized by a Customs officer, the Customs Service will reimburse the Marshals Service for the expenses of such custody prior to the deposit of the net proceeds into the Customs Forfeiture Fund.

2. In instances where proceeds are to be deposited in the Department of Justice Assets Forfeiture Fund and the Customs Service, as a substitute custodian, has maintaned custody of property seized by the Department of Justice, the Department of Justice will reimburse the Customs Service for the expenses of such custody.

C. Requests for transfers of forfeited property by participating state and local law enforcement agencies in forfeitures where the seizure was effected by a Customs officer of custody was maintained by the Customs Service should be directed pursuant to 19 U.S.C. 1616 to the Customs Service for evaluation and forwarding to the Assistant Secretary of Treasury for Enforcement and Operations with an information copy to the United States Attorney in the district of seizure.

D. In the event of an unresolved dispute concerning whether a given forfeiture constitutes a Customs or Department of Justice forfeiture for purposes of cash or proceeds disposition, or for state and local transfers, the Deputy Attorney General and the Assistant Secretary of Treasury for Enforcement and Operations shall resolve the issue. Where appropriate, they may submit the issue to the Organized Crime Drug Enforcement Task Force Working Group for recommendation.

Dated: May 24, 1985.

Edwin Meese III,

Attorney General.

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Subtitle D—Assets Forfeiture Amendments Act of 1986

SEC. 1151. SHORT TITLE.

This subtitle may be cited as the "Department of Justice Assets Forfeiture Fund Amendments Act of 1986".

SEC. 1152. ASSET FORFEITURE FUNDS.

(a)(1) DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.—Subsection (c) of section 524 of title 28, United States Code, is amended—

(2) by inserting at the end of subparagraph (A) of paragraph (1) the following: "such payments may also include those, made pursuant to regulations promulgated by the Attorney General, that are necessary and direct program-related expenses for the purchase or lease of automatic data processing equipment (not less

than 90 percent of which use will be program related), training, printing, contracting for services directly related to the processing of and accounting for forfeitures, and the storage, protection, and destruction of controlled substances;";

(3) by inserting after subparagraph (A) of paragraph (1) the following new subparagraph and renumbering the subsequent subparagraphs appropriately;

"(B) the payment of awards for information or assistance directly relating to violations of the criminal drug laws of the United States;";

(4) by amending newly designated subparagraph (F) of paragraph (1) to read as follows:

"(F) for equipping for drug law enforcement functions any government-owned or leased vessels, vehicles, and aircraft available for official use by the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, or the United States Marshals Service; and";

(5) by striking out in paragraph (4) "remaining after payment of expenses for forfeiture and sale authorized by law" and inserting in lieu thereof ", except all proceeds of forfeitures available for use by the Secretary of the Treasury or the Secretary of the Interior

pursuant to section 11(d)) of the Endangered Species Act (16 U.S.C 1540(d)) or section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d))"; and

(6) by striking out paragraph (8) and renumbering paragraph (9) as paragraph (8); and

(b) CUSTOMS FORFEITURE FUND.—

(1) Section 613a of the Tariff Act of 1930 (19 U.S.C. 1613a) as added by Public Law 98–473, is amended—

(B) by amending paragraph (3) of subsection (a) to read as follows:

"(3) for equipping for law enforcement functions any government-owned or leased vessels, vehicles, and aircraft available for official use by the United States Customs Service; and"; and

(C) by striking out subsection (h).

(2) Section 613a of the Tariff Act of 1930 (19 U.S.C. 1613b) as added by Public Law 98–573, is repealed.

SEC. 1153. SUBSTITUTE ASSETS.

(a) Section 1963 of title 18 is amended by adding at the end thereof a new subsection, as follows:

"(n) If any of the property described in subsection (a), as a result of any act of omission of the defendant—

"(1) cannot be located upon the exercise of due diligence;

"(2) has been transferred or sold to, or deposited with, a third party;

"(3) has been placed beyond the jurisdiction of the court;

"(4) has been substantially diminished in value; or

"(5) has been commingled with other property which cannot be divided without difficulty;

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).".

(b) Section 413 of title II of the Comprehensive Drug Abuse Prevention and Control Act of 1975 is amended—

(1) by redesignating subsection "(p)" as subsection "(q)"; and

(2) by adding a new subsection (p) as follows:

"(p) If any of the property described in subsection (a), as a result of any act or omission of the defendant—

"(1) cannot be located upon the exercise of due diligence;

"(2) has been transferred or sold to, or deposited with, a third party;

"(3) has been placed beyond the jurisdiction of the court;

"(4) has been substantially diminished in value; or

"(5) has been commingled with other property which cannot be divided without difficulty;

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).".

Relevant Money Laundering Provisions, Federal Anti-Drug Abuse Act of 1986

Subtitle H—Money Laundering Control Act of 1986

SEC. 1351. SHORT TITLE.

This subtitle may be cited as the "Money Laundering Control Act of 1986".

SEC. 1352. NEW OFFENSE FOR LAUNDERING OF MONETARY INSTRUMENTS.

(a) Chapter 95 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1956. Laundering of monetary instruments

"(a)(1) Whoever, knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conduct such a financial transaction which in fact involves the proceeds of specified unlawful activity—

"(A) with the intent to promote the carrying on of specified unlawful activity; or

"(B) knowing that the transaction is designed in whole or in part—

"(i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or

"(ii) to avoid a transaction reporting requirement under State or Federal law,

shall be sentenced to a fine of not more than $500,000 or twice the value of the property involved in the transaction, whichever is greater, or imprisonment for not more than twenty years, or both.

"(2) Whoever transports or attempts to transport a monetary instrument or funds from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States—

"(A) with the intent to promote the carrying on of specified unlawful activity; or

"(B) knowing that the monetary instrument or funds involved in the transportation represent the proceeds of some form of unlawful activity and knowing that such transportation is designed in whole or in part—

"(i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or

"(ii) to avoid a transaction reporting requirement under State or Federal law,

shall be sentenced to a fine of $500,000 or twice the value of the monetary instrument or funds involved in the transportation, whichever is greater, or imprisonment for not more than twenty years, or both.

"(b) Whoever conducts or attempts to conduct a transaction described in subsection (a)(1) or (a)(3), or a transportation described in subsection (a)(2), is liable to the United States for a civil penalty of not more than the greater of—

"(1) the value of the property, funds, or monetary instruments involved in the transaction; or

"(2) $10,000.

"(c) As used in this section—

"(1) the term 'knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity' means that the person knew the property involved in the transaction represented proceeds from some form, though not necessarily which form, of activity that constitutes a felony under State or Federal law, regardless of whether or not such activity is

"(2) the term 'conducts' includes initiating, concluding, or participating in initiating, or concluding a transaction;

"(3) the term 'transaction' includes a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected;

"(4) the term 'financial transaction' means a transaction involving the movement of funds by wire or other means or involving one or more monetary instruments, which in any way or degree affects interstate or foreign commerce, or a transaction involving the use of a financial institution which is engaged in, or the activities of which affect, interstate or foreign commerce in any way or degree;

"(5) the term 'monetary instruments' means coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, money orders, investment securities in bearer form or otherwise in such form that title thereto passes upon delivery, and negotiable instruments in bearer form or otherwise in such form that title thereto passes upon delivery;

"(6) the term 'financial institution' has the definition given that term in section 5312(a)(2) of title 31, United States Code, and the regulations promulgated thereunder;

"(7) the term 'specified unlawful activity' means—

"(A) any act or activity constituting an offense listed in section 1961(1) of this title except an act which is indictable under the Currency and Foreign Transactions Reporting Act;

"(B) with respect to a financial transaction occurring in whole or in part in the United States, an offense against a foreign nation involving the manufacture, importation, sale, or distribution of a controlled substance (as such term is defined for the purposes of the Controlled Substances Act);

"(C) any act or acts constituting a continuing criminal enterprise, as that term is defined in section 408 of the Controlled Substances Act (21 U.S.C. 848); or

"(D) an offense under section 152 (relating to concealment of assets; false oaths and claims; bribery), section 215 (relating to commissions or gifts for procuring loans), any of sections 500 through 503 (relating to certain counterfeiting offenses), section 511 (relating to securities of States and private entities), section 543 (relating to smuggling goods into the United States), section 641 (relating to public money, property, or records), section 656 (relating to theft, embezzlement, or misapplication by bank officer or employee), section 666 (relating to theft or bribery concerning programs receiving Federal funds), section 793, 794, or 798 (relating to espionage), section 875 (relating to interstate communications), section 1201 (relating to kidnaping), section 1203 (relating to hostage taking), section 1344 (relating to bank fraud), or section 2113 or 2114 (relating to bank and postal robbery and theft) of this title, section 38 of the Arms Export Control Act (22 U.S.C. 2778), section 2 (relating to criminal penalties) of the Export Administration Act of 1979 (50 U.S.C. App. 2401), section 203 (relating to criminal sanctions) of the International Emergency Economic Powers Act (50 U.S.C. 1702), or section 3 (relating to criminal violations) of the Trading with the Enemy Act (50 U.S.C. App. 3).

law imposing criminal penalties or affording civil remedies in addition to those provided for in this section.

"(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate. Such authority of the Secretary of the Treasury shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.

"(f) There is extraterritorial jurisdiction over the conduct prohibited by this section if—

"(1) the conduct is by a United States citizen or, in the case of a non-United States citizen, the conduct occurs in part in the United States; and

"(2) the transaction or series of related transactions involves funds or monetary instruments of a value exceeding $10,000.

"§ 1957. Engaging in monetary transactions in property derived from specified unlawful activity

"(a) Whoever, in any of the circumstances set forth in subsection (d), knowingly engages or attempts to engage in a monetary transaction in criminally derived property of a value greater than $10,000 and is derived from specified unlawful activity, shall be punished as provided in subsection (b).

"(b)(1) Except as provided in paragraph (2), the punishment for an offense under this section is a fine under title 18, United States Code, or imprisonment for not more than ten years or both.

"(2) The court may impose an alternate fine to that imposable under paragraph (1), of not more than twice the amount of the criminally derived property involved in the transaction.

"(c) In a prosecution for an offense under this section, the Government is not required to prove the defendant knew that the offense from which the criminally derived property was derived was specified unlawful activity.

"(d) The circumstances referred to in subsection (a) are—

"(1) that the offense under this section takes place in the United States or in the special maritime and territorial jurisdiction of the United States; or

"(2) that the offense under this section takes place outside the United States and such special jurisdiction, but the defendant is a United States person (as defined in section 3077 of this title, but excluding the class described in paragraph (2)(D) of such section).

"(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate. Such authority of the Secretary of the Treasury shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.

"(f) As used in this section—

"(1) the term 'monetary transaction' means the deposit, withdrawal, transfer, or exchange, in or affecting interstate or foreign commerce, of funds or a monetary instrument (as defined for the purposes of subchapter II of chapter 53 of title 31) by, through, or to a financial institution (as defined in section 5312 of title 31);

"(2) the term 'criminally derived property' means any property constituting, or derived

"(3) the term 'specified unlawful activity' has the meaning given that term in section 1956 of this title.".

(b) The table of sections at the beginning of chapter 95 of title 18 is amended by adding at the end the following new items:

"1956. Laundering of monetary instruments".

"1957. Engaging in monetary transaction in property derived from specified unlawful activity".

SEC. 1352. AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT.

(a) CLARIFICATION OF RIGHT OF FINANCIAL INSTITUTIONS TO REPORT SUSPECTED VIOLATIONS.—Section 1103(c) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3403(c)) is amended by adding at the end thereof the following new sentences: "Such information may include only the name or other identifying information concerning any individual or account involved in and the nature of any suspected illegal activity. Such information may be disclosed notwithstanding any constitution, law, or regulation of any State or political subdivision thereof to the contrary. Any financial institution, or officer, employee, or agent thereof, making a disclosure of information pursuant to this subsection, shall not be liable to the customer under any law or regulation of the United States or any constitution, law, or regulation of any State or political subdivision thereof, for such disclosure or for any failure to notify the customer of such disclosure.".

(b) Section 1113(l) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(l)) is amended by inserting immediately before the period at the end thereof a comma and the following: "except that a court shall have authority to order a financial institution, on which a grand jury subpoena for customer records has been served, not to notify the customer of the existence of the subpoena or information that has been furnished to the grand jury, under the circumstances and for the period specified and pursuant to the procedures established in section 1109 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3409)".

SEC. 1353. STRUCTURING TRANSACTIONS TO EVADE REPORTING REQUIREMENTS PROHIBITED.

(a) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code (relating to records and reports on monetary instruments transactions) is amended by adding at the end thereof the following new section:

"§ 5324. Structuring transactions to evade reporting requirement prohibited

"No person shall for the purpose of evading the reporting requirements of section 5313(a) with respect to such transaction—

"(1) cause or attempt to cause a domestic financial institution to fail to file a report required under section 5313(a);

"(2) cause or attempt to cause a domestic financial institution to file a report required under section 5313(a) that contains a material omission or misstatement of fact; or

"(3) structure or assist in structuring, or attempt to structure or assist in structuring, any transaction with one or more domestic financial institutions.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by adding at the end thereof the following new item:

"5324. Structuring transactions to evade reporting requirement prohibited.".

SEC. 1354. PENALTY PROVISIONS.

(a) CIVIL MONEY PENALTY FOR STRUCTURED TRANSACTION VIOLATION.—Section 5321(a) of title 31, United States Code, is amended by adding at the end thereof the following new paragraph:

"(4) STRUCTURED TRANSACTION VIOLATION.—

"(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who willfully violates any provision of section 5324.

"(B) MAXIMUM AMOUNT LIMITATION.—The amount of any civil money penalty imposed under subparagraph (A) shall not exceed the amount of the coins and currency (or such other monetary instruments as the Secretary may prescribe) involved in the transaction with respect to which such penalty is imposed.

"(C) COORDINATION WITH FORFEITURE PROVISION.—The amount of any civil money penalty imposed by the Secretary under subparagraph (A) shall be reduced by the amount of any forfeiture to the United States under section 5317(d) in connection with the transaction with respect to which such penalty is imposed.".

(b) INCREASE IN AMOUNT OF PENALTY FOR FINANCIAL INSTITUTIONS.—Section 5321(a)(1) of title 31, United States Code, is amended—

(1) by striking out "$10,000" and inserting in lieu thereof "the greater of the amount (not to exceed $100,000) involved in the transaction or $25,000"; and

(2) by striking out "section 5315" each place such term appears and inserting in lieu thereof "sections 5314 and 5315".

(c) SEPARATE CIVIL MONEY PENALTY FOR VIOLATION OF SECTION 5314.—Section 5321(a) of title 31, United States Code, is amended by inserting after paragraph (4) (as added by subsection (a) of this section) the following new paragraph:

"(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

"(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who willfully violates any provision of section 5314.

"(B) MAXIMUM AMOUNT LIMITATION.—The amount of any civil money penalty imposed under subparagraph (A) shall not exceed—

"(i) in the case of violation of such section involving a transaction, the greater of—

"(I) the amount (not to exceed $100,000) of the transaction; or

"(II) $25,000; and

(ii) in the case of violation of such section involving a failure to report the existence of an account or any identifying information required to be provided with respect to such account, the greater of—

"(I) an amount (not to exceed $100,000) equal to the balance in the account at the time of the violation; or

"(II) $25,000.".

(d) SEPARATE CIVIL MONEY PENALTY FOR NEGLIGENT VIOLATION OF SUBCHAPTER.—Section 5321(a) of title 31, United States Code, is amended by inserting after paragraph (5) (as added by subsection (c) of this section) the following new paragraph:

"(6) NEGLIGENCE.—The Secretary of the Treasury may impose a civil money penalty of not more than $500 on any financial institution which negligently violates any provision of this subchapter or any regulation prescribed under this subchapter.".

(e) EXTENSION OF TIME LIMITATIONS ON ASSESSMENT OF CIVIL PENALTY.—Section of title 31, United States Code, is a to read as follows:

"(b) TIME LIMITATIONS FOR ASSESSME COMMENCEMENT OF CIVIL ACTIONS.—

"(1) ASSESSMENTS.—The Secretary Treasury may assess a civil penalt subsection (a) at any time before the the 6-year period beginning on the the transaction with respect to wh penalty is assessed.

"(2) CIVIL ACTIONS.—The Secretar commence a civil action to recover penalty assessed under subsection (a) time before the end of the 2-year per ginning on the later of—

"(A) the date the penalty was asse

"(B) the date any judgment becom in any criminal action under sectic in connection with the same tran with respect to which the penalty sessed.".

(f) CLARIFICATION OF RELATIONSHIP B CIVIL PENALTY AND CRIMINAL PENALT tion 5321 of title 31, United States C amended by adding at the end ther following new subsection:

"(d) CRIMINAL PENALTY NOT EXCLU CIVIL PENALTY.—A civil money penal be imposed under subsection (a) w spect to any violation of this sub notwithstanding the fact that a c penalty is imposed with respect to th violation.".

(g) AMENDMENTS TO CRIMINAL PENAL CERTAIN OFFENSES.—Section 5322(b) 31, United States Code, is amended—

(1) by striking out "illegal activity ing transactions of" and inserting thereof "any illegal activity involving

(2) by striking out "5 years" and in in lieu thereof "10 years".

(h) CONFORMING AMENDMENT.—S 5321(c) of title 31, United States C amended by striking out "section 5 and inserting in lieu thereof "subsec or (d) of section 5317".

SEC. 1355. MONETARY TRANSACTION REP AMENDMENTS.

(a) CLOSELY RELATED EVENTS.—Sectic of title 31, United States Code, is ar by adding at the end the following ne section:

"(d) CUMULATION OF CLOSELY R EVENTS.—The Secretary of the Treasu prescribe regulations under this sect fining the term 'at one time' for purp subsection (a). Such regulations may the cumulation of closely related eve order that such events may collectiv considered to occur at one time for p poses of subsection (a).".

(b) INCHOATE OFFENSE.—Section 531 of title 31, United States Code, is ame (1) by striking out "or attempts to port or have transported,", and

(2) by inserting ", is about to tran after "transports".

(c) TECHNICAL AND CONFORMING MENT.—Section 5316(a)(2) of title 31, States Code, is amended by strikin "$5,000" and inserting in lieu "$10,000".

ELECTRONIC COMMUNICATIONS PRIVACY ACT OF 1986 — PUBLIC LAW 99-508

An Act

To amend title 18, United States Code, with respect to the interception of certain communications, other forms of surveillance, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Electronic Communications Privacy Act of 1986".

TITLE I—INTERCEPTION OF COMMUNICATIONS AND RELATED MATTERS

SEC. 101. FEDERAL PENALTIES FOR THE INTERCEPTION OF COMMUNICATIONS.

(a) DEFINITIONS.—(1) Section 2510(1) of title 18, United States Code, is amended—

(A) by striking out "any communication" and inserting "any aural transfer" in lieu thereof;

(B) by inserting "(including the use of such connection in a switching station)" after "reception";

(C) by striking out "as a common carrier" and

(D) by inserting before the semicolon at the end the following: "or communications affecting interstate or foreign commerce and such term includes any electronic storage of such communication, but such term does not include the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit".

(2) Section 2510(2) of title 18, United States Code, is amended by inserting before the semicolon at the end the following: ", but such term does not include any electronic communication".

(3) Section 2510(4) of title 18, United States Code, is amended—

(A) by inserting "or other" after "aural"; and

(B) by inserting ", electronic," after "wire".

(4) Section 2510(5) of title 18, United States Code, is amended in clause (a)(i) by inserting before the semicolon the following: "or furnished by such subscriber or user for connection to the facilities of such service and used in the ordinary course of its business".

(5) Section 2510(8) of title 18, United States Code, is amended by striking out "identity of the parties to such communication or the existence,".

(6) Section 2510 of title 18, United States Code, is amended—

(A) by striking out "and" at the end of paragraph (10);

(B) by striking out the period at the end of paragraph (11) and inserting a semicolon in lieu thereof; and

(C) by adding at the end the following:

"(12) 'electronic communication' means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photooptical system that affects interstate or foreign commerce, but does not include—

"(A) the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit;

"(B) any wire or oral communication;

"(C) any communication made through a tone-only paging device; or

"(D) any communication from a tracking device (as defined in section 3117 of this title);

"(13) 'user' means any person or entity who—

"(A) uses an electronic communication service; and

"(B) is duly authorized by the provider of such service to engage in such use;

"(14) 'electronic communications system' means any wire, radio, electromagnetic, photooptical or photoelectronic facilities for the transmission of electronic communications, and any computer facilities or related electronic equipment for the elec-

"(15) 'electronic communication service' means any service which provides to users thereof the ability to send or receive wire or electronic communications;

"(16) 'readily accessible to the general public' means, with respect to a radio communication, that such communication is not—

"(A) scrambled or encrypted;

"(B) transmitted using modulation techniques whose essential parameters have been withheld from the public with the intention of preserving the privacy of such communication;

"(C) carried on a subcarrier or other signal subsidiary to a radio transmission;

"(D) transmitted over a communication system provided by a common carrier, unless the communication is a tone only paging system communication; or

"(E) transmitted on frequencies allocated under part 25, subpart D, E, or F of part 74, or part 94 of the Rules of the Federal Communications Commission, unless, in the case of a communication transmitted on a frequency allocated under part 74 that is not exclusively allocated to broadcast auxiliary services, the communication is a two-way voice communication by radio;

"(17) 'electronic storage' means—

"(A) any temporary, intermediate storage of a wire or electronic communication incidental to the electronic transmission thereof; and

"(B) any storage of such communication by an electronic communication service for purposes of backup protection of such communication; and

"(18) 'aural transfer' means a transfer containing the human voice at any point between and including the point of origin and the point of reception.".

(b) EXCEPTIONS WITH RESPECT TO ELECTRONIC COMMUNICATIONS.—

(1) Section 2511(2)(a)(ii) of title 18, United States Code, is amended—

(A) by striking out "violation of this subparagraph by a communication common carrier or an officer, employee, or agent thereof" and inserting in lieu thereof "such disclosure";

(B) by striking out "the carrier" and inserting in lieu thereof "such person"; and

(C) by striking out "an order or certification under this subparagraph" and inserting in lieu thereof "a court order or certification under this chapter".

(2) Section 2511(2)(d) of title 18, United States Code, is amended by striking out "or for the purpose of committing any other injurious act".

(3) Section 2511(2)(f) of title 18, United States Code, is amended—

(A) by inserting "or chapter 121" after "this chapter"; and

(B) by striking out "by" the second place it appears and inserting in lieu thereof ", or foreign intelligence activities conducted in accordance with otherwise applicable Federal law involving a foreign electronic communications system, utilizing".

(4) Section 2511(2) of title 18, United States Code, is amended by adding at the end the following:

"(g) It shall not be unlawful under this chapter or chapter 121 of this title for any person—

"(i) to intercept or access an electronic communication made through an electronic communication system that is configured so that such electronic communication is readily accessible to the general public;

"(ii) to intercept any radio communication which is transmitted—

"(I) by any station for the use of the general public, or that relates to ships, aircraft, vehicles, or persons in distress;

"(II) by any governmental, law enforcement, civil defense,

system, including police and fire, readily accessible to the general public;

"(III) by a station operating on an authorized frequency within the bands allocated to the amateur, citizens band, or general mobile radio services; or

"(IV) by any marine or aeronautical communications system;

"(iii) to engage in any conduct which—

"(I) is prohibited by section 633 of the Communications Act of 1934; or

"(II) is excepted from the application of section 705(a) of the Communications Act of 1934 by section 705(b) of that Act;

"(iv) to intercept any wire or electronic communication the transmission of which is causing harmful interference to any lawfully operating station or consumer electronic equipment, to the extent necessary to identify the source of such interference; or

"(v) for other users of the same frequency to intercept any radio communication made through a system that utilizes frequencies monitored by individuals engaged in the provision or the use of such system, if such communication is not scrambled or encrypted.

"(h) It shall not be unlawful under this chapter—

"(i) to use a pen register or a trap and trace device (as those terms are defined for the purposes of chapter 206 (relating to pen registers and trap and trace devices) of this title); or

"(ii) for a provider of electronic communication service to record the fact that a wire or electronic communication was initiated or completed in order to protect such provider, another provider furnishing service toward the completion of the wire or electronic communication, or a user of that service, from fraudulent, unlawful or abusive use of such service.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Chapter 119 of title 18, United States Code, is amended—

(A) in each of sections 2510(5), 2510(8), 2510(9)(b), 2510(11), and 2511 through 2519 (except sections 2515, 2516(1) and 2518(10)), by striking out "wire or oral" each place it appears (including in any section heading) and inserting "wire, oral, or electronic" in lieu thereof; and

(B) in section 2511(2)(b), by inserting "or electronic" after "wire".

(2) The heading of chapter 119 of title 18, United States Code, is amended by inserting "and electronic communications" after "wire".

(3) The item relating to chapter 119 in the table of chapters at the beginning of part I of title 18 of the United States Code is amended by inserting "and electronic communications" after "Wire".

(4) Section 2510(5)(a) of title 18, United States Code, is amended by striking out "communications common carrier" and inserting "provider of wire or electronic communication service" in lieu thereof.

(5) Section 2511(2)(a)(i) of title 18, United States Code, is amended—

(A) by striking out "any communication common carrier" and inserting "a provider of wire or electronic communication service" in lieu thereof;

(B) by striking out "of the carrier of such communication" and inserting "of the provider of that service" in lieu thereof; and

(C) by striking out ": *Provided*, That said communication common carriers" and inserting ", except that a provider of wire communication service to the public" in lieu thereof.

(6) Section 2511(2)(a)(ii) of title 18, United States Code, is amended—

(A) by striking out "communication common carriers" and inserting "providers of wire or electronic communication service" in lieu thereof;

(B) by striking out "communication common carrier" each place it appears and inserting "provider of wire or electronic communication service" in lieu thereof; and

(C) by striking out "if the common carrier" and inserting "if such provider" in lieu thereof.

(7) Section 2512(2)(a) of title 18, United States Code, is amended—

(A) by striking out "a communications common carrier" the first place it appears and inserting "a provider of wire or electronic communication service" in lieu thereof; and

(B) by striking out "a communications common carrier" the second place it appears and inserting "such a provider" in lieu thereof; and

(C) by striking out "communications common carrier's business" and inserting "business of providing that wire or electronic communication service" in lieu thereof.

(8) Section 2518(4) of title 18, United States Code, is amended—

(A) by striking out "communication common carrier" in both places it appears and inserting "provider of wire or electronic communication service" in lieu thereof; and

(B) by striking out "carrier" and inserting in lieu thereof "service provider".

(2) Section 2511 of title 18, United States Code, is amended by adding after the material added by section 102 the following:

"(4)(a) Except as provided in paragraph (b) of this subsection or in subsection (5), whoever violates subsection (1) of this section shall be fined under this title or imprisoned not more than five years, or both.

"(b) If the offense is a first offense under paragraph (a) of this subsection and is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain, and the wire or electronic communication with respect to which the offense under paragraph (a) is a radio communication that is not scrambled or encrypted, then—

"(i) if the communication is not the radio portion of a cellular telephone communication, a public land mobile radio service communication or a paging service communication, and the conduct is not that described in subsection (5), the offender shall be fined under this title or imprisoned not more than one year, or both; and

"(ii) if the communication is the radio portion of a cellular telephone communication, a public land mobile radio service communication or a paging service communication, the offender shall be fined not more than $500.

"(c) Conduct otherwise an offense under this subsection that consists of or relates to the interception of a satellite transmission that is not encrypted or scrambled and that is transmitted—

"(i) to a broadcasting station for purposes of retransmission to the general public; or

"(ii) as an audio subcarrier intended for redistribution to facilities open to the public, but not including data transmissions or telephone calls,

is not an offense under this subsection unless the conduct is for the purposes of direct or indirect commercial advantage or private financial gain.

"(5)(a)(i) If the communication is—

"(A) a private satellite video communication that is not scrambled or encrypted and the conduct in violation of this chapter is the private viewing of that communication and is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain; or

"(B) a radio communication that is transmitted on frequencies allocated under subpart D of part 74 of the rules of the Federal Communications Commission that is not scrambled or encrypted and the conduct in violation of this chapter is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain,

then the person who engages in such conduct shall be subject to suit by the Federal Government in a court of competent jurisdiction.

"(ii) In an action under this subsection—

"(A) if the violation of this chapter is a first offense for the person under paragraph (a) of subsection (4) and such person has not been found liable in a civil action under section 2520 of this title, the Federal Government shall be entitled to appropriate injunctive relief; and

"(B) if the violation of this chapter is a second or subsequent offense under paragraph (a) of subsection (4) or such person has been found liable in any prior civil action under section 2520, the person shall be subject to a mandatory $500 civil fine.

"(b) The court may use any means within its authority to enforce an injunction issued under paragraph (ii)(A), and shall impose a civil fine of not less than $500 for each violation of such an injunction.".

(e) EXCLUSIVITY OF REMEDIES WITH RESPECT TO ELECTRONIC COMMUNICATIONS.—Section 2518(10) of title 18, United States Code, is amended by adding at the end the following:

"(c) The remedies and sanctions described in this chapter with respect to the interception of electronic communications are the only judicial remedies and sanctions for nonconstitutional violations of this chapter involving such communications.".

(f) STATE OF MIND.—Paragraphs (a), (b), (c), and (d) of subsection (1) of section 2511 of title 18, United States Code, are amended by striking out "willfully" and inserting in lieu thereof "intentionally".

(2) Subsection (1) of section 2512 of title 18, United States Code, is amended in the matter before paragraph (a) by striking out "willfully" and inserting in lieu thereof "intentionally".

SEC. 102. REQUIREMENTS FOR CERTAIN DISCLOSURES.

Section 2511 of title 18, United States Code, is amended by adding at the end the following:

"(3)(a) Except as provided in paragraph (b) of this subsection, a person or entity providing an electronic communication service to the public shall not intentionally divulge the contents of any communication (other than one to such person or entity, or an agent thereof) while in transmission on that service to any person or entity other than an addressee or intended recipient of such communication or an agent of such addressee or intended recipient.

"(b) A person or entity providing electronic communication service to the public may divulge the contents of any such communication—

"(i) as otherwise authorized in section 2511(2)(a) or 2517 of this title;

"(ii) with the lawful consent of the originator or any addressee

SEC. 103. RECOVERY OF CIVIL DAMAGES.

Section 2520 of title 18, United States Code, is amended to read as follows:

"§ 2520. Recovery of civil damages authorized

"(a) IN GENERAL.—Except as provided in section 2511(2)(a)(ii), any person whose wire, oral, or electronic communication is intercepted, disclosed, or intentionally used in violation of this chapter may in a civil action recover from the person or entity which engaged in that violation such relief as may be appropriate.

"(b) RELIEF.—In an action under this section, appropriate relief includes—

"(1) such preliminary and other equitable or declaratory relief as may be appropriate;

"(2) damages under subsection (c) and punitive damages in appropriate cases; and

"(3) a reasonable attorney's fee and other litigation costs reasonably incurred.

"(c) COMPUTATION OF DAMAGES.—(1) In an action under this section, if the conduct in violation of this chapter is the private viewing of a private satellite video communication that is not scrambled or encrypted or if the communication is a radio communication that is transmitted on frequencies allocated under subpart D of part 74 of the rules of the Federal Communications Commission that is not scrambled or encrypted and the conduct is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain, then the court shall assess damages as follows:

"(A) If the person who engaged in that conduct has not previously been enjoined under section 2511(5) and has not been found liable in a prior civil action under this section, the court shall assess the greater of the sum of actual damages suffered by the plaintiff, or statutory damages of not less than $50 and not more than $500.

"(B) If, on one prior occasion, the person who engaged in that conduct has been enjoined under section 2511(5) or has been found liable in a civil action under this section, the court shall assess the greater of the sum of actual damages suffered by the plaintiff, or statutory damages of not less than $100 and not more than $1000.

"(2) In any other action under this section, the court may assess as damages whichever is the greater of—

"(A) the sum of the actual damages suffered by the plaintiff and any profits made by the violator as a result of the violation; or

"(B) statutory damages of whichever is the greater of $100 a day for each day of violation or $10,000.

"(d) DEFENSE.—A good faith reliance on—

"(1) a court warrant or order, a grand jury subpoena, a legislative authorization, or a statutory authorization;

"(2) a request of an investigative or law enforcement officer under section 2518(7) of this title; or

"(3) a good faith determination that section 2511(3) of this title permitted the conduct complained of;

is a complete defense against any civil or criminal action brought under this chapter or any other law.

"(e) LIMITATION.—A civil action under this section may not be commenced later than two years after the date upon which the claimant first has a reasonable opportunity to discover the violation.".

SEC. 104. CERTAIN APPROVALS BY JUSTICE DEPARTMENT OFFICIALS.

Section 2516(1) of title 18 of the United States Code is amended by striking out "or any Assistant Attorney General" and inserting in lieu thereof "any Assistant Attorney General, any acting Assistant Attorney General, or any Deputy Assistant Attorney General in the Criminal Division".

SEC. 105. ADDITION OF OFFENSES TO CRIMES FOR WHICH INTERCEPTION IS AUTHORIZED.

(a) WIRE AND ORAL INTERCEPTIONS.—Section 2516(1) of title 18 of the United States Code is amended—

(1) in paragraph (c)—

(A) by inserting "section 751 (relating to escape)," after "wagering information),";

(B) by striking out "2314" and inserting "2312, 2313, 2314," in lieu thereof;

(C) by inserting "the second section 2320 (relating to trafficking in certain motor vehicles or motor vehicle parts), section 1203 (relating to hostage taking), section 1029 (relating to fraud and related activity in connection with access devices), section 3146 (relating to penalty for failure to appear), section 3521(b)(3) (relating to witness relocation and assistance), section 32 (relating to destruction of aircraft or aircraft facilities)," after "stolen property),";

(D) by inserting "section 1952A (relating to use of interstate commerce facilities in the commission of murder for hire), section 1952B (relating to violent crimes in aid of racketeering activity), section 1958 (relating to use of interstate commerce facilities in the commission of murder for hire)," after "section 1955 (prohibition of business enterprises of gambling),";

(E) by inserting "section 115 (relating to threatening or retaliating against a Federal official), section 1114 (relating to killing or attempting to kill a Federal judge), section 1503 (relating to obstruction of justice), section 1512 (relating to tampering with a witness, victim, or an informant), section 1513 (relating to retaliating against a witness, victim, or an informant), section 1751 (relating to Presidential assassination), section 2332a (relating to use of weapons of mass destruction), section 2332b (relating to acts of terrorism transcending national boundaries), section 2339A (relating to providing material support to terrorists), section 2339B (relating to providing material support to terrorist organizations), section 2340A (relating to torture), section 1992 (relating to wrecking trains), section 1993 (relating to terrorist attacks and other violence against mass transportation systems), section 831 (relating to prohibited transactions involving nuclear materials), section 33 (relating to destruction of motor vehicles or motor vehicle facilities), section 1361 (relating to willful injury of Government property), section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction), section 1992 (relating to wrecking trains), section 1993 (relating to terrorist attacks and other violence against mass transportation systems), section 1028 (relating to fraud and related activity in connection with identification documents), section 1029 (relating to fraud and related activity in connection with access devices), section 1030 (relating to fraud and related activity in connection with computers), section 2251 (relating to sexual exploitation of children), section 2252 (relating to certain activities relating to material involving the sexual exploitation of minors), section 2252A (relating to certain activities relating to material constituting or containing child pornography), section 1466A (relating to child obscenity), section 1591 (relating to sex trafficking of children), section 2422 (relating to coercion and enticement of a minor into prostitution), section 2423 (relating to transportation of minors), section 2425 (relating to use of interstate facilities to transmit information about a minor), section 175c (relating to the variola virus), section 956 (relating to conspiracy to harm persons or property overseas), section 1992 (relating to wrecking trains), section 2332 (relating to homicide or attempted homicide of Americans overseas), section 2332a (relating to use of weapons of mass destruction), section 2332b (relating to acts of terrorism transcending national boundaries), section 2332c (relating to attempts or conspiracies to commit chemical weapons offenses), section 2332d (relating to financial transactions with countries which support terrorism), section 2332f (relating to bombing of public places and facilities), section 2332g (relating to missile systems designed to destroy aircraft), section 2332h (relating to radiological dispersal devices), section 2339 (relating to harboring terrorists), section 2339A (relating to providing material support to terrorists), section 2339B (relating to providing material support to terrorist organizations), section 2339C (relating to financing of terrorism), or section 2340A (relating to torture)," after "section 1956 (laundering of monetary instruments),";

(F) by inserting "section 1341 (relating to mail fraud)," after "section 1963 (violations with respect to racketeer influenced and corrupt organizations)"; and

(G) by—

(i) striking out "or" before "section 351" and inserting in lieu thereof a comma; and

(ii) inserting before the semicolon at the end thereof the following: ", section 831 (relating to prohibited transactions involving nuclear materials), section 33 (relating to destruction of motor vehicles or motor vehicle facilities), or section 1992 (relating to wrecking trains)";

(2) by striking out "or" at the end of paragraph (g);

(3) by inserting after paragraph (g) the following:

"(h) any felony violation of sections 2511 and 2512 (relating to interception and disclosure of certain communications and to certain intercepting devices) of this title;

"(i) any violation of section 1679a(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1472 (relating to aircraft piracy) of title 49, of the United States Code;

"(j) any criminal violation of section 2778 of title 22 (relating to the Arms Export Control Act); or";

"(k) the location of any fugitive from justice from an offense described in this section;

(4) by redesignating paragraph (h) as paragraph (l); and

(5) in paragraph (a) by—

(A) inserting after "Atomic Energy Act of 1954)," the following: "section 2284 of title 42 of the United States Code (relating to sabotage of nuclear facilities or fuel),";

(B) striking out "or" after "(relating to treason),"; and

(C) inserting before the semicolon at the end thereof the following: "chapter 65 (relating to malicious mischief), chapter 111 (relating to destruction of vessels), or chapter 81 (relating to piracy)".

(b) INTERCEPTION OF ELECTRONIC COMMUNICATIONS.—Section 2516 of title 18 of the United States Code is amended by adding at the end the following:

"(3) Any attorney for the Government (as such term is defined for the purposes of the Federal Rules of Criminal Procedure) may authorize an application to a Federal judge of competent jurisdiction for, and such judge may grant, in conformity with section 2518 of this title, an order authorizing or approving the interception of electronic communications by an investigative or law enforcement officer having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of any Federal felony.".

SEC. 106. APPLICATIONS, ORDERS, AND IMPLEMENTATION OF ORDERS.

(a) PLACE OF AUTHORIZED INTERCEPTION.—Section 2518(3) of title 18 of the United States Code is amended by inserting "(and outside that jurisdiction but within the United States in the case of a mobile interception device authorized by a Federal court within such jurisdiction)" after "within the territorial jurisdiction of the court in which the judge is sitting".

(b) REIMBURSEMENT FOR ASSISTANCE.—Section 2518(4) of title 18 of the United States Code is amended by striking out "at the prevailing rates" and inserting in lieu thereof "for reasonable expenses incurred in providing such facilities or assistance".

(c) COMMENCEMENT OF THIRTY-DAY PERIOD AND POSTPONEMENT OF MINIMIZATION.—Section 2518(5) of title 18 of the United States Code is amended—

(1) by inserting after the first sentence the following: "Such thirty-day period begins on the earlier of the day on which the investigative or law enforcement officer first begins to conduct an interception under the order or ten days after the order is entered."; and

(2) by adding at the end the following: "In the event the intercepted communication is in a code or foreign language, and an expert in that foreign language or code is not reasonably available during the interception period, minimization may be accomplished as soon as practicable after such interception. An interception under this chapter may be conducted in whole or in part by Government personnel, or by an individual operating under a contract with the Government, acting under the supervision of an investigative or law enforcement officer authorized to conduct the interception.".

(d) ALTERNATIVE TO DESIGNATING SPECIFIC FACILITIES FROM WHICH COMMUNICATIONS ARE TO BE INTERCEPTED.—(1) Section 2518(1)(b)(ii) of title 18 of the United States Code is amended by inserting "except as provided in subsection (11)," before "a particular description".

(2) Section 2518(3)(d) of title 18 of the United States Code is amended by inserting "except as provided in subsection (11)," before "there is".

(3) Section 2518 of title 18 of the United States Code is amended by adding at the end the following:

"(11) The requirements of subsections (1)(b)(ii) and (3)(d) of this section relating to the specification of the facilities from which, or the place where, the communication is to be intercepted do not

eral, the Deputy Attorney General, the Associate Attorney General, an Assistant Attorney General, or an acting Assistant Attorney General;

"(ii) the application contains a full and complete statement as to why such specification is not practical and identifies the person committing the offense and whose communications are to be intercepted; and

"(iii) the judge finds that such specification is not practical; and

"(b) in the case of an application with respect to a wire or electronic communication—

"(i) the application is by a Federal investigative or law enforcement officer and is approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, an Assistant Attorney General, or an acting Assistant Attorney General;

"(ii) the application identifies the person believed to be committing the offense and whose communications are to be intercepted and the applicant makes a showing of a purpose, on the part of that person, to thwart interception by changing facilities; and

"(iii) the judge finds that such purpose has been adequately shown.

"(12) An interception of a communication under an order with respect to which the requirements of subsections (1)(b)(ii) and (3)(d) of this section do not apply by reason of subsection (11) shall not begin until the facilities from which, or the place where, the communication is to be intercepted is ascertained by the person implementing the interception order. A provider of wire or electronic communications service that has received an order as provided for in subsection (11)(b) may move the court to modify or quash the order on the ground that its assistance with respect to the interception cannot be performed in a timely or reasonable fashion. The court, upon notice to the government, shall decide such a motion expeditiously.".

(4) Section 2519(1)(b) of title 18, United States Code, is amended by inserting "(including whether or not the order was an order with respect to which the requirements of sections 2518(1)(b)(ii) and 2518(3)(d) of this title did not apply by reason of section 2518(11) of this title)" after "applied for".

SEC. 107. INTELLIGENCE ACTIVITIES.

(a) IN GENERAL.—Nothing in this Act or the amendments made by this Act constitutes authority for the conduct of any intelligence activity.

(b) CERTAIN ACTIVITIES UNDER PROCEDURES APPROVED BY THE ATTORNEY GENERAL.—Nothing in chapter 119 or chapter 121 of title 18, United States Code, shall affect the conduct, by officers or employees of the United States Government in accordance with other applicable Federal law, under procedures approved by the Attorney General of activities intended to—

(1) intercept encrypted or other official communications of United States executive branch entities or United States Government contractors for communications security purposes;

(2) intercept radio communications transmitted between or among foreign powers or agents of a foreign power as defined by the Foreign Intelligence Surveillance Act of 1978; or

(3) access an electronic communication system used exclusively by a foreign power or agent of a foreign power as defined by the Foreign Intelligence Surveillance Act of 1978.

SEC. 108. MOBILE TRACKING DEVICES.

(a) IN GENERAL.—Chapter 205 of title 18, United States Code, is amended by adding at the end the following:

"§ 3117. Mobile tracking devices

"(a) IN GENERAL.—If a court is empowered to issue a warrant or other order for the installation of a mobile tracking device, such order may authorize the use of that device within the jurisdiction of the court, and outside that jurisdiction if the device is installed in that jurisdiction.

"(b) DEFINITION.—As used in this section, the term 'tracking device' means an electronic or mechanical device which permits the tracking of the movement of a person or object.".

(b) CLERICAL AMENDMENT.—The table of contents at the beginning of chapter 205 of title 18, United States Code, is amended by adding at the end the following:

"3117. Mobile tracking devices.".

SEC. 109. WARNING SUBJECT OF SURVEILLANCE.

Section 2232 of title 18, United States Code, is amended—

(1) by inserting "(a) PHYSICAL INTERFERENCE WITH SEARCH.—" before "Whoever" the first place it appears;

(2) by inserting "(b) NOTICE OF SEARCH.—" before "Whoever" the second place it appears; and

(3) by adding at the end the following:

"(c) NOTICE OF CERTAIN ELECTRONIC SURVEILLANCE.—Whoever, having knowledge that a Federal investigative or law enforcement officer has been authorized or has applied for authorization under chapter 119 to intercept a wire, oral, or electronic communication, in order to obstruct, impede, or prevent such interception, gives notice or attempts to give notice of the possible activity to any person shall be fined under this title or imprisoned not more than five years, or both.

"Whoever, having knowledge that a Federal officer has been authorized or has applied for authorization to conduct electronic surveillance under the Foreign Intelligence Surveillance Act (50 U.S.C. 1801, et seq.), in order to obstruct, impede, or prevent such activity, gives notice or attempts to give notice of the possible activity to any person shall be fined under this title or imprisoned not more than five years, or both.".

SEC. 110. INJUNCTIVE REMEDY.

(a) IN GENERAL.—Chapter 119 of title 18, United States Code, is amended by adding at the end the following:

"§ 2521. Injunction against illegal interception

"Whenever it shall appear that any person is engaged or is about to engage in any act which constitutes or will constitute a felony violation of this chapter, the Attorney General may initiate a civil action in a district court of the United States to enjoin such violation. The court shall proceed as soon as practicable to the hearing and determination of such an action, and may, at any time before final determination, enter such a restraining order or prohibition, or take such other action, as is warranted to prevent a continuing and substantial injury to the United States or to any person or class of persons for whose protection the action is brought. A proceeding under this section is governed by the Federal Rules of Civil Procedure, except that, if an indictment has been returned against the respondent, discovery is governed by the Federal Rules of Criminal Procedure.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 119 of title 18, United States Code, is amended by adding at the end thereof the following:

"2521. Injunction against illegal interception.".

SEC. 111. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b) or (c), this title and the amendments made by this title shall take effect 90 days after the date of the enactment of this Act and shall, in the case of conduct pursuant to a court order or extension, apply only with respect to court orders or extensions made after this title takes effect.

(b) SPECIAL RULE FOR STATE AUTHORIZATIONS OF INTERCEPTIONS.—Any interception pursuant to section 2516(2) of title 18 of the United States Code which would be valid and lawful without regard to the amendments made by this title shall be valid and lawful notwithstanding such amendments if such interception occurs during the period beginning on the date such amendments take effect and ending on the earlier of—

(1) the day before the date of the taking effect of State law conforming the applicable State statute with chapter 119 of title 18, United States Code, as so amended; or

(2) the date two years after the date of the enactment of this Act.

(c) EFFECTIVE DATE FOR CERTAIN APPROVALS BY JUSTICE DEPARTMENT OFFICIALS.—Section 104 of this Act shall take effect on the date of enactment of this Act.

TITLE II—STORED WIRE AND ELECTRONIC COMMUNICATIONS AND TRANSACTIONAL RECORDS ACCESS

SEC. 201. TITLE 18 AMENDMENT.

Title 18, United States Code, is amended by inserting after chapter 119 the following:

"CHAPTER 121—STORED WIRE AND ELECTRONIC COMMUNICATIONS AND TRANSACTIONAL RECORDS ACCESS

"Sec.
"2701. Unlawful access to stored communications.
"2702. Disclosure of contents.
"2703. Requirements for governmental access.
"2704. Backup preservation.
"2705. Delayed notice.
"2706. Cost reimbursement.
"2707. Civil action.
"2708. Exclusivity of remedies.
"2709. Counterintelligence access to telephone toll and transactional records.
"2710. Definitions.

"§ 2701. Unlawful access to stored communications

"(a) OFFENSE.—Except as provided in subsection (c) of this section whoever—

"(1) intentionally accesses without authorization a facility through which an electronic communication service is provided; or

"(2) intentionally exceeds an authorization to access that facility;

and thereby obtains, alters, or prevents authorized access to a wire or electronic communication while it is in electronic storage in such

"(1) if the offense is committed for purposes of commercial advantage, malicious destruction or damage, or private commercial gain—

"(A) a fine of not more than $250,000 or imprisonment for not more than one year, or both, in the case of a first offense under this subparagraph; and

"(B) a fine under this title or imprisonment for not more than two years, or both, for any subsequent offense under this subparagraph; and

"(2) a fine of not more than $5,000 or imprisonment for not more than six months, or both, in any other case.

"(c) EXCEPTIONS.—Subsection (a) of this section does not apply with respect to conduct authorized—

"(1) by the person or entity providing a wire or electronic communications service;

"(2) by a user of that service with respect to a communication of or intended for that user; or

"(3) in section 2703, 2704 or 2518 of this title.

"§ 2702. Disclosure of contents

"(a) PROHIBITIONS.—Except as provided in subsection (b)—

"(1) a person or entity providing an electronic communication service to the public shall not knowingly divulge to any person or entity the contents of a communication while in electronic storage by that service; and

"(2) a person or entity providing remote computing service to the public shall not knowingly divulge to any person or entity the contents of any communication which is carried or maintained on that service—

"(A) on behalf of, and received by means of electronic transmission from (or created by means of computer processing of communications received by means of electronic transmission from), a subscriber or customer of such service; and

"(B) solely for the purpose of providing storage or computer processing services to such subscriber or customer, if the provider is not authorized to access the contents of any such communications for purposes of providing any services other than storage or computer processing.

"(b) EXCEPTIONS.—A person or entity may divulge the contents of a communication—

"(1) to an addressee or intended recipient of such communication or an agent of such addressee or intended recipient;

"(2) as otherwise authorized in section 2516, 2511(2)(a), or 2703 of this title;

"(3) with the lawful consent of the originator or an addressee or intended recipient of such communication, or the subscriber in the case of remote computing service;

"(4) to a person employed or authorized or whose facilities are used to forward such communication to its destination;

"(5) as may be necessarily incident to the rendition of the service or to the protection of the rights or property of the provider of that service; or

"(6) to a law enforcement agency, if such contents—

"(A) were inadvertently obtained by the service provider; and

"(B) appear to pertain to the commission of a crime.

"§ 2703. Requirements for governmental access

"(a) CONTENTS OF ELECTRONIC COMMUNICATIONS IN ELECTRONIC STORAGE.—A governmental entity may require the disclosure by a provider of electronic communication service of the contents of an electronic communication, that is in electronic storage in an electronic communications system for one hundred and eighty days or less, only pursuant to a warrant issued under the Federal Rules of Criminal Procedure or equivalent State warrant. A governmental entity may require the disclosure by a provider of electronic communications services of the contents of an electronic communication that has been in electronic storage in an electronic communications system for more than one hundred and eighty days by the means available under subsection (b) of this section.

"(b) CONTENTS OF ELECTRONIC COMMUNICATIONS IN A REMOTE COMPUTING SERVICE.—(1) A governmental entity may require a provider of remote computing service to disclose the contents of any electronic communication to which this paragraph is made applicable by paragraph (2) of this subsection—

"(A) without required notice to the subscriber or customer, if the governmental entity obtains a warrant issued under the Federal Rules of Criminal Procedure or equivalent State warrant; or

"(B) with prior notice from the governmental entity to the subscriber or customer if the governmental entity—

"(i) uses an administrative subpoena authorized by a Federal or State statute or a Federal or State grand jury subpoena; or

"(ii) obtains a court order for such disclosure under subsection (d) of this section;

except that delayed notice may be given pursuant to section 2705 of this title.

"(2) Paragraph (1) is applicable with respect to any electronic communication that is held or maintained on that service—

"(A) on behalf of, and received by means of electronic transmission from (or created by means of computer processing of communications received by means of electronic transmission from), a subscriber or customer of such remote computing service; and

"(B) solely for the purpose of providing storage or computer processing services to such subscriber or customer, if the provider is not authorized to access the contents of any such communications for purposes of providing any services other than storage or computer processing.

"(c) RECORDS CONCERNING ELECTRONIC COMMUNICATION SERVICE OR REMOTE COMPUTING SERVICE.—(1)(A) Except as provided in subparagraph (B), a provider of electronic communication service or remote computing service may disclose a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by subsection (a) or (b) of this section) to any person other than a governmental entity.

"(B) A provider of electronic communication service or remote computing service shall disclose a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by subsection (a) or (b) of this section) to a governmental entity only when the governmental entity—

"(i) uses an administrative subpoena authorized by a Federal or State statute, or a Federal or State grand jury subpoena;

"(ii) obtains a warrant issued under the Federal Rules of Criminal Procedure or equivalent State warrant;

"(iii) obtains a court order for such disclosure under subsection (d) of this section; or

"(iv) has the consent of the subscriber or customer to such disclosure.

"(2) A governmental entity receiving records or information under this subsection is not required to provide notice to a subscriber or customer.

"(d) REQUIREMENTS FOR COURT ORDER.—A court order for disclosure under subsection (b) or (c) of this section shall issue only if the governmental entity shows that there is reason to believe the contents of a wire or electronic communication, or the records or other information sought, are relevant to a legitimate law enforcement inquiry. In the case of a State governmental authority, such a court order shall not issue if prohibited by the law of such State. A court issuing an order pursuant to this section, on a motion made promptly by the service provider, may quash or modify such order, if the information or records requested are unusually voluminous in nature or compliance with such order otherwise would cause an undue burden on such provider.

"(e) NO CAUSE OF ACTION AGAINST A PROVIDER DISCLOSING INFORMATION UNDER THIS CHAPTER.—No cause of action shall lie in any court against any provider of wire or electronic communication service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order, warrant, subpoena, or certification under this chapter.

"§ 2704. Backup preservation

"(a) BACKUP PRESERVATION.—(1) A governmental entity acting under section 2703(b)(2) may include in its subpoena or court order a requirement that the service provider to whom the request is directed create a backup copy of the contents of the electronic communications sought in order to preserve those communications. Without notifying the subscriber or customer of such subpoena or court order, such service provider shall create such backup copy as soon as practicable consistent with its regular business practices and shall confirm to the governmental entity that such backup copy has been made. Such backup copy shall be created within two business days after receipt by the service provider of the subpoena or court order.

"(2) Notice to the subscriber or customer shall be made by the governmental entity within three days after receipt of such confirmation, unless such notice is delayed pursuant to section 2705(a).

"(3) The service provider shall not destroy such backup copy until the later of—

"(A) the delivery of the information; or

"(B) the resolution of any proceedings (including appeals of any proceeding) concerning the government's subpoena or court order.

"(4) The service provider shall release such backup copy to the requesting governmental entity no sooner than fourteen days after the governmental entity's notice to the subscriber or customer if such service provider—

"(A) has not received notice from the subscriber or customer that the subscriber or customer has challenged the governmental entity's request; and

"(B) has not initiated proceedings to challenge the request of the governmental entity.

"(5) A governmental entity may seek to require the creation of a backup copy under subsection (a)(1) of this section if in its sole discretion such entity determines that there is reason to believe that notification under section 2703 of this title of the existence of the subpoena or court order may result in destruction of or tampering with evidence. This determination is not subject to challenge by the

of such challenge to the service provider. A motion to vacate a court order shall be filed in the court which issued such order. A motion to quash a subpoena shall be filed in the appropriate United States district court or State court. Such motion or application shall contain an affidavit or sworn statement—

"(A) stating that the applicant is a customer or subscriber to the service from which the contents of electronic communications maintained for him have been sought; and

"(B) stating the applicant's reasons for believing that the records sought are not relevant to a legitimate law enforcement inquiry or that there has not been substantial compliance with the provisions of this chapter in some other respect.

"(2) Service shall be made under this section upon a governmental entity by delivering or mailing by registered or certified mail a copy of the papers to the person, office, or department specified in the notice which the customer has received pursuant to this chapter. For the purposes of this section, the term 'delivery' has the meaning given that term in the Federal Rules of Civil Procedure.

"(3) If the court finds that the customer has complied with paragraphs (1) and (2) of this subsection, the court shall order the governmental entity to file a sworn response, which may be filed in camera if the governmental entity includes in its response the reasons which make in camera review appropriate. If the court is unable to determine the motion or application on the basis of the parties' initial allegations and response, the court may conduct such additional proceedings as it deems appropriate. All such proceedings shall be completed and the motion or application decided as soon as practicable after the filing of the governmental entity's response.

"(4) If the court finds that the applicant is not the subscriber or customer for whom the communications sought by the governmental entity are maintained, or that there is a reason to believe that the law enforcement inquiry is legitimate and that the communications sought are relevant to that inquiry, it shall deny the motion or application and order such process enforced. If the court finds that the applicant is the subscriber or customer for whom the communications sought by the governmental entity are maintained, and that there is not a reason to believe that the communications sought are relevant to a legitimate law enforcement inquiry, or that there has not been substantial compliance with the provisions of this chapter, it shall order the process quashed.

"(5) A court order denying a motion or application under this section shall not be deemed a final order and no interlocutory appeal may be taken therefrom by the customer.

"§ 2705. Delayed notice

"(a) DELAY OF NOTIFICATION.—(1) A governmental entity acting under section 2703(b) of this title may—

"(A) where a court order is sought, include in the application a request, which the court shall grant, for an order delaying the notification required under section 2703(b) of this title for a period not to exceed ninety days, if the court determines that there is reason to believe that notification of the existence of the court order may have an adverse result described in paragraph (2) of this subsection; or

"(B) where an administrative subpoena authorized by a Federal or State statute or a Federal or State grand jury subpoena is obtained, delay the notification required under section 2703(b) of this title for a period not to exceed ninety days upon the execution of a written certification of a supervisory official that there is reason to believe that notification of the existence of the subpoena may have an adverse result described in paragraph (2) of this subsection.

"(2) An adverse result for the purposes of paragraph (1) of this subsection is—

"(A) endangering the life or physical safety of an individual;

"(B) flight from prosecution;

"(C) destruction of or tampering with evidence;

"(D) intimidation of potential witnesses; or

"(E) otherwise seriously jeopardizing an investigation or unduly delaying a trial.

"(3) The governmental entity shall maintain a true copy of certification under paragraph (1)(B).

"(4) Extensions of the delay of notification provided in section 2703 of up to ninety days each may be granted by the court upon application, or by certification by a governmental entity, but only in accordance with subsection (b) of this section.

"(5) Upon expiration of the period of delay of notification under paragraph (1) or (4) of this subsection, the governmental entity shall serve upon, or deliver by registered or first-class mail to, the customer or subscriber a copy of the process or request together with notice that—

"(A) states with reasonable specificity the nature of the law enforcement inquiry; and

"(B) informs such customer or subscriber—

"(i) that information maintained for such customer or subscriber by the service provider named in such process or request was supplied to or requested by that governmental authority and the date on which the supplying or request took place;

"(ii) that notification of such customer or subscriber was delayed;

"(iii) what governmental entity or court made the certification or determination pursuant to which that delay was made; and

"(iv) which provision of this chapter allowed such delay.

"(6) As used in this subsection, the term 'supervisory official' means the investigative agent in charge or assistant investigative agent in charge or an equivalent of an investigating agency's headquarters or regional office, or the chief prosecuting attorney or the first assistant prosecuting attorney or an equivalent of a prosecuting attorney's headquarters or regional office.

"(b) PRECLUSION OF NOTICE TO SUBJECT OF GOVERNMENTAL ACCESS.—A governmental entity acting under section 2703, when it is not required to notify the subscriber or customer under section 2703(b)(1), or to the extent that it may delay such notice pursuant to subsection (a) of this section, may apply to a court for an order commanding a provider of electronic communications service or remote computing service to whom a warrant, subpoena, or court order is directed, for such period as the court deems appropriate, not to notify any other person of the existence of the warrant, subpoena, or court order. The court shall enter such an order if it determines that there is reason to believe that notification of the existence of the warrant, subpoena, or court order will result in—

"(1) endangering the life or physical safety of an individual;

"(2) flight from prosecution;

"(3) destruction of or tampering with evidence;

"(4) intimidation of potential witnesses; or

"(5) otherwise seriously jeopardizing an investigation or unduly delaying a trial.

"§ 2706. Cost reimbursement

"(a) PAYMENT.—Except as otherwise provided in subsection (c), a governmental entity obtaining the contents of communications, records, or other information under section 2702, 2703, or 2704 of this title shall pay to the person or entity assembling or providing such information a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching for, assembling, reproducing, or otherwise providing such information. Such reimbursable costs shall include any costs due to necessary disruption of normal operations of any electronic communication service or remote computing service in which such information may be stored.

"(b) AMOUNT.—The amount of the fee provided by subsection (a) shall be as mutually agreed by the governmental entity and the person or entity providing the information, or, in the absence of agreement, shall be as determined by the court which issued the order for production of such information (or the court before which a criminal prosecution relating to such information would be brought, if no court order was issued for production of the information).

"(c) The requirement of subsection (a) of this section does not apply with respect to records or other information maintained by a communications common carrier that relate to telephone toll records and telephone listings obtained under section 2703 of this title. The court may, however, order a payment as described in subsection (a) if the court determines the information required is unusually voluminous in nature or otherwise caused an undue burden on the provider.

"§ 2707. Civil action

"(a) CAUSE OF ACTION.—Except as provided in section 2703(e), any provider of electronic communication service, subscriber, or customer aggrieved by any violation of this chapter in which the conduct constituting the violation is engaged in with a knowing or intentional state of mind may, in a civil action, recover from the person or entity which engaged in that violation such relief as may be appropriate.

"(b) RELIEF.—In a civil action under this section, appropriate relief includes—

"(1) such preliminary and other equitable or declaratory relief as may be appropriate;

"(2) damages under subsection (c); and

"(3) a reasonable attorney's fee and other litigation costs reasonably incurred.

"(c) DAMAGES.—The court may assess as damages in a civil action under this section the sum of the actual damages suffered by the plaintiff and any profits made by the violator as a result of the violation, but in no case shall a person entitled to recover receive less than the sum of $1,000.

"(d) DEFENSE.—A good faith reliance on—

"(1) a court warrant or order, a grand jury subpoena, a legislative authorization, or a statutory authorization;

"(2) a request of an investigative or law enforcement officer under section 2518(7) of this title; or

"(3) a good faith determination that section 2511(3) of this title permitted the conduct complained of;

is a complete defense to any civil or criminal action brought under this chapter or any other law.

"(e) LIMITATION.—A civil action under this section may not be commenced later than two years after the date upon which the claimant first discovered or had a reasonable opportunity to discover the violation.

"§ 2708. Exclusivity of remedies

"The remedies and sanctions described in this chapter are the

"§ 2709. Counterintelligence access to telephone toll and transactional records

"(a) DUTY TO PROVIDE.—A wire or electronic communication service provider shall comply with a request for subscriber information and toll billing records information, or electronic communication transactional records in its custody or possession made by the Director of the Federal Bureau of Investigation under subsection (b) of this section.

"(b) REQUIRED CERTIFICATION.—The Director of the Federal Bureau of Investigation (or an individual within the Federal Bureau of Investigation designated for this purpose by the Director) may request any such information and records if the Director (or the Director's designee) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(1) the information sought is relevant to an authorized foreign counterintelligence investigation; and

"(2) there are specific and articulable facts giving reason to believe that the person or entity to whom the information sought pertains is a foreign power or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

"(c) PROHIBITION OF CERTAIN DISCLOSURE.—No wire or electronic communication service provider, or officer, employee, or agent thereof, shall disclose to any person that the Federal Bureau of Investigation has sought or obtained access to information or records under this section.

"(d) DISSEMINATION BY BUREAU.—The Federal Bureau of Investigation may disseminate information and records obtained under this section only as provided in guidelines approved by the Attorney General for foreign intelligence collection and foreign counterintelligence investigations conducted by the Federal Bureau of Investigation, and, with respect to dissemination to an agency of the United States, only if such information is clearly relevant to the authorized responsibilities of such agency.

"(e) REQUIREMENT THAT CERTAIN CONGRESSIONAL BODIES BE INFORMED.—On a semiannual basis the Director of the Federal Bureau of Investigation shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all requests made under subsection (b) of this section.

"§ 2710. Definitions for chapter

"As used in this chapter—

"(1) the terms defined in section 2510 of this title have, respectively, the definitions given such terms in that section; and

"(2) the term 'remote computing service' means the provision to the public of computer storage or processing services by means of an electronic communications system.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by adding at the end the following:

"121. Stored Wire and Electronic Communications and Transactional Records Access ..... 2701".

SEC. 202. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect ninety days after the date of the enactment of this Act and shall, in the case of conduct pursuant to a court order or extension, apply only with respect to court orders or extensions made after this title takes effect.

TITLE III—PEN REGISTERS AND TRAP AND TRACE DEVICES

SEC. 301. TITLE 18 AMENDMENT.

(a) IN GENERAL.—Title 18 of the United States Code is amended by inserting after chapter 205 the following new chapter:

"CHAPTER 206—PEN REGISTERS AND TRAP AND TRACE DEVICES

"Sec.
"3121. General prohibition on pen register and trap and trace device use; exception.
"3122. Application for an order for a pen register or a trap and trace device.
"3123. Issuance of an order for a pen register or a trap or trace device.
"3124. Assistance in installation and use of a pen register or a trap and trace device.
"3125. Reports concerning pen registers and trap and trace devices.
"3126. Definitions for chapter.

"§ 3121. General prohibition on pen register and trap and trace device use; exception

"(a) IN GENERAL.—Except as provided in this section, no person may install or use a pen register or a trap and trace device without first obtaining a court order under section 3123 of this title or under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

"(b) EXCEPTION.—The prohibition of subsection (a) does not apply

users of that service from abuse of service or unlawful u
service; or

"(2) to record the fact that a wire or electronic communic
was initiated or completed in order to protect such prov
another provider furnishing service toward the completi
the wire communication, or a user of that service, from fra
lent, unlawful or abusive use of service; or (3) where the cor
of the user of that service has been obtained.

"(c) PENALTY.—Whoever knowingly violates subsection (a) sha
fined under this title or imprisoned not more than one year, or

"§ 3122. Application for an order for a pen register or a trap
trace device

"(a) APPLICATION.—(1) An attorney for the Government may
application for an order or an extension of an order under se
3123 of this title authorizing or approving the installation and u
a pen register or a trap and trace device under this chapte
writing under oath or equivalent affirmation, to a court of
petent jurisdiction.

"(2) Unless prohibited by State law, a State investigative or
enforcement officer may make application for an order or an e
sion of an order under section 3123 of this title authorizin
approving the installation and use of a pen register or a trap
trace device under this chapter, in writing under oath or equiv
affirmation, to a court of competent jurisdiction of such S

"(b) CONTENTS OF APPLICATION.—An application under subse
(a) of this section shall include—

"(1) the identity of the attorney for the Government o
State law enforcement or investigative officer making th
plication and the identity of the law enforcement ag
conducting the investigation; and

"(2) a certification by the applicant that the inform
likely to be obtained is relevant to an ongoing criminal i
tigation being conducted by that agency.

"§ 3123. Issuance of an order for a pen register or a trap and
device

"(a) IN GENERAL.—Upon an application made under section
of this title, the court shall enter an ex parte order authorizin
installation and use of a pen register or a trap and trace d
within the jurisdiction of the court if the court finds that
attorney for the Government or the State law enforcemen
investigative officer has certified to the court that the inform
likely to be obtained by such installation and use is relevant t
ongoing criminal investigation.

"(b) CONTENTS OF ORDER.—An order issued under this secti

"(1) shall specify—

"(A) the identity, if known, of the person to who
leased or in whose name is listed the telephone lin
which the pen register or trap and trace device is t
attached;

"(B) the identity, if known, of the person who is
subject of the criminal investigation;

"(C) the number and, if known, physical location o
telephone line to which the pen register or trap and t
device is to be attached and, in the case of a trap and t
device, the geographic limits of the trap and trace o
and

"(D) a statement of the offense to which the informa
likely to be obtained by the pen register or trap and t
device relates; and

"(2) shall direct, upon the request of the applicant, the
nishing of information, facilities, and technical assistance
essary to accomplish the installation of the pen register or
and trace device under section 3124 of this title.

"(c) TIME PERIOD AND EXTENSIONS.—(1) An order issued under
section shall authorize the installation and use of a pen register
trap and trace device for a period not to exceed sixty days.

"(2) Extensions of such an order may be granted, but only upo
application for an order under section 3122 of this title and upor
judicial finding required by subsection (a) of this section. The pe
of extension shall be for a period not to exceed sixty days.

"(d) NONDISCLOSURE OF EXISTENCE OF PEN REGISTER OR A TRAP
TRACE DEVICE.—An order authorizing or approving the installa
and use of a pen register or a trap and trace device shall d
that—

"(1) the order be sealed until otherwise ordered by the c
and

"(2) the person owning or leasing the line to which the
register or a trap and trace device is attached, or who has
ordered by the court to provide assistance to the applicant
disclose the existence of the pen register or trap and t
device or the existence of the investigation to the l
subscriber, or to any other person, unless or until other
ordered by the court.

"§ 3124. Assistance in installation and use of a pen register
trap and trace device

"(a) PEN REGISTERS.—Upon the request of an attorney for

essary to accomplish the installation of the pen register unobtrusively and with a minimum of interference with the service that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if such assistance is directed by a court order as provided in section 3123(b)(2) of this title.

"(b) TRAP AND TRACE DEVICE.—Upon the request of an attorney for the Government or an officer of a law enforcement agency authorized to receive the results of a trap and trace device under this chapter, a provider of a wire or electronic communication service, landlord, custodian, or other person shall install such device forthwith on the appropriate line and shall furnish such investigative or law enforcement officer all additional information, facilities and technical assistance including installation and operation of the device unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if such installation and assistance is directed by a court order as provided in section 3123(b)(2) of this title. Unless otherwise ordered by the court, the results of the trap and trace device shall be furnished to the officer of a law enforcement agency, designated in the court, at reasonable intervals during regular business hours for the duration of the order.

"(c) COMPENSATION.—A provider of a wire or electronic communication service, landlord, custodian, or other person who furnishes facilities or technical assistance pursuant to this section shall be reasonably compensated for such reasonable expenses incurred in providing such facilities and assistance.

"(d) NO CAUSE OF ACTION AGAINST A PROVIDER DISCLOSING INFORMATION UNDER THIS CHAPTER.—No cause of action shall lie in any court against any provider of a wire or electronic communication service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order under this chapter.

"(e) DEFENSE.—A good faith reliance on a court order, a legislative authorization, or a statutory authorization is a complete defense against any civil or criminal action brought under this chapter or any other law.

"§ 3125. Reports concerning pen registers and trap and trace devices

"The Attorney General shall annually report to Congress on the number of pen register orders and orders for trap and trace devices applied for by law enforcement agencies of the Department of Justice.

"§ 3126. Definitions for chapter

"As used in this chapter—

"(1) the terms 'wire communication', 'electronic communication', and 'electronic communication service' have the meanings set forth for such terms in section 2510 of this title;

"(2) the term 'court of competent jurisdiction' means—

"(A) a district court of the United States (including a magistrate of such a court) or a United States Court of Appeals; or

"(B) a court of general criminal jurisdiction of a State authorized by the law of that State to enter orders authorizing the use of a pen register or a trap and trace device;

"(3) the term 'pen register' means a device which records or decodes electronic or other impulses which identify the numbers dialed or otherwise transmitted on the telephone line to which such device is attached, but such term does not include any device used by a provider or customer of a wire or electronic communication service for billing, or recording as an incident to billing, for communications services provided by such provider or any device used by a provider or customer of a wire communication service for cost accounting or other like purposes in the ordinary course of its business;

"(4) the term 'trap and trace device' means a device which captures the incoming electronic or other impulses which identify the originating number of an instrument or device from which a wire or electronic communication was transmitted;

"(5) the term 'attorney for the Government' has the meaning given such term for the purposes of the Federal Rules of Criminal Procedure; and

"(6) the term 'State' means a State, the District of Columbia, Puerto Rico, and any other possession or territory of the United States.".

(b) CLERICAL AMENDMENT.—The table of chapters for part II of title 18 of the United States Code is amended by inserting after the item relating to chapter 205 the following new item:

"206. Pen Registers and Trap and Trace Devices ..... 3121".

SEC. 302. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect ninety days after the date of the enactment of this Act and shall, in the case of conduct pursuant to a court order or extension, apply only with respect to court orders or extensions made after this title takes effect.

(b) SPECIAL RULE FOR STATE AUTHORIZATIONS OF INTERCEPTIONS.—Any pen register or trap and trace device order or installation which would be valid and lawful without regard to the amendments made by this title shall be valid and lawful notwithstanding such amendments if such order or installation occurs during the period beginning on the date such amendments take effect and ending on the earlier of—

(1) the day before the date of the taking effect of changes in State law required in order to make orders or installations under Federal law as amended by this title; or

(2) the date two years after the date of the enactment of this Act.

SEC. 303. INTERFERENCE WITH THE OPERATION OF A SATELLITE.

(a) OFFENSE.—Chapter 65 of title 18, United States Code, is amended by inserting at the end the following:

"§ 1367. Interference with the operation of a satellite

"(a) Whoever, without the authority of the satellite operator, intentionally or maliciously interferes with the authorized operation of a communications or weather satellite or obstructs or hinders any satellite transmission shall be fined in accordance with this title or imprisoned not more than ten years or both.

"(b) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency or of an intelligence agency of the United States."

(b) CONFORMING AMENDMENT.—The table of sections for chapter 65 of title 18, United States Code, is amended by adding at the end the following new item:

"1367. Interference with the operation of a satellite.".

Speaker of the House of Representatives.

Vice President of the United States and President of the Senate.

of a joint resolution within thirty days after submission of the revised filing, then the Congress may, if it deems it is in the best interests of the participants, take any one or more of the following actions:

"(i) Retain an independent qualified public accountant on behalf of the participants to perform an audit.

"(ii) Retain an enrolled actuary on behalf of the participants to prepare an actuarial statement.

The Board and the Mayor shall permit any accountant or actuary so retained to inspect whatever books and records of the Fund and the retirement program are necessary for performing such audit or preparing such statement.

"(C) If a revised filing is rejected under subparagraph (B) or if a filing required under this title is not made by the date specified, no funds appropriated for the Fund with respect to which such filing was required as part of the Federal payment may be paid to the Fund until such time as an acceptable filing is made. For purposes of this subparagraph, a filing is unacceptable if, within thirty days of its submission, the Congress enacts into law a joint resolution disapproving such filing.".

(n) The provisions of this section shall be effective hereafter without limitation as to fiscal year, notwithstanding any other provision of this joint resolution.

TITLE II

This title may be cited as the "Comprehensive Crime Control Act of 1984."

SEC. 201. Section 102 of this joint resolution (H.J. Res. 648) shall not apply with respect to the provisions enacted by this title.

CHAPTER I—BAIL

SEC. 202. This chapter may be cited as the "Bail Reform Act of 1984".

SEC. 203. (a) Sections 3141 through 3151 of title 18, United States Code, are repealed and the following new sections are inserted in lieu thereof:

"§ 3141. Release and detention authority generally

"(a) PENDING TRIAL.—A judicial officer who is authorized to order the arrest of a person pursuant to section 3041 of this title shall order that an arrested person who is brought before him be released or detained, pending judicial proceedings, pursuant to the provisions of this chapter.

"(b) PENDING SENTENCE OR APPEAL.—A judicial officer of a court of original jurisdiction over an offense, or a judicial officer of a Federal appellate court, shall order that, pending imposition or execution of sentence, or pending appeal of conviction or sentence, a person be released or detained pursuant to the provisions of this chapter.

"§ 3142. Release or detention of a defendant pending trial

"(a) IN GENERAL.—Upon the appearance before a judicial officer of a person charged with an offense, the judicial officer shall issue an order that, pending trial, the person be—

"(1) released on his personal recognizance or upon execution of an unsecured appearance bond, pursuant to the provisions of subsection (b);

"(2) released on a condition or combination of conditions pursuant to the provisions of subsection (c);

"(3) temporarily detained to permit revocation of conditional release, deportation, or exclusion pursuant to the provisions of subsection (d); or

"(4) detained pursuant to the provisions of subsection (e).

"(b) RELEASE ON PERSONAL RECOGNIZANCE OR UNSECURED APPEARANCE BOND.—The judicial officer shall order the pretrial release of the person on his personal recognizance, or upon execution of an unsecured appearance bond in an amount specified by the court, subject to the condition that the person not commit a Federal, State, or local crime during the period of his release, unless the judicial officer determines that such release will not reasonably assure the appearance of the person as required or will endanger the safety of any other person or the community.

"(c) RELEASE ON CONDITIONS.—If the judicial officer determines that the release described in subsection (b) will not reasonably assure the appearance of the person as required or will endanger the safety of any other person or the community, he shall order the pretrial release of the person—

"(1) subject to the condition that the person not commit a Federal, State, or local crime during the period of release; and

"(2) subject to the least restrictive further condition, or combination of conditions, that he determines will reasonably assure the appearance of the person as required and the safety of any other person and the community, which may include the condition that the person—

"(A) remain in the custody of a designated person, who agrees to supervise him and to report any violation of a release condition to the court, if the designated person is able reasonably to assure the judicial officer that the person will appear as required and will not pose a danger to the safety of any other person or the community;

"(B) maintain employment, or, if unemployed, actively seek employment;

"(C) maintain or commence an educational program;

"(D) abide by specified restrictions on his personal associations, place of abode, or travel;

"(E) avoid all contact with an alleged victim of the crime and with a potential witness who may testify concerning the offense;

"(F) report on a regular basis to a designated law enforcement agency, pretrial services agency, or other agency;

"(G) comply with a specified curfew;

"(H) refrain from possessing a firearm, destructive device, or other dangerous weapon;

"(I) refrain from excessive use of alcohol, or any use of a narcotic drug or other controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802), without a prescription by a licensed medical practitioner;

"(J) undergo available medical or psychiatric treatment, including treatment for drug or alcohol dependency, and remain in a specified institution if required for that purpose;

"(K) execute an agreement to forfeit upon failing to appear as required, such designated property, including money, as is reasonably necessary to assure the appearance of the person as required, and post with the court such indicia of ownership of the property or such percentage of the money as the judicial officer may specify;

"(L) execute a bail bond with solvent sureties in such amount as is reasonably necessary to assure the appearance of the person as required;

"(M) return to custody for specified hours following release for employment, schooling, or other limited purposes; and

"(N) satisfy any other condition that is reasonably necessary to assure the appearance of the person as required and to assure the safety of any other person and the community.

The judicial officer may not impose a financial condition that results in the pretrial detention of the person. The judicial officer may at any time amend his order to impose additional or different conditions of release.

"(d) TEMPORARY DETENTION TO PERMIT REVOCATION OF CONDITIONAL RELEASE, DEPORTATION, OR EXCLUSION.—If the judicial officer determines that—

"(1) the person—

"(A) is, and was at the time the offense was committed, on—

"(i) release pending trial for a felony under Federal, State, or local law;

"(ii) release pending imposition or execution of sentence, appeal of sentence or conviction, or completion of sentence, for any offense under Federal, State, or local law; or

"(iii) probation or parole for any offense under Federal, State, or local law; or

"(B) is not a citizen of the United States or lawfully admitted for permanent residence, as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)); and

"(2) the person may flee or pose a danger to any other person or the community;

he shall order the detention of the person, for a period of not more than ten days, excluding Saturdays, Sundays, and holidays, and direct the attorney for the Government to notify the appropriate court, probation or parole official, or State or local law enforcement official, or the appropriate official of the Immigration and Naturalization Service. If the official fails or declines to take the person into custody during that period, the person shall be treated in accordance with the other provisions of this section, notwithstanding the applicability of other provisions of law governing release pending trial or deportation or exclusion proceedings. If temporary detention is sought under paragraph (1)(B), the person has the burden of proving to the court that he is a citizen of the United States or is lawfully admitted for permanent residence.

"(e) DETENTION.—If, after a hearing pursuant to the provisions of subsection (f), the judicial officer finds that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the

community, he shall order the detention of the person prior to trial. In a case described in (f)(1), a rebuttable presumption arises that no condition or combination of conditions will reasonably assure the safety of any other person and the community if the judge finds that—

"(1) the person has been convicted of a Federal offense that is described in subsection (f)(1), or of a State or local offense that would have been an offense described in subsection (f)(1) if a circumstance giving rise to Federal jurisdiction had existed;

"(2) the offense described in paragraph (1) was committed while the person was on release pending trial for a Federal, State, or local offense; and

"(3) a period of not more than five years has elapsed since the date of conviction, or the release of the person from imprisonment, for the offense described in paragraph (1), whichever is later.

Subject to rebuttal by the person, it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of the community if the judicial officer finds that there is probable cause to believe that the person committed an offense for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), section 1 of the Act of September 15, 1980 (21 U.S.C. 955a), or an offense under section 924(c) of title 18 of the United States Code.

"(f) DETENTION HEARING.—The judicial officer shall hold a hearing to determine whether any condition or combination of conditions set forth in subsection (c) will reasonably assure the appearance of the person as required and the safety of any other person and the community in a case—

"(1) upon motion of the attorney for the Government, that involves—

"(A) a crime of violence;

"(B) an offense for which the maximum sentence is life imprisonment or death;

"(C) an offense for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or section 1 of the Act of September 15, 1980 (21 U.S.C. 955a); or

"(D) any felony committed after the person had been convicted of two or more prior offenses described in subparagraphs (A) through (C), or two or more State or local offenses that would have been offenses described in subparagraphs (A) through (C) if a circumstance giving rise to Federal jurisdiction had existed; or

"(2) Upon motion of the attorney for the Government or upon the judicial officer's own motion, that involves—

"(A) a serious risk that the person will flee;

"(B) a serious risk that the person will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate, a prospective witness or juror.

The hearing shall be held immediately upon the person's first appearance before the judicial officer unless that person, or the

attorney for the Government, seeks a continuance. Except for good cause, a continuance on motion of the person may not exceed five days, and a continuance on motion of the attorney for the Government may not exceed three days. During a continuance, the person shall be detained, and the judicial officer, on motion of the attorney for the Government or on his own motion, may order that, while in custody, a person who appears to be a narcotics addict receive a medical examination to determine whether he is an addict. At the hearing, the person has the right to be represented by counsel, and, if he is financially unable to obtain adequate representation, to have counsel appointed for him. The person shall be afforded an opportunity to testify, to present witnesses on his own behalf, to cross-examine witnesses who appear at the hearing, and to present information by proffer or otherwise. The rules concerning admissibility of evidence in criminal trials do not apply to the presentation and consideration of information at the hearing. The facts the judicial officer uses to support a finding pursuant to subsection (e) that no condition or combination of conditions will reasonably assure the safety of any other person and the community shall be supported by clear and convincing evidence. The person may be detained pending completion of the hearing.

"(g) FACTORS TO BE CONSIDERED.—The judicial officer shall, in determining whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of any other person and the community, take into account the available information concerning—

"(1) the nature and circumstances of the offense charged, including whether the offense is a crime of violence or involves a narcotic drug;

"(2) the weight of the evidence against the person;

"(3) the history and characteristics of the person, including—

"(A) his character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings; and

"(B) whether, at the time of the current offense or arrest, he was on probation, on parole, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under Federal, State, or local law; and

"(4) the nature and seriousness of the danger to any person or the community that would be posed by the person's release. In considering the conditions of release described in subsection (c)(2)(K) or (c)(2)(L), the judicial officer may upon his own motion, or shall upon the motion of the Government, conduct an inquiry into the source of the property to be designated for potential forfeiture or offered as collateral to secure a bond, and shall decline to accept the designation, or the use as collateral, of property that, because of its source, will not reasonably assure the appearance of the person as required.

"(h) CONTENTS OF RELEASE ORDER.—In a release order issued pursuant to the provisions of subsection (b) or (c), the judicial officer shall—

"(1) include a written statement that sets forth all the conditions to which the release is subject, in a manner sufficiently clear and specific to serve as a guide for the person's conduct; and

"(2) advise the person of—

"(A) the penalties for violating a condition of release, including the penalties for committing an offense while on pretrial release;

"(B) the consequences of violating a condition of release, including the immediate issuance of a warrant for the person's arrest; and

"(C) the provisions of sections 1503 of this title (relating to intimidation of witnesses, jurors, and officers of the court), 1510 (relating to obstruction of criminal investigations), 1512 (tampering with a witness, victim, or an informant), and 1513 (retaliating against a witness, victim, or an informant).

"(i) CONTENTS OF DETENTION ORDER.—In a detention order issued pursuant to the provisions of subsection (e), the judicial officer shall—

"(1) include written findings of fact and a written statement of the reasons for the detention;

"(2) direct that the person be committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal;

"(3) direct that the person be afforded reasonable opportunity for private consultation with his counsel; and

"(4) direct that, on order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility in which the person is confined deliver the person to a United States marshal for the purpose of an appearance in connection with a court proceeding.

The judicial officer may, by subsequent order, permit the temporary release of the person, in the custody of a United States marshal or another appropriate person, to the extent that the judicial officer determines such release to be necessary for preparation of the person's defense or for another compelling reason.

"(j) PRESUMPTION OF INNOCENCE.—Nothing in this section shall be construed as modifying or limiting the presumption of innocence.

"§ 3143. Release or detention of a defendant pending sentence or appeal

"(a) RELEASE OR DETENTION PENDING SENTENCE.—The judicial officer shall order that a person who has been found guilty of an offense and who is waiting imposition or execution of sentence, be detained, unless the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released pursuant to section 3142 (b) or (c). If the judicial officer makes such a finding, he shall order the release of the person in accordance with the provisions of section 3142 (b) or (c).

"(b) RELEASE OR DETENTION PENDING APPEAL BY THE DEFENDANT.—The judicial officer shall order that a person who has been found guilty of an offense and sentenced to a term of imprisonment, and who has filed an appeal or a petition for a writ of certiorari, be detained, unless the judicial officer finds—

"(1) by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released pursuant to section 3142 (b) or (c); and

"(2) that the appeal is not for purpose of delay and raises a substantial question of law or fact likely to result in reversal or an order for a new trial.

If the judicial officer makes such findings, he shall order the release of the person in accordance with the provisions of section 3142 (b) or (c).

"(c) RELEASE OR DETENTION PENDING APPEAL BY THE GOVERNMENT.—The judicial officer shall treat a defendant in a case in which an appeal has been taken by the United States pursuant to the provisions of section 3731 of this title, in accordance with the provisions of section 3142, unless the defendant is otherwise subject to a release or detention order.

"§ 3144. Release or detention of a material witness

"If it appears from an affidavit filed by a party that the testimony of a person is material in a criminal proceeding, and if it is shown that it may become impracticable to secure the presence of the person by subpena, a judicial officer may order the arrest of the person and treat the person in accordance with the provisions of section 3142. No material witness may be detained because of inability to comply with any condition of release if the testimony of such witness can adequately be secured by deposition, and if further detention is not necessary to prevent a failure of justice. Release of a material witness may be delayed for a reasonable period of time until the deposition of the witness can be taken pursuant to the Federal Rules of Criminal Procedure.

"§ 3145. Review and appeal of a release or detention order

"(a) REVIEW OF A RELEASE ORDER.—If a person is ordered released by a magistrate, or by a person other than a judge of a court having original jurisdiction over the offense and other than a Federal appellate court—

"(1) the attorney for the Government may file, with the court having original jurisdiction over the offense, a motion for revocation of the order or amendment of the conditions of release; and

"(2) the person may file, with the court having original jurisdiction over the offense, a motion for amendment of the conditions of release.

The motion shall be determined promptly.

"(b) REVIEW OF A DETENTION ORDER.—If a person is ordered detained by a magistrate, or by a person other than a judge of a court having original jurisdiction over the offense and other than a Federal appellate court, the person may file, with the court having original jurisdiction over the offense, a motion for revocation or amendment of the order. The motion shall be determined promptly.

"(c) APPEAL FROM A RELEASE OR DETENTION ORDER.—An appeal from a release or detention order, or from a decision denying revocation or amendment of such an order, is governed by the provisions of section 1291 of title 28 and section 3731 of this title. The appeal shall be determined promptly.

"§ 3146. Penalty for failure to appear

"(a) OFFENSE.—A person commits an offense if, after having been released pursuant to this chapter—

"(1) he knowingly fails to appear before a court as required by the conditions of his release; or

"(2) he knowingly fails to surrender for service of sentence pursuant to a court order.

"(b) GRADING.—If the person was released—

"(1) in connection with a charge of, or while awaiting sentence, surrender for service of sentence, or appeal or certiorari after conviction, for—

"(A) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more, he shall be fined not more than $25,000 or imprisoned for not more than ten years, or both;

"(B) an offense punishable by imprisonment for a term of five or more years, but less than fifteen years, he shall be fined not more than $10,000 or imprisoned for not more than five years, or both;

"(C) any other felony, he shall be fined not more than $5,000 or imprisoned for not more than two years, or both; or

"(D) a misdemeanor, he shall be fined not more than $2,000 or imprisoned for not more than one year, or both; or

"(2) for appearance as a material witness, he shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

A term of imprisonment imposed pursuant to this section shall be consecutive to the sentence of imprisonment for any other offense.

"(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prosecution under this section that uncontrollable circumstances prevented the person from appearing or surrendering, and that the person did not contribute to the creation of such circumstances in reckless disregard of the requirement that he appear or surrender, and that he appeared or surrendered as soon as such circumstances ceased to exist.

"(d) DECLARATION OF FORFEITURE.—If a person fails to appear before a court as required, and the person executed an appearance bond pursuant to section 3142(b) or is subject to the release condition set forth in section 3142 (c)(2)(K) or (c)(2)(L), the judicial officer may, regardless of whether the person has been charged with an offense under this section, declare any property designated pursuant to that section to be forfeited to the United States.

"§ 3147. Penalty for an offense committed while on release

"A person convicted of an offense committed while released pursuant to this chapter shall be sentenced, in addition to the sentence prescribed for the offense to—

"(1) a term of imprisonment of not less than two years and not more than ten years if the offense is a felony; or

"(2) a term of imprisonment of not less than ninety days and not more than one year if the offense is a misdemeanor.

A term of imprisonment imposed pursuant to this section shall be consecutive to any other sentence of imprisonment.

"§ 3148. Sanctions for violation of a release condition

"(a) AVAILABLE SANCTIONS.—A person who has been released pursuant to the provisions of section 3142, and who has violated a condition of his release, is subject to a revocation of release, an order of detention, and a prosecution for contempt of court.

"(b) REVOCATION OF RELEASE.—The attorney for the Government may initiate a proceeding for revocation of an order of release by

filing a motion with the district court. A judicial officer may issue a warrant for the arrest of a person charged with violating a condition of release, and the person shall be brought before a judicial officer in the district in which his arrest was ordered for a proceeding in accordance with this section. To the extent practicable, a person charged with violating the condition of his release that he not commit a Federal, State, or local crime during the period of release shall be brought before the judicial officer who ordered the release and whose order is alleged to have been violated. The judicial officer shall enter an order of revocation and detention if, after a hearing, the judicial officer—

"(1) finds that there is—

"(A) probable cause to believe that the person has committed a Federal, State, or local crime while on release; or

"(B) clear and convincing evidence that the person has violated any other condition of his release; and

"(2) finds that—

"(A) based on the factors set forth in section 3142(g), there is no condition or combination of conditions of release that will assure that the person will not flee or pose a danger to the safety of any other person or the community; or

"(B) the person is unlikely to abide by any condition or combination of conditions of release.

If there is probable cause to believe that, while on release, the person committed a Federal, State, or local felony, a rebuttable presumption arises that no condition or combination of conditions will assure that the person will not pose a danger to the safety of any other person or the community. If the judicial officer finds that there are conditions of release that will assure that the person will not flee or pose a danger to the safety of any other person or the community, and that the person will abide by such conditions, he shall treat the person in accordance with the provisions of section 3142 and may amend the conditions of release accordingly.

"(c) PROSECUTION FOR CONTEMPT.—The judge may commence a prosecution for contempt, pursuant to the provisions of section 401, if the person has violated a condition of his release.

"§ 3149. Surrender of an offender by a surety

"A person charged with an offense, who is released upon the execution of an appearance bond with a surety, may be arrested by the surety, and if so arrested, shall be delivered promptly to a United States marshal and brought before a judicial officer. The judicial officer shall determine in accordance with the provisions of section 3148(b) whether to revoke the release of the person, and may absolve the surety of responsibility to pay all or part of the bond in accordance with the provisions of Rule 46 of the Federal Rules of Criminal Procedure. The person so committed shall be held in official detention until released pursuant to this chapter or another provision of law.

"§ 3150. Applicability to a case removed from a State court

"The provisions of this chapter apply to a criminal case removed to a Federal court from a State court.".

(b) Section 3154 of title 18, United States Code, is amended—

(1) in subsection (1), by striking out "and recommend appropriate release conditions for each such person" and inserting in lieu thereof "and, where appropriate, include a recommenda-

tion as to whether such individual should be released or detained and, if release is recommended, recommend appropriate conditions of release"; and

(2) in subsection (2), by striking out "section 3146(e) or section 3147" and inserting in lieu thereof "section 3145".

(c) Section 3156(a) of title 18, United States Code, is amended—

(1) by striking out "3146" and inserting in lieu thereof "3141";

(2) in paragraph (1)—

(A) by striking out "bail or otherwise" and inserting in lieu thereof "detain or"; and

(B) by deleting "and" at the end thereof;

(3) in paragraph (2), by striking out the period at the end and inserting in lieu thereof "; and";

(4) by adding after paragraph (2) the following new paragraphs:

"(3) The term 'felony' means an offense punishable by a maximum term of imprisonment of more than one year; and

"(4) The term 'crime of violence' means—

"(A) an offense that has as an element of the offense the use, attempted use, or threatened use of physical force against the person or property of another; or

"(B) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense."; and

(5) in subsection (b)(1), by striking out "bail or otherwise" and inserting in lieu thereof "detain or".

(d) The item relating to chapter 207 in the analysis of part II of title 18, United States Code, is amended to read as follows:

"207. Release and detention pending judicial proceedings..... 3141".

(e)(1) The caption of chapter 207 is amended to read as follows:

"CHAPTER 207—RELEASE AND DETENTION PENDING JUDICIAL PROCEEDINGS".

(2) The section analysis for chapter 207 is amended by striking out the items relating to sections 3141 through 3151 and inserting in lieu thereof the following:

"3141. Release and detention authority generally.
"3142. Release or detention of a defendant pending trial.
"3143. Release or detention of a defendant pending sentence or appeal.
"3144. Release or detention of a material witness.
"3145. Review and appeal of a release or detention order.
"3146. Penalty for failure to appear.
"3147. Penalty for an offense committed while on release.
"3148. Sanctions for violation of a release condition.
"3149. Surrender of an offender by a surety.
"3150. Applicability to a case removed from a State court.".

SEC. 204. Chapter 203 of title 18, United States Code, is amended as follows:

(a) The last sentence of section 3041 is amended by striking out "determining to hold the prisoner for trial" and inserting in lieu thereof "determining, pursuant to the provisions of section 3142 of this title, whether to detain or conditionally release the prisoner prior to trial".

(b) The second paragraph of section 3042 is amended by striking out "imprisoned or admitted to bail" and inserting in lieu thereof

AMERICAN CIVIL LIBERTIES UNION FOUNDATION

THE NATIONAL PRISON PROJECT

MARCH 1, 1987

STATUS REPORT - THE COURTS AND PRISONS

States in which there are existing court decrees, or pending litigation, involving the entire state prison system or the major institutions in the state and which deal with overcrowding and/or the total conditions of confinement; also included are states which have been relieved from prior court orders (does not include jails except for D.C.):

1. Alabama:* The entire state prison system is under court order dealing with total conditions and overcrowding. Pugh v. Locke, 406 F.Supp. 318 (M.D.Ala. 1976), aff'd in substance, Newman v. Alabama, 559 F.2d 283 (5th Cir. 1977), cert. denied, 98 S.Ct. 3057 (1978); Receiver appointed, 466 F.Supp. 628 (M.D.Ala. 1979). The district court entered an order establishing a four person committee to monitor compliance with previous orders (1/13/83). In December 1984, district court relinquished active supervision after agreement of substantial compliance by the parties. A possible application for reopening the case is being examined by the monitor's committee.

2. Alaska:* The entire state prison system is under a consent decree and a court order dealing with overcrowding and total conditions of confinement. Cleary v. Smith, No. 3AN-81-5274 (Superior Court for the State of Alaska, 3rd Jud.Dist. March 3, 1986). There is a stay pending appeal to the Supreme Court of Alaska.

*Asterisks indicate states where the ACLU is involved in the litigation.

3. Arizona:* The state penitentiary is being operated under a series of court orders and consent decrees dealing with overcrowding, classification and other conditions. Orders, August 1977 - 1979, Harris v. Cardwell, C.A. No. 75-185 PHX-CAM (D. Ariz.). A special maximum security unit is operating under a consent decree with an appointed monitor. Black v. Ricketts, C.A. No. 84-111 PHX-CAM, consent decree, December 12, 1985.

4. Arkansas:* The entire state prison system was under court order dealing with total conditions. Finney v. Arkansas Board of Corrections, 505 F.2d 194 (8th Cir. 1974). Special Master appointed, Finney v. Mabry, 458 F.Supp. 720 (E.D.Ark. 1978); on compliance, 546 F.Supp. 628. After a finding of full compliance, the federal court relinquished jurisdiction in August, 1982. A new case challenging conditions and practices was filed in 1985.

5. California:* The state penitentiary at San Quentin is under court order on overcrowding and conditions. Wilson v. Duekmejian, #103454 Superior Court, Marin County. (Aug. 5, 1983). Order includes requirement that a special master be appointed. The segregation units at San Quentin, Folsom, Soledad and Deuel are under court order because of overcrowding and conditions. Touissant v. Rushen, 553 F.Supp. 1365, aff'd in part, 722 F.2d 1490 (9th Cir. 1984). Also see Touissant v. McCarthy, 597 F.Supp. 1388 (N.D.Cal. 1984), entering permanent relief. Later opinion at __ F.2d __, 40 Cr.L. 2066 (9th Cir. 9/30/86). Two units at Soledad (Central and North) have been held unconstitutional but the injunction has been stayed pending appeal. In Re Daily and In Re Rock (Sup.Ct. Monterey). In addition, there is pending litigation at the California Medical Facility, San Luis Obispo and the Women's Prison at Frontera.

6. Colorado:* The state maximum security penitentiary is under court order on total conditions and overcrowding. The prison was declared unconstitutional and ordered to be ultimately closed. Ramos v. Lamm, 485 F.Supp. 122 (D.Col. 1979);

affd in part and remanded, 639 F.2d 559 (10th Cir. 9/25/80) cert. den. 101 S.Ct. 1259 (1981), on remand, 520 F.Supp. 1059 (D. Col. 1981).

7. Connecticut:* The Hartford Correctional Center operated by the state is under court order dealing with overcrowding and some conditions. Lareau v. Manson, 507 F.Supp. 1177 (D. Conn. 1980) affd 651 F.2d 96 (2nd Cir. 1981). The Somers Correctional Center is under a consent decree dealing with overcrowding and some conditions. Letezeio v. Manson, No. H-82-252 (D. Conn. 1984). There is additional pending overcrowding litigation at Somers, Bartkus v. Manson, Civ. No. H80-506, and at the Montville Correctional Center, Foss v, Lopes. Niantic Women's Prison is under a court order. West v. Manson, #H-83-366 (D.Conn. 10/3/84).

8. Delaware: The state penitentiary is under court order dealing primarily with overcrowding and some conditions. Anderson v. Redman, 429 F.Supp. 1105 (D.Del. 1977).

9. Florida: The entire state prison system is under court order dealing with overcrowding. Costello v. Wainwright, 397 F.Supp. 20 (M.D.Fla. 1975), affd 525 F.2d 1239 and 553 F.2d 506 (5th Cir. 1977). See also 489 F.Supp 1100 (M.D. Fla. 1980), settlement on overcrowding approved. A special master has been appointed.

10. Georgia: The state penitentiary at Reidsville is under court order on total conditions and overcrowding. A special master was appointed in June 1979. Guthrie v. Evans, C.A. No. 3068 (S.D. Ga.).

11. Hawaii*: The men's prison (O.C.C.C.) in Honolulu and the women's prison on Oahu are under court order in a totality of conditions suit. Spear v. Ariyoshi, Civ. No. 84-1104 (D. Hawaii). Order entered June 1985 and monitors have been appointed.

12. Illinois:* The state penitentiary at Menard is under court order on total conditions and overcrowding. Lightfoot v. Walker, 486 F.Supp. 504 (S.D.Ill. 2/19/80). The state penitentiary at Pontiac was under a court order enjoining double celling

and dealing with overcrowding. Smith v. Fairman, 548 F.Supp. 186 (C.D. Ill. 1981), rev. 690 F.2d 122 (7th Cir. 1982) (no proof of violence or long periods in cell). Litigation is pending at other institutions.

13. Idaho:* The women's prison is under a consent decree on conditions. Witke v. Crowl, Civ. No. 82-3078 (D. Id.) with an appointed monitor. The men's Idaho Correctional State Institution is under a court order on conditions. Balla v. Idaho State Bd. of Corr., 595 F.Supp. 1558 (D.Id. 1984).

14. Indiana:* The state prison at Pendleton was found unconstitutional on total conditions and overcrowding. French v. Owens, 538 F.Supp. 910 (S.D. Ind. 1982), aff'd in pertinent part, 777 F.2d 1250 (7th Cir. 1985), cert.den. __ U.S. __ (1986). The state penitentiary at Michigan City is under a court order on overcrowding and other conditions. Hendrix v. Faulkner, 535 F.Supp. 435 (W.D. Ind. 1981), aff'd, sub nom Wellman v. Faulkner, 715 F.2d 269 (7th Cir. 1983), cert.den. 104 S.Ct. 3587 (1984).

15. Iowa: The state penitentiary is under court order on overcrowding and a variety of conditions. Watson v. Ray, C.A. No. 78-106-1, 90 F.R.D. 143 (S.D. Ia. 1981).

16. Kansas: The state penitentiary is under a consent decree on total conditions. Arney v. Bennett, No. 77-3132 (D. Kan. 1980).

17. Kentucky:* The state penitentiary and reformatory are under court order by virtue of a consent decree on overcrowding and some conditions. Kendrick v. Carroll, C76-0079 (W.D.Ky.) and Thompson v. Bland (April 1980). 541 F.Supp. 21 (W.D. Ky. 1981) (consent decree entered). On appeal the Court of Appeals affirmed virtually all of the district court's orders. Kendrick v. Bland, __ F.2d __, 35 CrL 2366 (6th Cir. 7/27/84). The women's state prison is under court order on a variety of conditions. Canterino v. Wilson, 546 F.Supp. 174 (W.D. Ky. 1982) and 564 F.Supp. 711 (1983).

18. Louisiana: The state penitentiary is under court order dealing with overcrowding and a variety of conditions. Williams v. Edwards, 547 F.2d 1206 (5th Cir. 1977).

19. Maine:* The state penitentiary was challenged on overcrowding and a variety of conditions. The trial court granted relief only as to restraint cells and otherwise dismissed the complaint. Lovell v. Brennan, 566 F.Supp. 672 (D. Maine 1983), aff'd 728 F.2d 560 (1st Cir. 1984).

20. Maryland:* The two state penitentiaries were declared unconstitutional on overcrowding. Johnson v. Levine, 450 F.Supp. 648 (D.Md. 1978) Nelson v. Collins, 455 F.Supp. 727 (D.Md. 1978), aff'd 588 F.2d 1378 (4th Cir. 1978), on remand F.Supp.___ (D. Md. 1/5/81), rev. and remanded, 659 F.2d 420 (4th Cir. 1981) (en banc). A settlement agreement and consent decree were subsequently entered and new compliance proceedings were commenced in February 1987.

21. Massachusetts: The maximum security unit at the state prison in Walpole is being challenged on total conditions. Blake v. Hall, C.A. 78-3051-T (D.Mass.). A decision for the prison officials was affirmed in part and reversed in part and remanded. 668 F.2d 52 (1st Cir. 1981).

22. Michigan*: The women's prison is under court order, Glover v. Johnson, 478 F.Supp. 1075 (E.D. Mich. 1979); further order entered, 510 F.Supp. 1019 (1981). The entire men's prison system is under court order on overcrowding and other conditions, U.S. v. Michigan, No. G84-63 and is being further challenged in Knop v. Johnson, No. G84-651 (W.D. Mich.). (Trial conducted intermittently since June 1986). The state prison at Jackson is under a consent decree on other conditions. Hadix v. Milliken, C.A. 80-73581 (E.D. Mich. 5/13/85).

23. Mississippi: The entire state prison system is under court order dealing with overcrowding and total conditions. Gates v. Collier, 501 F.2d 1291 (5th Cir. 1974).

24. Missouri:* The state penitentiary is under court order on overcrowding and some conditions. Burks v. Teasdale 603 F.2d 59 (8th Cir. 1979), on remand, 27 Cr.L. 2335 (W.D. Mo. 5/23/80).

25. Nevada:* The state penitentiary is under court order on overcrowding and total conditions. Craig v. Hocker, C.A. No. R-2662 BRT (D.Nev.) (consent decree entered 7/18/80). New addition to state penitentiary under court order on total conditions. Shapley v. O'Callaghan, CVR-77-221-ECR (D.C. Nev.) (consent decree entered July 1983). A monitor has been appointed.

26. New Hampshire:* The state penitentiary is under court order dealing with total conditions and overcrowding. Laaman v. Helgemoe, 437 F.Supp. 269 (D.N.H. 1977).

27. New Mexico:* The state penitentiary is under a court order on overcrowding and total conditions. Duran v. Apodaca, C.A. No. 77-721-C (D.N.Mex.) (consent decree entered 8/1/80). Special Master appointed June 1983. On June 27, 1986, an order was entered enjoining the state from reducing staff which would have resulted in wholesale non-compliance with the court's order. Duran v. Anaya, #77-0721-JB (D.N.M.).

28. New York: In 1984, the state was forced by court order to keep open the Long Island Correctional Facility upon a finding that conditions and overcrowding in other state prisons was unconstitutional. This order was affirmed in the Court of Appeals. Mitchell v. Cuomo, 748 F.2d 804 (2nd Cir. 1984).

29. North Carolina:* A lawsuit was filed in 1978 at Central Prison in Raleigh on overcrowding and conditions and a similar lawsuit is pending involving the women's prison. Batton v. No. Carolina, 80-0143-CRT (E.D.N.C.), see also 501 F.Supp 1173 (E.D. N.C. 1980)(denying motion for summary judgement). In September 1985, a consent judgement was entered covering overcrowding, staff, programming and medical services in the 13 units of the state system's South

Piedmont area. Hubert v. Ward, C-C-80-414-M (W.D.N.C.). A lawsuit covering conditions and crowding has been filed with respect to the Craggy Unit outside of Asheville, N.C. Epps v. Martin, A-C-86-162 (W.D.N.C.)(complaint filed on May 29, 1986). Trial is scheduled for April, 1987.

30. Ohio:* The state prison at Lucasville was under court order on overcrowding. Chapman v. Rhodes, 434 F.Supp. 1007 (S.D.Oh. 1977), aff'd 6/6/80 (6th Cir.), rev'd, 101 S.Ct. 2392 (1981). The state prison at Columbus is under court order resulting from a consent decree on total conditions and overcrowding and is required to be closed in 1985. Stewart v. Rhodes, C.A. No. C-2-78-220 (S.D.Ohio) (12/79). The state prison at Mansfield is being operated under a consent decree on various conditions. Boyd v. Denton, C.A. 78-1054A (N.D.Oh. 6/83).

31. Oklahoma:* The state penitentiary is under court order on total conditions and the entire state prison system is under court order on overcrowding, Battle v. Anderson, 564 F.2d 388 (10th Cir. 1977). The district court's decision to retain jurisdiction to insure continued compliance was upheld, 708 F.2d 1523 (10th Cir. 1983). The district court relinquished jurisdiction in mid-1984 and that decision is on appeal.

32. Oregon:* The state penitentiary was under a court order on overcrowding, Capps v. Atiyeh, 495 F.Supp. 802 (D.Or. 1980), appeal pending (9th Cir.), stay granted, 101 S.Ct. 829 (1981), stay vacated by decision in Rhodes v. Chapman (see Ohio above). On remand, the district court determined there was no 8th Amendment violation. 559 F.Supp. 894 (D.Ore. 1982).

33. Pennsylvania: The women's prison at Muncy is being challenged on conditions and practices. The state prison at Graterford is being challenged on total conditions. Hassine v. Jeffes. (Trial in May 1986).

34. Rhode Island:* The entire state system is under court order on overcrowding and total conditions. Palmigiano v. Garrahy, 443 F.Supp. 956 (D.R.I. 1977). A Special Master was appointed in September 1977. New population caps were imposed by order in June, 1986.

35. South Carolina:* The state penitentiary is being challenged on overcrowding and conditions. Mattison v. So. Car. Bd. of Corr., C.A. No. 76-318. The entire prison system is under a consent decree on overcrowding and conditions. Nelson v. Leeke, C.A. No. 82-876-0 (1/8/85). Release order in summer of 1986 was affirmed by the Court of Appeals.

36. South Dakota:* The state penitentiary at Sioux Falls is under a court order on a variety of conditions. Cody v. Hilliard, 599 F.Supp. 1025 (D.S.D. 1984). Overcrowding order affirmed, 799 F.2d 447 (8th Cir. 1986). Rehearing en banc granted and argued in January 1987.

37. Tennessee:* The entire system is under court order for overcrowding and conditions. Grubbs v. Bradley, 552 F.Supp. 1052 (M.D. Tenn. 1982). Population ordered reduced and a Special Master was appointed (Dec. 82). Court enjoined new intake because of failure to comply with population reduction orders. Order, 10/25/85.

38. Texas: The entire state prison system has been declared unconstitutional on overcrowding and conditions. Ruiz v. Estelle, 503 F.Supp 1265 (S.D.Tex. 12/10/80), stay granted and denied, 650 F.2d 555 (5th Cir. 1981), stay granted and denied (5th Cir. 1/14/82). A Special Master has been appointed. On appeal the district court order was affirmed in part, vacated in part and vacated without prejudice in part for further hearings. 679 F.2d 1115 (5th Cir. 1982). A stipulation was reached and a consent decree entered on the crowding issues in 1985. A contempt order was entered by the district court on December 3, 1986. Ruiz v. McCotter, H-78-987-CA (S.D.Tx.).

39. Utah: The state penitentiary is being operated under a consent decree on overcrowding and some conditions. Nielson v. Matheson, C-76-253 (D.Ut. 1979).

40. Vermont: State prison closed.

41. Virginia:* The state prison at Powhatan is under a consent decree dealing with overcrowding and conditions. Cagle v. Hutto, 79-0515-R (E.D. Va.). The maximum security prison at Mecklenburg is under court order dealing with various practices and conditions. Brown v. Hutto, 81-0853-R (E.D. Va.), (consent decree entered June 1983). The state penitentiary at Richmond is being challenged on the totality of conditions. Shrader v. White, C.A. No. 82-0247-R (E.D. Va.). Trial court decision dismissing the complaint in June 1983. The Court of Appeals affirmed and remanded in part, 761 F.2d 975 (4th Cir. 1985).

42. Washington:* The state reformatory is being challenged on overcrowding and conditions. Collins v. Rhay, C.A. No. C-7813-V (W.D. Wash.). The state penitentiary at Walla Walla has been declared unconstitutional on overcrowding and conditions and a special master has been appointed. Hoptowit v. Ray, C-79-359 (E.D.Wash. 6/23/80), aff'd in part, rev'd in part, vacated in part and remanded, 682 F.2d 1237 (9th Cir. 1982). In a later appeal, Hoptowit v. Spellman, 753 F.2d 779 (9th Cir. 1985), the Court of Appeals affirmed the findings of the district court on remand with respect to the conditions of confinement and remanded the case for the entry of an order.

43. West Virginia: The state penitentiary at Moundsville is under court order on overcrowding and conditions. Crain v. Bordenkircher, #81-C320R, (Circuit Court, Marshall County 6/21/83). Decision affirmed by West Virginia Supreme Court in 1986. A special master has been appointed. The Huttonville Correction Center is also under court order with respect to conditions. Nobles v. Gregory, #83-C-244 (Randolph Co. Cir. Ct. 2/22/85).

44. Wisconsin:* The state prison at Waupun is under a court order on overcrowding and conditions. Delgado v. Cady, 576 F.Supp. 1446 (E.D. Wisc. 1983).

45. Wyoming:* The state penitentiary was being operated under terms of a stipulation and consent decree. Bustos v. Herschler, C.A. No. C76-143-B (D.Wyo.). The federal court relinquished jurisdiction in early 1983.

46. District of Columbia:* The District jails are under court order on overcrowding and conditions. Inmates, D.C. Jail v. Jackson, 416 F.Supp. 119 (D.D.C. 1976), Campbell v. McGruder, 416 F.Supp. 100 and 111 (D.D.C. 1976), aff'd and remanded, 580 F.2d 521 (D.C.Cir. 1978). On remand court ordered limit on period of doublecelling and increase in staff, 554 Supp. 562 (D.C.D.C. 1982). In 1985 the district court held conditions at the jail required an order that intake be enjoined. A consent decree requiring reduction in population entered August 22, 1985. Inmates of D.C. Jail v. Jackson, #75-1668 (D.C.D.C.). Several facilities at the Lorton Complex, the District's prison, are under court order on overcrowding and conditions. There are population caps in place in both the Central Facility and the Maximum Security Facility. Twelve John Does v. Barry, #80-2136 (D.C.D.C.). On December 22, 1986, Lorton's medium security Occoquan facilities came under court order and a population cap was imposed. Inmates of Occoquan v. Barry, #86-2128 (D.C.D.C.).

47. Puerto Rico: The Commonwealth Penitentiary is under court order on overcrowding and conditions. Martinez-Rodrigues v. Jiminez, 409 F.Supp. 582 (D.P.R. 1976). The entire commonwealth prison system is under court order dealing with overcrowding and conditions, Morales Feliciano v. Barcelo, 497 F.Supp. 14 (D.P.R. 1979). A special master was appointed in 1986.

48. Virgin Islands: Territorial prison is under court order dealing with conditions and overcrowding. Barnes v. Gov't of the Virgin Islands, 415 F. Supp. 1218 (D.V.I. 1976).

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Literature:

State Laws and Procedures Affecting Drug Trafficking Control: A National Overview, National Governors' Association and National Criminal Justice Association, July 1985

Report of Applications for Orders Authorizing or Approving the Interception of Wire or Oral Communications, 1983, 1984, 1985, prepared by the Administrative Office of the United States Courts

1986 Comparative Sentencing Survey, Pennsylvania Commission on Crime and Delinquency

"Investigation and Prosecution Under the Georgia R.I.C.O.," published by the Prosecuting Attorneys' Council of Georgia, written by Chuck Olson, staff attorney

Minnesota Sentencing Guidelines Commission, Report to the Legislature, November 1986

Civil Drug Forfeiture Manual, prepared by the Office of the Attorney General, South Carolina

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