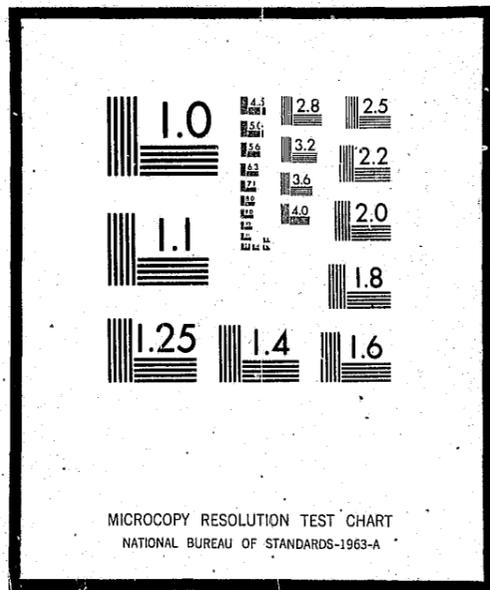


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FEDERAL JUDICIAL ASSISTANCE
FOR STATE COURTS

U.S. DEPARTMENT OF JUSTICE
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

National Center for State Courts
1660 Lincoln Street, Suite 200
Denver, Colorado 80203

FEDERAL FUNDING ASSISTANCE
FOR STATE COURTS

Prepared by:

John C. Ruhnka
Chief of Research

Terence R. Donnelly
Richard Ross
Kenneth A. Selby

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INTRODUCTION

The purpose of this memorandum is to summarize the recent history and present status of federal funding assistance to state court systems. The memorandum focuses on programs for which federal funds are either received or administered directly by the judiciary. Generally, this definition does not include programs funded for the hiring, training, and functioning of prosecutors and defense attorneys.

A brief outline of present sources of federal funding to state courts is presented immediately below, followed by a broader discussion and history. Discussion of Law Enforcement Assistance Administration (LEAA) funding under the Crime Control Act of 1973 includes the results of a telephone survey conducted by the National Center for State Courts during October, 1973 in which judges and court administrators from all fifty states commented on the impact of the Crime Control Act and the LEAA on their courts.

The memorandum also discusses pending legislation and current proposals and resolutions which could affect future federal assistance to state courts. In the juvenile court area, a description is included of proposed federally-funded programs which are not directly aimed at the courts, but which may have significant impact upon their operation because of the special nature of juvenile justice.

PRESENT SOURCES OF FEDERAL FUNDING

- A. Crime Control Act of 1973, 42 USCA §§ 3701-3801 (1973). This Act funds the Law Enforcement Assistance Administration of the U.S. Department of Justice. It amends Title I of the Omnibus Crime Control and Safe Streets Act of 1968. (See Appendix I for Fiscal Year 1973 amounts of assistance.)
- B. Highway Safety Act of 1970, 23 USCA §§ 401-4 (1970). This Act funds the National Highway Traffic Safety Administration/Federal Highway Administration, Department of Transportation. Funds authorized by this Act may be used for "traffic codes and laws, and traffic courts. . ." (See 1973 Catalog of Federal Domestic Assistance, Section 20.609.)
- C. State and Local Fiscal Assistance Act of 1972, 31 USCA §§ 1221-1381 (1972). Section 102 of this Act, usually called "Revenue Sharing," authorizes direct grants to state and local governments. Section 103 restricts the use of funds by local governments to "priority expenditures," which includes expenditures for public safety and law enforcement.
- D. Juvenile Delinquency Prevention Act, 42 USCA §§ 3801-3890 (1973). Funds authorized by this Act are administered by the Social and Rehabilitation Service, U.S. Department of Health, Education and Welfare. The Fiscal Year 1973 breakdown of grants under the Act is not yet available; in FY 1972, however, under the Juvenile Delinquency Prevention and Control Act of 1968, \$282,849 (representing 6 projects in 5 states) went directly

to juvenile courts out of a total appropriation in the Act of \$10,000,000.

HISTORY AND DISCUSSION

A. Crime Control Act of 1973.

The federal Law Enforcement Assistance Administration (LEAA) was created in 1968 by the "Omnibus Crime Control and Safe Streets Act of 1968" 42 USCA §§ 3701-3801 (1968). The initial focus of federal aid under this Act was on funding to increase, equip, train, and improve local law enforcement personnel in order to control and reduce crime.

The Act was amended in August, 1973 by the Crime Control Act of 1973 (P.L. 93-83). These amendments add the words "criminal justice" to the words "law enforcement" in more clearly defining funding purposes of the Act. Law enforcement and criminal justice, as they relate to courts, are defined as "activities of courts having criminal jurisdiction and related agencies including prosecutorial and defender services" [Section 601 (a)]. The purpose of the Act is to strengthen and improve criminal justice at every level. "State comprehensive planning" under the Act is defined as a "total and integrated analysis" of the problems regarding law enforcement and the criminal justice system within the state. Thus, Congress has made clear its intent to have funds expended under the Act address all aspects of law enforcement and criminal justice, not only the police and police-related programs.

The four major types of LEAA grants are:

- 1) Planning funds granted to state planning agencies. A minimum of \$200,000 is granted to each state, with additional

funds based upon a population variable.

- 2) Part C "Block Grant" funds are action funds granted to states having comprehensive plans as provided in Section 301(b)(1) through (10) of the Act. These funds are used to implement the state plan.
- 3) Funds appropriated for discretionary allocation by the national LEAA administration for special projects outside of the state plans (Section 306). They may be allocated to state planning agencies, units of general local government, combinations of such units, or private non-profit organizations (e.g., National Center for State Courts).
- 4) LEAA National Institute grants, which can go directly to state courts, units of state or local government, universities, or private organizations for specific research and demonstration projects.

The Congress rejected proposals to convert the LEAA program into a "no strings attached" special revenue sharing program, and in so doing, has retained federal responsibility for administering the program and for assisting the states in comprehensive planning. Approval of state plans is retained as a condition precedent to block grant funding. No plan is to be approved unless LEAA finds a "determined effort" by the plan to improve law enforcement and criminal justice throughout the state [Section 303(b)]. In the Act, "comprehensive planning" is defined as including "adjudication," and "law enforcement and criminal justice" is defined as including "activities of courts having criminal jurisdiction" [Section 601(a)]. Such an effort must be more than a good faith effort

to distribute funds widely either geographically or institutionally throughout a state. What is necessary is a balanced and integrated plan that addresses the state's particular needs.

Under the 1973 Act, LEAA is mandated to exercise its approval or disapproval function within ninety days, assuring both an adequate time for meaningful consideration and a prompt flow of funds to the states and units of general local government. Similarly, the states are directed to provide procedures that will ensure that all fund applications by localities to state planning agencies are expedited, and approved or disapproved, in whole or in part, within sixty days. The purpose of this new provision is to assure that units of general local government receive LEAA block grant funds promptly in accordance with procedures established by the administration.

A percentage of a state's block grant must be passed on to units of general local government according to a formula prescribed by the Act [Section 303(a)(2)]. (See Appendix II.) The Act also requires that 40% of a state's planning funds be passed through to units of local government, and increases the minimum planning funds to each state from \$100,000 to \$200,000.

Matching requirements, calling for a non-federal share of the funding, previously fell most harshly on the localities and are substantially modified by the 1973 LEAA Amendments. All "match" is reduced to a 10% cash match and the required state share of match is fixed at 50%. So-called "soft-match," or non-cash match, is eliminated, ending procedures the Congress believed were only causes of imaginative bookkeeping by

recipients and nightmarish monitoring problems for LEAA charged with ensuring compliance. Under the amended Act, a state need only show that its total grants under the Act do not exceed 90% of the cost of programs and projects undertaken, rather than being required to demonstrate that there is a 10% match for each of its programs and projects, as in the past.

The new Act also prohibits states from using more than one-third of any grant for the compensation of "regular criminal justice personnel." The limitation does not apply to personnel involved in education, or "engaged in research, development, demonstration, or other short term programs" [Section 301(d)].

LEAA and the Courts - Results of Telephone Survey:

During October, 1973 the National Center for State Courts conducted a telephone survey in which judges and court administrators from all fifty states commented on the impact of the Crime Control Act and the LEAA on their courts. All but eight state court systems reported the use of funds from their state's LEAA block grants. Eighteen states also reported using LEAA discretionary funds in their court systems. Funds were used most frequently for the training of judges, clerks and other court personnel, and for programs designed to improve the efficiency of administration by computerization.

The court systems identified a number of problems with the delivery system of LEAA funds to state courts. Thirty-one court systems described their representation on the state planning agency as either non-existent, poor, or only fair, and indicated that the judiciary was not consulted

with regard to programs to be funded. According to many states, the LEAA system of funding through block grants to state planning agencies, which are part of the executive branch of state government but have strong representation from units of local government, is incompatible with efficient funding of state courts since such courts, although operating at the local level, are independent of local government. As a result, the state courts asserted that the present structure puts court systems into competition for funds with units of local government before the executive state planning agency. (See Appendix III for Resolution of 1973 Conference of Chief Justices on this point.)

Twenty-four state court systems felt they were not receiving a "fair share" of their state's LEAA funds. In addition to the mentioned structural problems with the delivery system, other reasons given for inadequacy of funding were: a) executive branch determination that there were more pressing priorities for the funds, b) lack of adequate planning within the judiciary, c) matching funds not available, and d) resistance by the state courts to federal funding for fear of federal control.

While the LEAA definition of courts as including prosecution and defense functions was described by the representatives of twenty-six states as being a problem by causing the diversion of funds from the judiciary, the other twenty-four states felt that it caused no problem. In fact, several of the latter believed that the broad definition helped the courts because court operations are aided by well-funded prosecution and defense systems.

Eighteen state court systems anticipated that the Act's requirement of cash matching funds (Section 204) would be a problem, although thirty-one states expected little or no difficulty in raising needed "hard match."

The Act's provision limiting expenditures for compensation of criminal justice personnel to one-third of any grant (with the exceptions previously noted) was criticized by thirteen of the states. Twenty-six states were not critical and seven were unaware of the statutory limit.

Eighteen states reported that their state planning agencies believed the Crime Control Act and LEAA guidelines prohibited any court improvement programs which were not focused solely on the criminal business of the courts. On the other hand, thirty-two states reported an increasing awareness that programs aimed at improvement on the criminal side will often benefit the civil courts as well. (Examples of this are programs to computerize docket control systems or programs to computerize the selection of jury panels.)

A problem identified by twenty-four states is that courts are not deemed "units of general local government" for the purpose of receiving "pass through" funds from the state. Under Section 303(a)(2) of the Act, the state must pass on to units of local government a percentage of its block grant funds. This creates two problems: Where the courts are state-financed, they may not qualify for local funding; and where the courts are financed locally, programs may be funded which are at odds with a cohesive system. One method developed by several courts to ameliorate

this problem and improve state court representation at the state planning agency level is to require that all plans for funding court programs be submitted for approval to one person, usually the Chief Justice or his designee, before transmission to the state planning agency. Use of this method centralizes state court planning and establishes a central authority within the judiciary which acts as liaison with the state planning agency to obtain approval of programs consistent with the overall objectives of the state court system. Once programs are approved, funds can be allocated to units of general local government or to the central court authority following execution of an administrative "waiver" by the units of local government of their right to the funds.

Twenty-four states reported difficulty with the general LEAA policy requiring LEAA-funded programs to be assumed by state or local governmental units after an initial period of federal funding. The basis for the policy is Section 303(a)(9) of the Act, which requires "the state and units of general local government to assume the costs of improvements funded" with block grant money after a "reasonable period." Reportedly, this period has been interpreted by LEAA to be three years. Those critical of the policy felt that it causes the proliferation of short-term programs, while others believed that careful state planning could minimize this problem.

A recurring comment during the telephone interviews was the need for court personnel trained in the area of "grantsmanship," so that more effective identification and use could be made of available federal programs. (See Appendix IV for a summary of the telephone survey.)

The LEAA and Juvenile Justice:

The LEAA reported that in Fiscal Year 1973 ten states used LEAA funds totaling \$1,376,526 for juvenile court programs. The most common type of court program was for diagnostic services to provide information for juvenile court judges to assist them in making proper dispositions regarding juveniles before the court. Until 1972, the LEAA made no breakdown of funds used directly within the juvenile courts. In FY 1972, the amount was \$1,414,919 used by eight states from their block grants.

These amounts do not include the large sums used by states from their LEAA grants for such programs as probation subsidy, youth employment, foster care, group homes, community-based residential centers, drug abuse education, police department efforts at diversion, and many others -- all of which affect juvenile court operations but for which funds are not received or administered by the juvenile court itself.

LEAA funds also support the operation of the National Council of Juvenile Court Judges, headquartered in Reno, Nevada. During 1973, the National Center for Juvenile Justice was established in Pittsburgh with an LEAA grant as the research and consultation branch of the NCJ CJ.

In 1973, a bipartisan amendment to the LEAA Act was introduced which required each state to develop a comprehensive plan for the improvement of juvenile justice as part of its overall criminal justice plan and to allocate at least 20% of LEAA funds for delinquency prevention and control for FY 1974 and at least 30% for each succeeding year. Although the percentage requirements were not included in the final bill, the comprehensive plan requirement is now law. [Section 303(a).]

B. Highway Safety Act of 1970:

Twenty-two states reported using funds authorized by the Highway Safety Act of 1970 23 USCA §§ 401-403 (1970) either for construction, reorganization, or administration within their state traffic court systems, or for revision of state traffic codes. One state standardized its municipal court procedures and developed manuals for municipal judges with funds available under this act.

The National Highway Traffic Safety Administration of the Federal Highway Administration, Department of Transportation, is the federal agency administering these funds. Eligibility for funding requires the submission of a highway safety plan through the Governor's office. This plan must be submitted by April 1 either directly to the National Highway Traffic Safety Administration or to the Federal Highway Administration regional office. Funding is limited to 50% of the program's total cost.

C. Revenue Sharing:

Two states reported using funds provided by the State and Local Fiscal Assistance Act of 1972 31 USCA §§ 1221-1248 (1972), commonly called "revenue sharing," within their state court systems. One of these states built new courthouses with revenue sharing funds and the other paid all of its judges' salaries in this manner. While this Act makes no special provision for support of state court systems, Congress declared that "the broad purpose of this legislation is to fill a gap in present old programs by granting state and local governments . . . flexibility in the expenditures of the new aid funds. . ." (U.S. Congressional and Administrative News, Vol. 3, 92nd Congress, 1972, at 3889). The state government receives

one-third of the total state allocation without restriction on its use (Section 107). The remaining two-thirds goes to units of local government, which must use the funds for "priority expenditures," defined in the Act as including public safety and law enforcement. (Section 103).

D. Juvenile Delinquency Prevention Act of 1973:

Under this Act, which replaced the Juvenile Delinquency Prevention and Control Act of 1968, \$15,000,000 was appropriated for FY 1973 for a variety of programs to divert delinquents and pre-delinquents from the juvenile justice system into a community-based system of Youth Services Bureaus in each state and Territory. Because the stated purpose of the Act is diversion, very little money goes to the juvenile courts themselves. The FY 1973 breakdown of grants under the Act is not yet available; in FY 1972, however, \$282,849 (representing 6 projects in 5 states), out of a total appropriation of \$10,000,000 went directly to juvenile courts.

(The Analysis of Federal Programs Relating to Juvenile Delinquency and Youth Development, published in February, 1973 by the Interdepartmental Council to Coordinate All Federal Juvenile Delinquency Programs, found 166 programs operating out of 15 agencies at a total funding of \$1,684,049,315 but showed no programs -- aside from the small number of LEAA and HEW-funded programs already mentioned -- aimed directly at the juvenile courts. In fact, the analysis, which contained a breakdown of delinquency and pre-delinquency programs into 16 categories, did not include a category for "courts" or anything similar.)

LEGISLATION, RESOLUTIONS, AND PROPOSALS

A) The American Bar Association Proposal for a National Institute of Justice: History and present status.

Two identical bills were introduced in the 90th Congress. S. 2627, 90th Congress, 1st session, (1967), was introduced by Senator Dirksen and H.R. 13584, 90th Congress, 1st session, (1967), was introduced by Congressman Emanuel Celler.

S. 2627 and H.R. 13584 sought to amend Title 28 U.S.C. to establish a "National Foundation of Law." The purpose of this foundation was to promote improvement in the administration of justice. The primary goal was,

". . .improving the administration of justice in the U.S. . . . it is designed to support research and education projects in all aspects of the law and legal processes by grants to local, state, regional, national, and private agencies and law schools. . ." (90th Congress, U.S. Congressional Record, 1st session, 1967, at 31511)

This bill was read twice and referred to the Judiciary Committee. It never became law.

The most significant activity calling for the establishment of a "National Institute of Justice" appeared in an article by Bert Early, then Executive Director of the American Bar Association. [Early, National Institute of Justice - A Proposal, 73 W. Va. L. Rev. 225-226 (1972)]. The article proposed creation of a National Institute of Justice, and was intended to be a basis for discussion and refinement eventually leading to legislation establishing the Institute. An introduction to the article

by Chief Justice Warren E. Burger gave further impetus to the proposal:

"Mr. Early's provocative article is advanced by him to stimulate debate. It deserves a wide audience and I sincerely hope it will be challenged and debated - vigorously - by the bar and the public. . ." (Supra at 226.)

On May 16, 1972 Chief Justice Burger stimulated further interest in the creation of a National Institute of Justice in his annual speech to the American Law Institute, when he called for studies to lay the groundwork for such an institute.

On the same day, Senator Humphrey introduced S. 3612, 92nd Congress, 2nd session (1972) a bill to establish a National Institute of Justice. The bill proposed the establishment of a non-profit institute to undertake on a national scale the refinement and reform of judicial and related processes.

The Humphrey bill, S. 3612, envisioned five major functions of the Institute: 1) to collect and disseminate information with emphasis on improvements and innovations, 2) to study causes of delay in the administration of justice, 3) to establish priorities and evaluate the judicial system, 4) to conduct research on neglected aspects of the functioning of the judicial system, and 5) to advise, upon request, members of the judiciary seeking advice.

This bill was reintroduced by Senator Humphrey in March of 1973 as S. 1422, [93rd Congress 1st session (1973)]. S. 1422 was essentially identical to the previously introduced bill.

The bills introduced by Senator Humphrey were not supported by any organized effort. Both bills were read twice and referred to the Committee on the Judiciary.

As a result of the Bert Early article and the interest expressed by Chief Justice Warren E. Burger, the Board of Governors of the American Bar Association created a Task Force to study the National Institute of Justice concept in May of 1972. The A.B.A. Task Force recommended that the American Bar Association create a Commission on the National Institute of Justice which would be responsible for the development of plans for a national conference to explore and further define the concept of such an institute and to adopt a program for its establishment. A Commission was created in August of 1972 at the American Bar Association's annual meeting in San Francisco. The Commission held its conference in December 1972. The conference was attended by leaders in the legal field and did not arrive at any consensus on the form of such an Institute.

The Task Force recommendations adopted by the A.B.A. Board of Governors and the A.B.A. House of Delegates at the annual meeting in August of 1972 also contained the first A.B.A. - adopted proposal for the establishment of a National Institute of Justice. The Institute was described as

"A not for profit, federally chartered corporation inter-disciplinary in scope. . ." (A.B.A. Proposal for a National Institute of Justice, Report of the Task Force, 1972, at 9.)

The purpose was stated as,

". . . assist States and the Federal government in the improvement of justice by serving as a fiscal agent to receive and disburse funds. . . The institute would be assigned the responsibility to consider, analyze and assess the needs of the legal sector. . . and assist in meeting those needs. . ." (Supra at 10.)

Principal efforts would be towards modernization, reform, and reconstitution

of legal processes, and the administration of justice.

The Institute as a fiscal agent would be charged not only with disbursing funds but also with soliciting funds. The Task Force proposal also stipulated that the Institute should not be a federal agency or an arm of any branch of the government. Similarly the Institute was not to engage in partisan political causes. Finally, the Institute was not to possess the authority to mandate change or coerce any agency or organization to conform to recommendations or policies adopted by the Institute.

The proposal advanced by the A.B.A. Task Force met with substantial criticism. The following organizations have passed resolutions opposing the Task Force concept of a new federally-chartered Institute in the judicial law reform area:

- 1) National Association of Attorneys General
- 2) National Conference of Legislative Leaders
- 3) American Judges Association
- 4) National Conference of State Lieutenant Governors
- 5) Council of State Court Representatives of the
National Center for State Courts
- 6) National District Attorneys' Association
- 7) National Council of Juvenile Court Judges

The resolutions adopted by these organizations were in response to the first A.B.A.-adopted proposal advanced by the A.B.A. Task Force in August of 1972. The resolutions which are discussed below are intended to bring to light the areas of common concern which consistently appeared regarding the Task Force proposal.

The resolution of the Council of State Court Representatives of the National Center for State Courts concerning the proposed National Institute of Justice was adopted November 18, 1972. (The full text of this resolution appears in Appendix V). Although the proposal for the establishment of a National Institute of Justice was felt to be too indefinite and undefined, the Council resolved it would be inappropriate for a federal agency or a federally-financed corporation to grant or deny funds for any purposes to or for the benefit of state courts pursuant to federally imposed standards. According to the Council, the primary responsibility for developing standards should be placed on the officers of the state judicial system itself with the assistance and concurrence of a national body representing the state judiciary, such as the National Center for State Courts.

The Council also resolved that in no event should the effect of any grant be to reduce or relieve the continuing responsibility of a state to provide adequate funds to support its judicial system.

The American Judges Association, at their 12th annual conference on November 30, 1972, resolved that the proposal for the establishment of a National Institute of Justice, as currently defined, was a "clear threat" to the various state court systems. The Association further resolved that it was inappropriate for any agency or a federally financed corporation to grant or deny funds pursuant to federally imposed standards.

The National Conference of State legislative leaders resolution concerning the proposed National Institute of Justice stated that the

existence of federal block grant programs, and the demonstrated ability of state and local governments to effectively utilize assistance available through the LEAA, both mitigated against the proposed concept of a National Institute of Justice. The resolution expressed concern over past trends toward centralization of power and authority and anything that would reverse the present trend of strengthening state and local governmental responsibility. These factors led the National Conference of State Legislative Leaders to strongly oppose the proposed National Institute of Justice.

The criticism voiced in the resolutions discussed above appeared in various forms in all of the resolutions adopted opposing the Task Force proposal.

The most recent proposal, in the form of a discussion draft of legislation, has been circulated by the A.B.A. Commission to over 12,000 judges, lawyers, and court administrators. It calls for the creation by Congress of a National Institute of Justice as an independent agency of the federal government charged with the responsibility of studying the operation of justice systems in the United States and making recommendations for revisions and improvements.

In part, the draft bill provides for Institute functions and responsibilities as follows:

- The Institute would study, in a thorough and objective manner, the way in which law and justice function in the United States.

- It would report periodically, but not less than annually, about the state of law and justice.
- Its reports would define the principal areas of law and justice systems in which development and improvement may be achieved.
- Its reports would further establish priorities among these areas, thereby focusing attention on those which are of greatest concern and immediacy.
- The Institute would provide funding for studies of these specific concerns and for the creation of proposals or pilot programs aimed at the resolution of the defined problems. In nearly all cases, these studies would be performed by individuals and institutions throughout the country having expertise and resource capacity in the particular field of inquiry, rather than be performed by the Institute itself.
- The Institute would broadly disseminate and publicize the findings of the studies and projects conducted under its auspices.
- The jurisdiction of the Institute would be as broad as the entire field of law and administration of justice -- whether civil, criminal, administrative, or regulatory. The Institute's attention would in no way be confined to the operations of the courts and administrative agencies but would extend to penal law and corrections, education in the law at all levels, legal services and their effectiveness, and systems of non-governmental dispute resolution.

The discussion draft of the bill has not yet been approved by the A.B.A. Commission on a National Institute of Justice, or by the A.B.A. House of Delegates. (The full text of "A Bill For An Act Creating A National Institute of Justice" appears in Appendix VI.)

B. The "State Court Assistance Act" (S. 1629) and History of Similar Legislation

The State Court Assistance Act, S. 1629, 93rd Congress 1st session (1973) introduced by Senators Gurney and Burdick, was preceded by a series of legislation calling for federal assistance to state court systems. Senator Tydings, then Chairman of the Senate Subcommittee on the Judiciary, introduced S. 3725, the "National Court Assistance Act," 89th Congress, 1st session (1966). This bill would have created an agency within the Department of Justice, operated by a director and advised by an advisory council on judicial assistance, all appointed by the President, for assistance to state court systems.

The bill evoked criticism from those who feared an extension of federal influence into state court systems and saw a possibility of executive branch interference with the independence of state courts.

Senator Tydings, with Senators Hart and McCarthy introduced S. 1033 90th Congress, 1st session (1967) S. 1033, known as the "National Court Assistance Act." This bill was essentially identical to S. 3725 introduced in the 89th Congress and received criticism for the same reasons as S. 3725.

A third National Court Assistance Act was introduced by Senator Tydings and Senator Scott in the 91st Congress, S. 3289, 91st Congress, 1st session (1969). This bill, S. 3289, was a redraft of S. 3725 and

and S. 1033. S. 3289 had a twofold purpose. It would have created an Institute for Judicial Studies and Assistance, which was to have been an independent agency, supervised by a seven member board composed of four state judges, two state court administrators, and one attorney engaged in private practice, all appointed by the President. The bill would also have authorized a grant-in-aid program which would have required an application for a grant from any local or state court. The application would first have to be approved by the highest judicial authority in the state.

This bill, like its predecessors, although substantially redrafted, was criticized for the same reasons as S. 3725 and S. 1033. The feeling was that there would be federal interference with the independence of state judicial systems.

In the 92nd Congress, 1st session, 1971, two bills dealing with federal assistance to state courts were introduced. Congressman Harrington introduced H.R. 8599, 92nd Congress, 1st session (1971) which was substantially identical to the Tydings bill introduced in the 91st Congress, S. 3289. No significant activity followed the introduction of Mr. Harrington's bill.

Senators Griffin and Gurney also introduced a bill in the 92nd Congress, S. 1939 92nd Congress, 1st session (1971) titled "National Court Reform Assistance Act." The purpose of this bill was to establish a Judicial Assistance Administration within the Department of Justice to provide financial assistance to the states and encourage court reform.

No significant activity followed the introduction of this bill.

Senators Burdick, Scott and Tunney introduced S. 1509, the "State Court Assistance Act" in the 92nd Congress, 1st session (1971). This bill is identical to S. 3289 introduced by Senator Tydings in the 91st Congress, with the exception that it was relabeled.

The most recent version of a "State Court Assistance Act" is S. 1629 93rd Congress, 1st session (1973) introduced by Senators Gurney and Burdick. (The full text of this bill is included in Appendix VII.)

This bill is essentially a redraft of the "State Court Assistance Act," S. 1509. The present bill would establish a Division of State Court Assistance in the Federal Judicial Center. The declared policy of the bill is

" . . .to assist state and local governments in studying improvements in the administration of state courts and in providing, for an initial period, an increase in supportive court personnel necessary to bring about a reduction in the backlog of cases awaiting trial" (S. 1629, at 20)

Grants directly to state courts are available under the provisions of this bill [Section 634(b)].

Significant differences between S. 1629 and its predecessors are apparent. S. 1629 seeks to establish a Division of State Court Assistance within the Federal Judicial Center, while S. 1509 sought to establish an independent agency called an Institute for Judicial Studies and Assistance.

Under S. 1629, the Board of Directors of the Division of State Court Assistance would include representatives selected by the National Conference of Chief Judges, the National Conference of Court Administrators, the National Conference of Appellate Judges, and the National Conference

of State Trial Judges. S. 1509 made no provisions for such representation. S. 1609 provides that the Board shall select a Chairman from among the members of the board, while S. 1509 provided that the President designate a board member as chairman. S. 1629 provides for more regular meetings of the Board than S. 1509.

The duties of the Board under S. 1629 are very similar to the powers of the Board in S. 1509. One notable exception is that S. 1629 allows grants to be used for the payment of judicial salaries and court personnel on a continuing basis whereas S. 1509 did not permit such expenditures. S. 1629 requires a detailed statement of appropriations and allocations, while all previous bills dealing with state court assistance required only very general appropriations statements.

The general thrust of S. 1629 is similar to the previous bills introduced on the subject of federal state court assistance. S. 1629 is an attempt to remove the recurring objection to previous bills: that the independence of state courts would be undermined by Federal intrusion.

The Board of the Federal Judicial Center has expressed the following criticism of S. 1629:

"The Board believes that the appropriate relationship between the Center and any Federal Agency established to provide State Court assistance should be one of cooperation between us, but at arms-length. It fears that the involvement of the Center with state court assistance would tend to be destructive of both efforts." (Letter of July 17, 1973 from Richard Green Assistant Director of the Federal Judicial Center to Senator Gurney.)

C. The Model Criminal Justice Reform Act (S. 400) and The Omnibus Criminal Justice Reform Act of 1972 (S. 3492)

The Model Criminal Justice Reform Act, S. 400, 92nd Congress, 1st session (1971), was introduced by Senator Saxbe (now Attorney General designate), who was joined by Senators Mondale, Brooke and Eagleton. The bill seeks to establish a Criminal Justice Reform Administration to provide assistance to states and localities in undertaking comprehensive criminal justice reform. Some specific goals were strengthening police protection, improving the prosecution of offenders, expediting overcrowded court criminal calendars, and strengthening correctional systems.

The legislation would establish experimental model programs in three or four states to determine the effect of full scale and comprehensive reform of the criminal justice system on the crime rates in those states. State participation in the program is completely voluntary.

Title I outlines a comprehensive program for reform with emphasis on law enforcement, the criminal courts, and corrections. States desiring to participate in the program would, with federal financial assistance, develop and submit programs for reforms within their states.

Title II seeks to establish a new independent federal agency within the executive branch, the Criminal Justice Reform Administration. This agency would provide technical assistance as needed to the states and localities regarding all aspects of the program.

The bill contains a basic standard designed to accomplish the speedy disposition of criminal cases in states participating in the program:

" . . . To implement whatever reforms necessary to insure that the trial of all criminal cases will be commenced no later than 60 days from the date of a defendant's arrest or the initiation of prosecution, whichever occurs first. Failure to meet this standard will result in dismissal with prejudice of the charges against the defendant." [117, U.S. Congressional Record, 92nd Congress, 1st session (1971) at 878]

The federal administrator of this Act would determine whether a state's reform proposals were adequate to assure a speedy trial; however, the federal government would not dictate a particular scheme for reform.

S. 400 was referred to the Committee on Government Operations and then to the Committee on the Judiciary. There has been no further legislative action on this bill.

The Omnibus Criminal Justice Reform Amendment of 1972, S. 3492, 92nd Congress, 2nd Session, (1972), was introduced by Senator Mathias, who was joined by ten other Senators, including Saxbe. This bill contained eighteen programs calling for expenditures of approximately one and one half billion dollars. The legislation addressed itself to the full range of the criminal justice system, and a substantial part of the legislation sought to amend the Omnibus Crime Control and Safe Streets Act of 1968.

The purpose of S. 3492 was stated as:

"to provide a comprehensive program designed to strengthen the criminal justice system in the United States, to attack urban street crime, to undertake new training program for law enforcement personnel. . . and for other purposes" [117 U.S. Congressional Record, 92nd Congress, 2nd Session (1971), at 2825].

Title I of S. 3492, authored by Senator Saxbe, sought to appropriate money only to states which enacted specified reforms and which submitted a statewide comprehensive criminal justice reform plan designed to aid police, corrections, and court administrators. [Supra at 2825] This Title contemplated reforms such as the 60 day speedy trial requirement for courts specified in S. 400. S. 3492 was read twice and referred to the Committee on the Judiciary. Many of S. 3492 provisions appear to have been the basis of the Crime Control Act of 1973, which amended Title I of the Omnibus Crime Control and Safe Streets Act of 1968.

D. The "Juvenile Justice and Delinquency Prevention Act of 1973":

S. 821, 93rd Congress, 1st session (1973) introduced by Senators Bayh and Cook, is currently pending in the Senate Judiciary Committee. The bill would appropriate \$1,590,000,000 over the next three years. This money would be earmarked primarily for juvenile programs outside of the juvenile court itself. The bill would also create a National Institute of Juvenile Justice and Delinquency Prevention within the federal government to establish overall policy for federal delinquency programs. This Institute is similar to the one proposed by Congressman Railsback in the 92nd Congress in 1971 (H.R. 45) and by the separate Juvenile Justice Institute bill (S. 580). The National Council of Juvenile Court Judges has endorsed the proposal for a Juvenile Justice Institute.

E. The "Runaway Youth Act":

S. 645, 93rd Congress, 1st session, (1973) has been passed by the U.S. Senate and authorizes an appropriation of \$10,000,000 in each of fiscal years 1974, 1975, and 1976 to provide assistance to local private and public agencies to open shelter care programs in areas where runaways tend to congregate. The Bill now awaits hearings before the House Education and Labor Committee.

F. Resolutions on Federal Funding:

A resolution passed in August, 1973, by the Conference of Chief Justices and one passed during the same month by the Conference of State Court Administrators show the desire of the state judiciary nationally to change the current system of funding to state courts.

The resolution of the Chief Justices called the present program for federal financial assistance to state courts "unsatisfactory" and resolved:

1. It is incompatible with, and injurious to, the traditional common-law role of the state judiciary for it to compete before an agency of the executive branch for its "rightful" share of federal block grant funds.
2. For different courts or levels of courts in a state judicial system to be in competition for federal block grant funds, with such competition to be decided by an agency of the executive branch, is destructive of the dignity of the judiciary and inimical to its improvement and to the public interest.
3. Present and proposed programs of federal financial assistance to state courts should require that some appropriate percentage of a state's block grant funds be allocated directly to the judiciary, as distinct from law enforcement, prosecution, defense, corrections, or other criminal justice components; and that funds so allocated be expended in accordance with a plan developed and programs approved by the Supreme Court or other judicial entity of the state with rule-making powers or administrative responsibility for the state's judicial system.
4. Provisions in present and proposed programs for federal financial assistance to state courts which restrict or limit the amount of a state's block grant funds which can be spent for personnel or which require a percentage of such funds to be spent by local units of government, unnecessarily impede and are inimical to the improvement of the judicial system of a state.
5. The special committee of the Conference appointed to consider and act on behalf of the Conference and its Executive Committee with regard to federal programs for financial assistance to state courts should be continued and authorized to seek legislation or administrative rule, directive or policy, as may be appropriate and feasible, to eliminate the objections and to attain the objectives set forth in this resolution and to keep this Conference advised with regard thereto.

The resolution of the Conference of State Court Administrators called for all planning and program improvements within a state judicial system to be undertaken by the judicial branch itself and asked that a

percentage of federal planning and program funds be made available directly to the judiciary on a state-by-state basis.

A resolution expressing a similar type of concern in the federal funding area was passed this year by the National Council of Juvenile Court Judges. The resolution noted the need for increased funding and proposed that the Council have an official liaison in Washington, D.C. to promote and coordinate within Congress and the federal bureaucracy programs for the benefit of juvenile courts.

These resolutions have been widely distributed to federal and state officials.

APPENDIX I

STATE	Total Federal Funds	Total C, P, + D Funds	% of Fed. Grant	Court Mgt. + Operations	Prosecution Services	Defender Services	Education and Training Programs	Law + Proc. Reform, and Code Revision	Construction and Court Equipment	Alternatives to Prosecution	Bail Reform	Legal Interns	Juvenile Courts	Information Systems
Alabama	8,026,000	1,760,430	21.9	387,350	773,000		175,080	425,000						
Alaska	1,150,000	189,000	16.4	75,000			40,000			35,000		39,000		
Arizona	4,127,000	738,205	17.9	188,205	300,000		200,000		50,000					
Arkansas	4,482,000	670,000	14.9	85,000	80,000	350,000	20,000		100,000			35,000		
California	16,495,000	2,345,752	5.0	500,000	509,999	201,468	808,063			226,222				
Colorado	5,140,000	700,000	13.6	100,000			155,000	15,000			65,000	50,000		115,000
Connecticut	7,064,000	622,160	8.8	50,000	152,160	250,000	45,000			50,000	45,000		30,000	25,000
Delaware	1,405,000	313,000	22.3	50,000	60,000	40,000	40,000			88,000			10,000	
Florida	15,921,000	1,601,015	10.1	400,000	400,000	156,015	150,000			900,000	75,000	120,000	100,000	
Georgia	10,695,000	1,456,118	13.6	569,650	398,972	228,186	25,000		191,310	45,000				
Hawaii	2,000,000	242,500	12.1	75,000	21,250	26,250	40,000	35,000		25,000		20,000		
Idaho	1,826,000	240,000	13.1	45,000	35,000		30,000		130,000					
Illinois	25,898,000	3,005,000	11.6	430,000	1,350,000	720,000	405,000	100,000						
Indiana	12,102,000	908,281	7.5	188,600	245,000	117,081	318,800		23,800	15,000				
Iowa	6,581,000	1,002,150	15.2	400,000	440,000	119,150			43,000					
Kansas	5,235,000	1,416,618	27.1	625,000	500,000	291,618								

FY 1973

SOURCE: Courts Section, Technical Assistance Division, Law Enforcement Assistance Administration

STATE	Total Federal Funds	Total C, P, + D Funds	% of Fed. Grant	Court Mgt. + Operations	Prosecution Services	Defender Services	Education and Training Programs	Law + Proc. Reform, and Code Revision	Construction and Court Equipment	Alternatives to Prosecution	Bail Reform	Legal Interns	Juvenile Courts	Information Systems
North Dakota	1,583,000	305,000	19.3	195,000	40,000	20,000	50,000							
Ohio	24,281,000	2,923,947	11.8	991,407	364,243	1,357,709	91,000		73,150	20,000	26,438			
Oklahoma	5,964,000	738,294	12.4	246,700	25,000	113,000	189,594			20,000	25,000	119,000		
Oregon	4,873,000	349,984	7.2	70,000	75,000	39,984	100,000						65,000	
Penna.	27,482,000	4,183,559	15.2	1,289,394			160,054	719,691	91,795	1,422,625	200,000			
Rhode Isl.	2,206,000	200,000	9.1	7,000	96,000	48,000	10,000	25,000				14,000		
So. Carolina	6,036,000	890,416	14.8	140,000	140,000	61,923	43,810	5,760	200,000				298,923	
So. Dakota	1,707,000	304,200	17.8	42,500	12,000	45,000	28,500		160,000			7,200	9,000	
Tennessee	9,143,200	1,418,250	15.5	93,000	151,250	150,000	199,000	70,000	360,000	185,000		5,000	205,000	
Texas	26,091,000	5,928,161	22.7	3,086,771	2,350,663	228,000		134,819				127,908		
Utah	2,468,000	304,000	12.3	61,000	60,000	42,000	38,000	40,000		19,000	8,000	36,000		
Vermont	1,150,000	179,500	15.6	73,750	81,000		8,250	16,500						
Virginia	10,832,000	1,380,000	12.7	530,000	50,000	200,000	200,000		200,000	200,000				
Washington	7,944,000	676,000	8.5	133,000	175,000	205,000				4,000			40,000	119,000
W. Virginia	4,064,000	390,000	9.6	100,000	55,000	160,000	45,000			30,000				
Wisconsin	7,727,183	2,540,000	32.9	400,000	260,000	1,320,000	100,000	20,000		200,000		240,000		
Wyoming	1,150,000	205,000	17.8		100,000		15,000							

State	Total Federal Funds	Total C, P, + D Funds	% of Fed. Grant	Court Mgt. + Operations	Prosecution Services	Defender Services	Education and Training Programs	Law + Proc. Reform, and Code Revision	Construction and Court Equipment	Alternatives to Prosecution	Bail Reform	Legal Interns	Juvenile Courts	Information Systems
Kentucky	7,500,000	868,500	11.6	241,000	471,250		35,500					60,750		
Louisiana	8,485,000	1,511,714	17.8	788,908	202,874	408,235	45,000			66,697				
Maine	2,312,000	343,311	14.9	36,900	212,500		54,011	40,000						
Michigan	20,681,000	1,784,000	8.6	250,500	236,000	462,000	368,000				150,000	100,000		217,500
Maryland	9,140,000	1,454,000	15.9	68,000	509,000	415,000	227,000			235,000				
Massach.	13,257,000	3,100,174	23.4	781,500	1,172,971	669,500				300,000		57,000	119,203	
Missouri	10,897,000	1,787,947	16.4	557,750	650,000	306,902	138,295	35,000	100,000					
Minnesota	8,866,000	1,234,000	13.9	93,000	177,000	125,000	108,000			535,000				196,000
Mississippi	5,166,000	534,261	10.3	53,683	66,000		132,054		72,524			210,000		
Montana	1,618,000	87,500	5.4		5,000		31,000					51,500		
Nevada	1,253,000	184,307	14.7	26,307	78,000	37,000	40,000					3,000		
Nebraska	3,457,000	620,000	17.9	125,000	110,000	115,000	41,000		9,000	135,000		85,000		
New Hampshire	2,000,000	280,000	14.0	160,000	75,000	25,000	5,000	15,000						
New Jersey	16,703,000	3,675,000	22.0	555,000	600,000	755,000	65,000			50,000			400,000	1,250,000
New York	42,496,000	8,696,000	20.5	1,500,000		1,000,000		800,000		5,396,000				
New Mexico	2,367,000	206,994	8.7	8,340		60,000	62,437	54,950		21,267				
N. Carolina	11,842,000	1,253,694	10.6	171,311	605,443			61,269	177,715	237,956				

APPENDIX II

PERCENT DISTRIBUTION OF TOTAL CRIMINAL JUSTICE EXPENDITURE FROM OWN SOURCES OF STATE AND LOCAL GOVERNMENTS, BY STATE: FISCAL YEAR 1972 APPLICABLE TO FY 1974 PASS-THROUGH FUNDS

(AMOUNTS IN THOUSANDS)

	EXPENDITURES FROM OWN SOURCES			PERCENT DISTRIBUTION	
	TOTAL	STATE	LOCAL	STATE	LOCAL
UNITED STATES TOTAL	9,761,025	2,871,220	6,889,805	29.4	70.6
ALABAMA	84,977	27,859	57,118	32.8	67.2
ALASKA	35,937	29,324	6,613	81.6	18.4
ARIZONA	96,069	30,203	65,866	31.4	68.6
ARKANSAS	39,238	12,812	26,426	32.7	67.3
CALIFORNIA	1,457,389	366,609	1,090,780	25.2	74.8
COLORADO	91,564	39,869	51,695	43.5	56.5
CONNECTICUT	146,497	71,485	75,012	48.8	51.2
DELAWARE	28,498	18,636	9,862	65.4	34.6
DISTRICT OF COLUMBIA	138,082	-	138,082	-	100.0
FLORIDA	323,682	88,445	235,237	27.3	72.7
GEORGIA	134,396	42,063	92,333	31.3	68.7
HAWAII	45,860	13,599	32,261	29.7	70.3
IDAHO	22,940	10,405	12,535	45.4	54.6
ILLINOIS	592,430	149,878	442,552	25.3	74.7
INDIANA	152,406	46,523	105,883	30.5	69.5
IOWA	73,899	25,495	48,404	34.5	65.5
KANSAS	74,371	33,298	41,073	44.8	55.2
KENTUCKY	79,790	37,705	42,085	47.3	52.7
LOUISIANA	127,506	46,461	81,045	36.4	63.6
MAINE	28,235	14,538	13,697	51.5	48.5
MARYLAND	239,202	135,967	103,235	56.8	43.2
MASSACHUSETTS	296,597	77,894	218,703	26.3	73.7
MICHIGAN	450,795	108,442	342,353	24.1	75.9
MINNESOTA	134,573	36,905	97,668	27.4	72.6
MISSISSIPPI	49,968	21,655	28,313	43.3	56.7
MISSOURI	169,727	37,718	132,009	22.2	77.8
MONTANA	21,255	9,043	12,212	42.5	57.5
NEBRASKA	45,213	13,969	31,244	30.9	69.1
NEVADA	43,494	11,505	31,989	26.5	73.5
NEW HAMPSHIRE	23,164	7,826	15,338	33.8	66.2

STATE	Total Federal Funds	Total C, P, + D Funds	% of Fed. Grant	Court Mgt. + Operations	Prosecution Services	Defender Services	Education and Training Programs	Law + Proc. Reform, and Code Revision	Construction and Court Equipment	Alternatives to Prosecution	Bail Reform	Legal Interns	Juvenile Courts	Information Systems
Guam	360,000	58,419	16.2	25,000	20,000	13,419								
Virgin Isl.	360,000	20,000	5.6		20,000									
Puer. Rico	6,320,000	767,000	12.1	225,000	235,100	80,000		127,500					99,400	
Am. Samoa	150,000	24,000	16.0	9,000				15,000						
D. C.	1,763,000	672,949	38.2	50,000	150,000	250,000				222,949				
TOTAL	\$480,381,183	- 69,292,410	14.42%	- 17,354,526	- 14,896,675	- 11,212,440	- 6,182,448	- 1,955,489	- 2,072,294	- 10,084,716	- 594,438	- 1,380,358	- 1,376,526	- 2,182,500
% of Total C, P, + D Programs	N/A	N/A	N/A	25.0	21.5	16.2	8.9	2.8	3.0	14.6	.9	2.0	2.0	3.1
% of Total Federal Grant	N/A	N/A	N/A	3.61%	3.10	2.33	1.29	.41	.43	2.10	.12	.29	.29	.45

PERCENT DISTRIBUTION OF TOTAL CRIMINAL JUSTICE
EXPENDITURE FROM OWN SOURCES OF STATE AND LOCAL
GOVERNMENTS, BY STATE: FISCAL YEAR 1972
APPLICABLE TO FY 1974 PASS-THROUGH FUNDS (cont.)

(AMOUNTS IN THOUSANDS)

	TOTAL STATE-LOCAL	EXPENDITURES FROM OWN SOURCES		PERCENT DISTRIBUTION	
		STATE	LOCAL	STATE	LOCAL
NEW JERSEY	418,999	102,626	316,373	24.5	75.5
NEW MEXICO	40,087	19,871	20,216	49.6	50.4
NEW YORK	1,619,978	318,490	1,301,488	19.7	80.3
NORTH CAROLINA	162,273	91,312	70,961	56.3	43.7
NORTH DAKOTA	14,971	4,652	10,319	31.1	68.9
OHIO	397,189	124,477	272,712	31.3	68.7
OKLAHOMA	68,407	31,156	37,251	45.5	54.5
OREGON	98,878	39,421	59,457	39.9	60.1
PENNSYLVANIA	512,222	142,180	370,042	27.8	72.2
RHODE ISLAND	37,252	16,927	20,325	45.4	54.6
SOUTH CAROLINA	71,415	29,567	41,848	41.4	58.6
SOUTH DAKOTA	16,379	6,887	9,492	42.0	58.0
TENNESSEE	114,423	40,026	74,397	35.0	65.0
TEXAS	330,465	92,467	237,998	28.0	72.0
UTAH	31,663	13,010	18,653	41.1	58.9
VERMONT	17,131	13,595	3,536	79.4	20.6
VIRGINIA	164,735	80,236	84,499	48.7	51.3
WASHINGTON	147,891	50,217	97,674	34.0	66.0
WEST VIRGINIA	33,707	14,467	19,240	42.9	57.1
WISCONSIN	203,598	68,230	135,368	33.5	66.5
WYOMING	11,608	5,275	6,333	45.4	54.6

CONFERENCE OF CHIEF JUSTICES

ROOM 1208
36 WEST 44TH STREET
NEW YORK, NEW YORK 10036
(212) 869-3949

APPENDIX III

SECRETARIAT
THE COUNCIL OF STATE GOVERNMENTS

Resolution Passed Unanimously at the 25th Annual Meeting
of the Conference of Chief Justices on August 4, 1973

WHEREAS, The Conference of Chief Justices at its 1972 annual meeting by resolution expressed concern with regard to existing and proposed programs for federal financial assistance to state courts; and

WHEREAS, legislation now pending in the Congress known as the Crime Control Act of 1973, amending and continuing the Omnibus Crime Control and Safe Streets Act of 1968, would make no substantial change in the presently unsatisfactory program for federal financial assistance to state courts; and

WHEREAS, it appears desirable for this Conference to reiterate its previously expressed position with regard to federal financial assistance to state courts;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. It is incompatible with, and injurious to, the traditional common-law role of the state judiciary for it to compete before an agency of the executive branch for its "rightful" share of federal block grant funds.

2. For different courts or levels of courts in a state judicial system to be in competition for federal block grant funds, with such competition to be decided by an agency of the executive branch, is destructive of the dignity of the judiciary and inimical to its improvement and to the public interest.

3. Present and proposed programs of federal financial assistance to state courts should require that some appropriate percentage of a state's block grant funds be allocated directly to the judiciary, as distinct from law enforcement, prosecution, defense, corrections, or other criminal justice components; and that funds so allocated be expended in accordance with a plan developed and programs approved by the Supreme Court or other judicial entity of the state with rule-making powers or administrative responsibility for the state's judicial system.

4. Provisions in present and proposed programs for federal financial assistance to state courts which restrict or limit the amount of a state's block grant funds which can be spent for personnel or which require a percentage of such funds to be spent by local units of government, unnecessarily impede and are inimical to the improvement of the judicial system of a state.

5. The special committee of the Conference appointed to consider an act on behalf of the Conference and its Executive Committee with regard to federal programs for financial assistance to state courts should be continued and authorized to seek legislation or administrative rule, directive or policy, as may be appropriate and feasible, to eliminate the objections and to attain the objectives set forth in this resolution and to keep this Conference advised with regard thereto.

BE IT FURTHER RESOLVED,

That copies of this resolution be sent to the following:

The Attorney General of the United States

The Members of the Congress

The Governor of each State

The Administrators of the Law Enforcement
Assistance Administration

The Staff of the Senate and House Judiciary Committee

The Director of each State Criminal Justice Planning Agency

* * * *

APPENDIX IV

TELEPHONE SURVEY OF 50

STATE COURT SYSTEMS

1. Court representation on State Planning Agency (SPA) reported as Excellent 8 ; Good 10 ; Fair 17 ; Poor 8 ; None 2 .
2. SPA organized on following basis:
Statewide 16 ; Regional 6 ; Combination 27 .
3. Court system receiving fair share of LEAA funds:
Yes 12 ; all the funding requested 12 ; No 24 ; None 2 .
4. The LEAA definition of court for funding purposes as including prosecution and defense functions:
Is a problem 24 ; Is not a problem 24 .
5. SPA funds local programs inconsistent with the state court system programs and planning:
Yes 14 ; No 35 .
6. Anticipate difficulty in meeting LEAA hard (dollar) match requirements:
Yes 18 ; No 31 .
7. State assumption of LEAA-funded programs after the interval of initial funding:
Is a problem 24 ; Is not a problem 25 .
8. State assumption requirement causes proliferation of short-term projects:
Yes 23 ; No 26 .
9. The limitation in Section 301(d) of the 1973 LEAA Act of one-third on compensation of personnel causes problems:
Yes 13 ; No 26 ; Had not heard of limitation 7 .
10. The requirement for pass-through of share of block grant funds to units of local government causes problems to court systems:
Yes 24 ; No 25 .
11. SPA will fund programs which benefit both criminal and civil areas:
Yes 32 ; No 18 .

APPENDIX V

NATIONAL CENTER FOR STATE COURTS
COUNCIL OF STATE COURT REPRESENTATIVES

RESOLUTION CONCERNING THE PROPOSED
NATIONAL INSTITUTE OF JUSTICE

THE COUNCIL OF STATE COURT REPRESENTATIVES
RESOLVES AS FOLLOWS:

1. The proposal for the establishment of a National Institute of Justice as of the present time is indefinite and undefined. Therefore, this Council of State Court Representatives cannot appropriately evaluate and take a position with respect to the proposal. However, in any proposal to create a new federal agency which may directly affect the administration of state courts, there are certain basic and traditional principles relating to the primary concerns of this Council which it believes should be stated at this time.

2. There is a need for substantial financial support to augment state and local sources in order to provide the necessary improvements in the administration of justice within the states.

3. It would be inappropriate for a federal agency or a federally financed corporation, such as the proposed National Institute of Justice, to grant or deny funds for any purposes to or for the benefit of state courts pursuant to federally imposed standards.

4. The only basis on which federal funds should be made available to the state judicial systems should be through a system of grants directly to or through the appropriate judicial body having administrative control or rule making powers in the respective state judicial systems.

5. We recognize that in order to accomplish the goal of improving the administration of justice in the state courts nationally, grants of funds to a state judicial system should be expended in a manner designed to elevate and improve the operations within that state and in accordance with a well-planned set of standards, and not simply to continue the status quo. The duty to develop such standards should be two-fold, with the primary responsibility placed on the officers of the state judicial system itself, but with the assistance and concurrence of a national body charged with a broad overview of goals and standards nationwide. The latter function should be performed for the states by their own National Center for State Courts.

6. In no event should the effect of any such grant be to reduce or relieve the continuing responsibility of the state to provide adequate funds to support its judicial system.

Adopted at Denver, Colorado, November 18, 1972.

Attest:

ALICE L. O'DONNELL
Alice L. O'Donnell, Secretary

APPENDIX VI

NOTE: This Bill is a DISCUSSION DRAFT and is being circulated for COMMENTS ONLY. Neither the proposed Bill nor the accompanying Commentary have been approved by the ABA Commission on a National Institute of Justice or the ABA House of Delegates.

A BILL FOR AN ACT

CREATING

A

NATIONAL INSTITUTE OF JUSTICE

Commission on a

National Institute of Justice

American Bar Association

Discussion Draft No. 1, October 1973

Creation and Position in Government

1 Section 1. There is hereby established an independent agency to
2 be known as the National Institute of Justice (hereinafter referred
3 to as the "Institute").

Powers and Purposes

4 Section 2. (a) The Institute is authorized and directed, through
5 grants, contracts, and its own activities,

6 (1) To make evaluations and appraisals of the effectiveness
7 and quality of law and the administration of justice, including but
8 not limited to civil and criminal justice, administrative and
9 regulatory law, and private legal conflicts and their resolution;

10 (2) To conduct basic and applied research concerning law and the
11 administration of justice. All forms of research inquiry may be
12 employed, including empirical and doctrinal inquiry and policy and
13 jurisprudential analysis, according to their prospects for valuable
14 results;

15 (3) To conduct experimental programs in the field of law and
16 administration of justice through responsible public and private
17 agencies and organizations, including agencies and organizations
18 of state and local government;

19 (4) To conduct training and educational programs in law,
20 legal and judicial procedures, and law-related research procedures.
21 Such programs may include fellowships for research, technical training,
22 and advanced education;

23 (5) To coordinate its functions with those of other governmental,
24 academic, and research agencies and organizations, public and
25 private, to avoid as far as possible conflict of purpose and
26 duplication of effort and to promote as far as possible a common
27 set of national priorities in improving law and the administration
28 of justice;

1 (6) To conduct such library, clearinghouse, information
2 gathering, and publication functions as may further the realization
3 of its other responsibilities;

4 (7) To publish or facilitate publication of reports of the
5 research and other products of the Institute and of other law-related
6 agencies and organizations.

7 (b) In carrying out these functions the Institute shall not
8 undertake research, experimentation, or training through personnel
9 of the Institute, but the Institute through its staff may engage in
10 such developmental studies as may be necessary to formulate or
11 evaluate research, experimental, or training proposals.

12 (c) In its research, experimental, and training programs, and
13 in making recommendations for improvement of law and the administration
14 of justice, the Institute shall give particular attention to the
15 impact of law and the administration of justice on the individual
16 citizen and his opportunity to secure prompt and effective recognition
17 of his legal rights, privileges and obligations, and to securing to him
18 equal legal protection and access to legal redress without regard to
19 income status, race, sex, religion or national origin.

Organs of the Institute

20 Section 3. The Institute shall consist of a Board of Directors, an
21 Executive Director, and a Council.

Board of Directors

22 Section 4. (a) The Board of Directors shall consist of 16 members
23 to be appointed by the President, by and with the advice and consent
24 of the Senate. The persons nominated for appointment as members
25 (1) shall be eminent in the fields of law, and judiciary, the
26 administration of justice, scholarship in law or academic disciplines

1 related to the law, public administration, or community and public
2 affairs; (2) shall be selected solely on the basis of established
3 records of distinguished service or accomplishment; and (3) shall
4 be selected after taking into account the fields mentioned and the
5 various regions of the nation. The President is requested, in making
6 nominations of persons for appointment to the Board, to solicit and
7 to give due consideration to any recommendations submitted to him
8 by members of Congress, by organizations of the legal profession
9 (including the judiciary) and the academic branches of the law and
10 law-related disciplines, and by civic and citizen organizations that
11 have manifested an interest in law and the administration of
12 justice.

13 (b) The term of each member of the Board shall be four years,
14 except that (1) a member appointed to fill a vacancy occurring prior
15 to the expiration of the term for which his predecessor was
16 appointed shall be appointed for the remainder of that term; and (2)
17 the terms of office of the members first taking office after the date
18 of enactment of this Act shall expire, as designated by the President
19 at the time of appointment, four at the end of one year, four at the
20 end of two years, four at the end of three years, and four at the end
21 of four years after the date of the first appointments made under
22 this Act. Any person who has been a member of the Board for two
23 consecutive terms shall thereafter be ineligible for any subsequent
24 appointment.

25 (c) The Board shall select a Chairman from among its members and
26 may elect from such membership a Vice-Chairman and such other officers
27 as it may designate. The Chairman and other officers so elected shall
28 hold office for one year and until their respective successors are
29 qualified and may be re-elected so long as they continue as members
30 of the Board.

1 (d) The Board may appoint from its members an Executive Committee
2 and assign to the Executive Committee such powers of the Board as
3 it deems appropriate except that of reviewing and approving the
4 budgetary proposals of the Executive Director. It may appoint such
5 other committees, whose membership need not be limited to members of
6 the Board, as it deems appropriate.

7 (e) The Board shall also:

8 (1) Meet quarterly and at such other times as it may specify,
9 or upon the call of the Chairman, the Executive Director, or one
10 third of its members;

11 (2) In consultation with the Executive Director, formulate
12 the policies and programs of the Institute;

13 (3) At least annually prepare and make public distribution of
14 the program plans and descriptions of projects proposed and contemplated
15 by the Institute and solicit suggestions and comments concerning the
16 same, with particular regard to their relationship to similar or related
17 programs and projects of other public and private agencies concerned
18 with law and the administration of justice;

19 (4) Monitor and cause evaluations to be made of the value and
20 effectiveness of the programs of the Institute;

21 (5) Render an annual report to the people of the United States
22 on the work of the Institute and the state of law and the
23 administration of justice in the nation. The report may include
24 recommendations for improvement of law and the administration of
25 justice;

26 (6) Determine the time and place of sessions of the Council
27 and the agenda for the sessions. The Council shall meet at least
28 once a year;

(7) Approve and submit budgetary proposals for the Institute.

(f) The members of the Board shall receive compensation at the rate of \$100 for each day engaged in the business of the Institute pursuant to authorization of the Institute. The Board may provide that members of any committee established pursuant to subsection (d) may receive compensation at a rate not exceeding \$100 for each day such committee members are engaged in the business of the Institute. Board members and members of such committees shall also be allowed travel expenses as authorized by section 5703 of Title 5, United States Code.

Executive Director

Section 5. (a) The Executive Director shall be appointed by the Board without regard to the provisions of Title 5, United States Code, governing appointments in the competitive service. The term of the Executive Director shall be six years unless he is sooner removed by the Board.

(b) The Executive Director shall, subject to the direction of the Board, be responsible for carrying out the functions of the Institute and, except as otherwise provided in this Act, shall exercise all authority granted to the Institute by this Act. In addition, the Executive Director shall:

- (1) Recommend to the Board policies and programs;
- (2) Prepare, for approval of the Board, estimates of the budgetary requirements of the Institute;
- (3) With the advice and approval of the Board, appoint a Deputy Executive Director, without regard to the provisions of Title 5, United States Code, governing appointments to the competitive service.

(c) The Executive Director may delegate to any other officer or employee of the Institute any duty or authority he has, except those specified in subsection (b).

Council

Section 6. (a) The Council shall consist of not less than 50 nor more than 100 members appointed by the Board for terms of three years, except that those selected initially shall be chosen in a manner such that the terms of one third of them expire respectively one, two, and three years after their appointment. The members of the Council shall be selected to provide broad representation of the views of private citizens and groups and various types of agencies concerned with the administration of justice and to draw upon diverse experience in life and various regions of the nation.

(b) The Council shall meet as provided in Section 4 (c) (6). The Chairman of the Board of the Institute, or another member of the Board designated by him, shall preside at meetings of the Council.

The Council:

- (1) Shall receive and may discuss and make recommendations concerning proposals and reports of activity by the Institute;
- (2) May authorize creation of study and advisory committees of the Council, whose members shall be appointed by the Chairman;
- (3) May suggest problems and topics concerning which the Institute should undertake activities authorized by this Act;
- (4) May make reports and recommendations to the Board.

(c) Members of the Council are entitled to travel expenses as authorized by section 5703 of Title 5, United States Code, for individuals serving without pay.

Further Powers

1 Section 7. (a) In addition to any authority vested in it by other
2 provisions of this Act, the Institute, in carrying out its functions,
3 is authorized to:

4 (1) Prescribe such regulations as it deems necessary governing the
5 manner in which its functions shall be carried out;

6 (2) Receive money and other property donated, bequeathed, or
7 devised, without condition or restriction other than that it be used
8 for a purpose of the Institute; and to use, sell, or otherwise dispose
9 of such property for the purpose of carrying out its functions;

10 (3) In the discretion of the Institute, receive (and use, sell
11 or otherwise dispose of, in accordance with paragraph (2)) money
12 and other property donated, bequeathed, or devised to the Institute with
13 a condition or restriction, including a condition that the Institute
14 use other funds of the Institute for the purposes of the gift;

15 (4) Appoint advisory committees composed of such private citizens,
16 members of civic, citizen, and professional organizations, and
17 officials of federal, state, and local governments as it deems
18 desirable to advise the Institute with respect to its functions under
19 this Act;

20 (5) Appoint and fix the compensation of such personnel as may
21 be necessary to carry out the provisions of this Act without regard
22 to the provisions of Title 5, United States Code, governing appointments
23 in the competitive service, and without regard to the provisions of
24 chapter 51 and subchapter III of chapter 53 of such title relating
25 to classification and General Schedule pay rates;

1 (6) Obtain the services of experts and consultants in accordance
2 with the provisions of section 3109 of Title 5, United States Code,
3 at the rates for individuals not to exceed the rate prescribed for GS-18
4 in the General Schedule under section 5332 of Title 5, United States
5 Code;

6 (7) Accept and utilize the services of voluntary and noncompensated
7 personnel and reimburse them for travel expenses, including per diem,
8 as authorized by section 5703 of Title 5, United States Code;

9 (8) Enter into contracts, grants, or other arrangements, or
10 modification thereof to carry out the provisions of this Act, and
11 such contracts or modifications thereof may, with the concurrence of
12 two-thirds of the members of the Board, be entered into without
13 performance or other bonds, and without regard to section 3709
14 of the Revised Statutes, as amended (41 U.S.C. 5);

15 (9) Provide for the making of such reports (including fund
16 accounting reports) and the filing of such applications in such form
17 and containing such information as the Executive Director may
18 reasonably require;

19 (10) Make advances, programs, and other payments which the
20 Executive Director deems necessary under this Act without regard to
21 the provisions of section 3648 of the Revised Statutes, as amended
22 (31 U.S.C. 529); and

23 (11) Make other necessary expenditures.

24 (b) Each member of a committee appointed pursuant to paragraph (4)
25 of subsection (a) of this section who is not an officer or employee
26 of the federal government shall receive an amount equal to the maximum

1 daily rate prescribed for GS-18 under section 5332 of Title 5, United
 2 States Code, for each day he is engaged in the actual performance of
 3 duties (including travel time) as a member of a committee. All members
 4 shall be reimbursed for travel, subsistence, and necessary expenses
 5 incurred in the performance of their duties.

Political Ban

6 Section 8. No officer or employee of the Institute shall take any
 7 active part in political management or in political campaigns, and
 8 no such officer or employee shall use his official position or
 9 influence for the purpose of interfering with any election or
 10 affecting the result of any election.

Compensation of Executive Director

11 Section 9. (a) Section 5315 of Title 5, United States Code, is
 12 amended by adding at the end thereof the following new paragraph:

13 "(95) Executive Director, National Institute of
 14 Justice."

15 (b) Section 5316 of Title 5, United States Code, is amended by
 16 adding at the end thereof the following new paragraph:

17 "(130) Deputy Executive Director, National
 18 Institute of Justice."

Appropriation

19 Section 10. There are authorized to be appropriated such sums as
 20 may be necessary to carry out the provisions of this Act.

93^d CONGRESS
1ST SESSION

S. 1629

IN THE SENATE OF THE UNITED STATES

APRIL 18, 1973

Mr. GURNEY (for himself and Mr. BURDICK) introduced the following bill;
which was read twice and referred to the Committee on the Judiciary

A BILL

To encourage and assist the improvement of the judicial ma-
chinery through the establishment of a Division of State
Court Assistance in the Federal Judicial Center, and for
other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*
 3 That this Act may be cited as the "State Court Assistance
 4 Act".

5 SEC. 2. (a) Congress finds that rapid growth of popu-
 6 lation, the great expansion of economic activity, and the
 7 facility of communication and travel in and between the
 8 several States have resulted in a great increase in the civil
 9 caseload of both Federal and State courts. The amicable

1 disposition of disputes between citizens of each State and of
2 the several States by a system of law is impeded, and the
3 efficacy of a system of law is threatened, when the courts
4 of the dual system are unable to decide civil disputes
5 promptly.

6 (b) Congress further finds that, while the organization
7 and administration of State courts is largely a local problem
8 to be decided by State and local governments, certain fed-
9 erally created rights are by Act of Congress permitted, and
10 in some instances required, to be tried in State courts. To
11 the extent that State courts are less current than Federal
12 courts in the trial of cases of a civil nature, more cases of
13 concurrent jurisdiction are commenced in Federal rather
14 than State courts.

15 (c) It is therefore the declared policy of the Congress
16 to assist State and local governments in studying improve-
17 ments in the administration of State courts and in provid-
18 ing, for an initial period, an increase in the supportive court
19 personnel necessary to bring about a reduction in the backlog
20 of cases awaiting trial.

21 SEC. 3. (a) (1) Sections 631 through 639 of title 28,
22 United States Code, and all references thereto, are redesign-
23 nated as sections 651 through 659, respectively.

24 (2) The analysis of chapter 43 of such title is amended
25 by striking out—

- 1 (A) "631" and inserting in lieu thereof "651",
2 (B) "632" and inserting in lieu thereof "652",
3 (C) "633" and inserting in lieu thereof "653",
4 (D) "634" and inserting in lieu thereof "654",
5 (E) "635" and inserting in lieu thereof "655",
6 (F) "636" and inserting in lieu thereof "656",
7 (G) "637" and inserting in lieu thereof "657",
8 (H) "638" and inserting in lieu thereof "658", and
9 (I) "639" and inserting in lieu thereof "659".

10 (b) Chapter 42 of title 28, United States Code, is
11 amended by—

12 (1) inserting immediately before section 620 the
13 following new heading:

14 "SUBCHAPTER I—FEDERAL JUDICIAL CENTER"

15 and

16 (2) by adding at the end of such chapter the fol-
17 lowing new subchapter:

18 "SUBCHAPTER II—DIVISION OF STATE COURT
19 ASSISTANCE

20 "§ 631. Division of State Court Assistance

21 "There is established within the Federal Judicial Center
22 a Division of State Court Assistance whose purpose shall be
23 to further the development and adoption of improvements
24 in the organization, procedure, and administration of local
25 and State courts and to make grants-in-aid to the States for

1 studies and investigations and to provide, for an initial
2 period, additional supportive personnel to State and local
3 courts.

4 **“§ 632. Board; composition, selection, tenure of members**

5 “(a) The activities of the Division shall be supervised
6 by a Board which shall have final responsibility for estab-
7 lishing the policies of the Division and shall, except as other-
8 wise provided in this subchapter, exercise the authority
9 granted to the Division.

10 “(b) The Board shall be composed of—

11 “(1) a representative selected by the National Con-
12 ference of Chief Justices;

13 “(2) a representative selected by the National Con-
14 ference of Court Administrators;

15 “(3) a representative elected by the National Con-
16 ference of Appellate Judges;

17 “(4) a representative selected by the National Con-
18 ference of State Trial Judges; and

19 “(5) five members appointed by the President.

20 Of the members appointed pursuant to clause (5) of subsec-
21 tion (b), two shall be appointed from among persons who
22 are judges and two from among persons who are attorneys
23 engaged in the private practice of law.

24 “(c) No two members of the Board appointed by the
25 President shall be residents of the same State and not more

1 than three members of the Board appointed by the President
2 shall be members of the same political party.

3 “(d) The members of the Board shall serve for a term
4 of four years. No member of the Board who ceases to be a
5 member of the organization selecting him may serve on the
6 Board. Any vacancy of a member selected pursuant to clauses
7 (1) through (4) of subsection (b) shall be filled by the
8 appropriate selecting authority for the remainder of the term
9 for which his predecessor was selected. Any vacancy on the
10 Board of a member selected pursuant to clause (5) of sub-
11 section (b) shall be appointed by the President for the
12 remainder of the term for which his predecessor was
13 appointed.

14 “(e) The Board shall select a Chairman from among
15 the members of the Board at the first meeting of the Board.
16 The first meeting of the Board shall be held on the ninety-
17 first day after the date of enactment of this subchapter.

18 **“§ 633. Meetings; conduct of business; compensation**

19 “(a) Regular meetings of the Board shall be held
20 quarterly. Special meetings shall be held from time to time
21 upon the call of the Chairman, acting at his own discretion
22 or pursuant to the petition of any four members.

23 “(b) Each member of the Board shall be entitled to
24 one vote. A simple majority of the membership shall consti-
25 tute a quorum for the conduct of business. The Board shall

1 act upon the concurrence of the simple majority of the
2 members present and voting.

3 “(c) Members of the Board shall receive compensation
4 at the rate of \$75 per day while engaged in the actual
5 performance of duties vested in the Board, and shall also be
6 reimbursed for travel, subsistence, and other necessary
7 expenses incurred by them in the performance of such duties,
8 so long as consistent with State law.

9 **“§ 634. Duties of the Board**

10 “(a) In order to carry out the objectives of this sub-
11 chapter, the Board is authorized—

12 “(1) to conduct or cause to be conducted seminars
13 and other educational programs for judges and personnel
14 of State and local courts;

15 “(2) to collect, evaluate, publish, and disseminate
16 information, materials, and other data relating to studies,
17 programs, and projects conducted or carried out by the
18 Institute or by a State under this chapter;

19 “(3) to cooperate with the National Center for
20 State Courts and to render technical assistance to Fed-
21 eral, State, local, or other public or private agencies; and

22 “(4) to accept, in its discretion, gifts and other
23 donations to be used in carrying out the purpose of the
24 Institute.

3 “(b) In order to further carry out the objectives of
4 this subchapter, the Board is authorized to make grants,
5 in accordance with the provisions of this subchapter, to
6 State and local courts or to public agencies or private non-
7 profit organizations for the following purposes—

8 “(1) to permit a State to study and evaluate State
9 and local court systems, and to prepare recommenda-
10 tions for organizational, procedural, and administrative
11 improvements of such systems, including projects
12 designed to meet compliance with standards of judicial
13 performance recommended by the Council of State Court
14 Representatives of the National Center for State Courts,
15 and including, but not limited to, any of the following—

16 “(A) the disposition of pedestrian and non-
17 moving vehicular traffic offenses by administrative
18 rather than judicial procedures,

19 “(B) the revision of criminal codes, statutes,
20 or ordinances to provide for a feasible system of
21 adjudicating petit misdemeanor offenses by other
22 than jury trials,

23 “(C) the use of referees or masters to super-
24 vise under court direction pretrial proceedings,
25 including correction of pleadings, enforcement of
26 discovery, simplification of issues, and consideration
27 of settlement possibilities in money-only cases,

“(D) the resolution of conflicts between sev-

1 eral courts, both State and Federal, over the assign-
2 ment of trial counsel,

3 “(E) the use of referees or masters to facilitate
4 the adjudication and disposition of juvenile cases
5 and uncontested divorce and probate cases,

6 “(F) the disposition of cases involving victim-
7 less minor offenses by administrative rather than
8 judicial procedures,

9 “(G) the expedition of appeals by simplifica-
10 tion of the transcript or other record of trial and the
11 expedition of such transcript by use of electronic
12 recording devices or by supplying supplemental
13 official court reporter positions,

14 “(H) a reexamination of procedures used in
15 small claim courts, including reassessment of pro-
16 cedures assuring adequate notice and opportunity
17 to be heard in consumer cases, and

18 “(I) for such other purposes consistent with
19 the objectives of this chapter as the Board de-
20 termines is appropriate.

21 “(2) to present seminars and other education pro-
22 grams for judges and personnel of local and State courts;

23 “(3) to establish on a regional basis in accredited
24 universities and colleges programs of instruction in court

1 administration, management, and other parajudicial
2 duties;

3 “(4) to defray the expense, including salary and
4 rent of any additional office space, necessary to imple-
5 ment and maintain for a period of four years any ap-
6 proved improvement program specified in subsection
7 (b) (1) of this clause which requires the services of
8 additional judges and supportive personnel, exclusive of
9 clerical and stenographic personnel, except that not more
10 than 90 per centum of the cost of salaries and rent of
11 additional office space shall be paid out of grants made
12 under this clause.

13 “(5) for such other purposes, consistent with the
14 objectives of this subchapter, as the Board determines
15 necessary or desirable, except that no such grant or part
16 thereof may be used for the construction, improvement,
17 or alteration of buildings.

18 **“§ 635. Powers of the Board**

19 “The Board is authorized—

20 “(1) to appoint and fix the duties of the Director
21 of the Division of State Court Assistance, who shall
22 serve at the pleasure of the Board;

23 “(2) to request from any department, agency, or
24 independent instrumentality of the Government any in-

1. information it deems necessary to the performance of the
 2. functions of the Division of State Court Assistance set
 3. forth in this subchapter, and each such department,
 4. agency, or instrumentality is directed to cooperate with
 5. the Board and, to the extent permitted by law, to furnish
 6. such information to the Division upon request of the
 7. Chairman or upon request of the Director when the
 8. Board has delegated this authority to him;

9. “(3) to contract with and compensate government
 10. and private agencies or persons for research projects and
 11. other services, without regard to section 3709 of the Re-
 12. vised Statutes, as amended (41 U.S.C. 5), and to dele-
 13. gate such contract authority to the Director of the Divi-
 14. sion of State Court Assistance, who is empowered to
 15. exercise such delegated authority.

16. **§ 636. Director and staff**

17. “(a) The Board shall appoint and fix the duties of the
 18. Director of the Division who shall serve at the pleasure of the
 19. Board.

20. “(4) The Director’s per annum compensation shall be
 21. set by the Board in an amount not to exceed \$36,000 per
 22. annum. His appointment and salary shall not be subject to
 23. the provisions of title 5, United States Code, governing ap-
 24. pointments in the competitive service, or the provisions of

1. chapter 51 and subchapter III of chapter 53 of such title,
 2. relating to classifications and General Schedule pay rates.

3. “(c) The Director shall appoint and fix the compensa-
 4. tion of such additional professional personnel as the Board
 5. may deem necessary, without regard to the provisions of title
 6. 5, United States Code, governing appointments in the com-
 7. petitive service, or the provisions of chapter 53 and sub-
 8. chapter III of chapter 53 of such title, relating to classifi-
 9. cations and General Schedule pay rates, except that (1) the
 10. compensation of any person appointed under this subsection
 11. shall not exceed the annual rate of basic pay of grade 17 of
 12. the General Schedule pay rates, section 5316, of title 5,
 13. United States Code, and (2) the salary of a reemployed an-
 14. nuitant under the Civil Service Retirement Act shall be ad-
 15. justed pursuant to the provisions of section 8344, title 5,
 16. United States Code.

17. “(d) The Director shall appoint and fix the compensa-
 18. tion of such secretarial and clerical personnel as he may deem
 19. necessary, subject to the provisions of title 5, United States
 20. Code, governing appointments in the competitive services,
 21. and the provisions of chapter 51 and subchapter III of chap-
 22. ter 53 of such title, relating to classifications and General
 23. Schedule pay rates.

24. “(e) The Director may procure personal services as

1 authorized by section 3109 of title 5, United States Code, at
 2 rates not to exceed the daily equivalent of the highest rate
 3 payable under General Schedule pay rates, section 5332, title
 4 5, United States Code, unless such higher rate is approved by
 5 the Board.

6 “(f) The Director is authorized to incur necessary travel
 7 and other miscellaneous expenses incident to the operation
 8 of the Division.

9 **“§ 637. Retirement; employee benefits**

10 “The Director, the professional staff, and the clerical and
 11 secretarial employees of the Division shall be deemed to be
 12 officers and employees of the judicial branch of the United
 13 States Government within the meaning of subchapter III of
 14 chapter 83 (relating to civil service retirement), chapter 87
 15 (relating to Federal employees life insurance program), and
 16 chapter 89 (relating to Federal employees health benefits
 17 program), to title 5, United States Code.

18 **“§ 638. Procedure for obtaining grants**

19 “(a) The Director shall, after consultation with the
 20 Board, issue regulations establishing general standards for
 21 obtaining grants under this subchapter. The regulations shall
 22 provide for regular reports to the Director by a recipient of
 23 a grant under this subchapter, and the Director shall from
 24 time to time, on the basis of the reports and other informa-
 25 tion available to him, review and, if necessary, revise the

1 regulations issued pursuant to this section. Such regulations
 2 and revisions thereof shall not become effective until ap-
 3 proved by the Board.

4 “(b) After the regulations referred to in subsection (a)
 5 of this section have been issued, any State or local court or
 6 any public agency or private nonprofit organization desiring
 7 to secure a grant under this chapter may submit an applica-
 8 tion therefor to the Director. The application shall be in such
 9 form and contain such information as may be prescribed by
 10 the Director. The application shall be reviewed by the Di-
 11 rector who shall recommend approval or disapproval to the
 12 Board. No application submitted for a grant under this sub-
 13 chapter shall be recommended by the Director for approval
 14 unless such application has been first approved by the highest
 15 judicial authority of the State in which is located the court,
 16 agency or organization submitting such application.

17 “(c) The Board may approve any application recom-
 18 mended by the Director which complies with the provisions
 19 of this subchapter. Payment to any applicant under this
 20 subchapter may be made upon the approval of the applica-
 21 tion by the Board from the appropriate allotment deter-
 22 mined pursuant to section 640. Payment of any such grant
 23 may be made in advance or by way of reimbursement, and
 24 in such installments as may be determined by the Director,

1 and shall be made on such conditions as the Director finds
2 necessary to carry out the objectives of this subchapter.

3 **“§ 639. Control prohibited and approval of chief judge**

4 “Nothing in this Act shall be construed as authorizing
5 the Division, the Board, or the Director thereof, to supervise
6 or control in any manner or to any extent the administration,
7 organization, or procedure of any State or local court, or to
8 conduct or to cause to be conducted any study or evaluation
9 of any State or local court without the prior approval of the
10 highest judicial authority of the State in which such study
11 or evaluation is to be conducted.

12 **“§ 640. Appropriations and allocations**

13 “(a) Except as provided in subsection (b), there are
14 authorized to be appropriated such sums as may be necessary
15 to carry out the provisions of this Act.

16 “(b) There are authorized to be appropriated to carry
17 out the provisions of section 634 (b) the sum of \$50,500,000
18 for the fiscal year ending June 30, 1974, \$73,500,000 for
19 the fiscal year ending June 30, 1975, \$93,500,000 for the
20 fiscal year ending June 30, 1976, and \$132,000,000 for the
21 fiscal year ending June 30, 1977, to be allocated in accord-
22 ance with subsection (c) of this section.

23 “(c) Of the sums appropriated pursuant to subsection
24 (a) of this section for each fiscal year, not more than \$2,-
25 300,000 shall be available for the purposes of administration

1 expenses of the Division. Of such sums appropriated for each
2 fiscal year, the sum of \$500,000 shall be available for each
3 fiscal year for the purpose of establishing programs of in-
4 struction in court administration.

5 “(d) Of the sums appropriated pursuant to subsection
6 (b) of this section—

7 “(1) the sum of \$3,700,000 shall be available for
8 each of the fiscal years ending June 30, 1974, June 30,
9 1975, and June 30, 1976, and the sum of \$1,700,000
10 shall be available for the fiscal year ending June 30,
11 1977, for studies assisted under clause (1) of section
12 634 (b) ;

13 “(2) the sum of \$2,000,000 for each of the fiscal
14 years ending June 30, 1974, and June 30, 1975, the
15 sum of \$3,000,000 for the fiscal year ending June 30,
16 1976, and the sum of \$1,500,000 for the fiscal year
17 ending June 30, 1977, shall be available for seminars
18 assisted under clause (2) of section 634 (b) ; and

19 “(3) the sum of \$42,000,000 for the fiscal year
20 ending June 30, 1974, the sum of \$65,000,000 for the
21 fiscal year ending June 30, 1975, the sum of \$84,000,-
22 000 for the fiscal year ending June 30, 1976, and the
23 sum of \$126,000,000 for the fiscal year ending June
24 30, 1977, shall be available for improvement programs
25 assisted under clause (4) of section 634 (b) .

1 “(e) (1) Of the sums authorized to be appropriated
2 under subsection (b) of this section and available for studies
3 pursuant to paragraph (1) of subsection (d) of this section,
4 each State shall be allocated \$25,000 and, from the re-
5 mainder of the sums so appropriated, each State shall be
6 allocated an additional amount which bears the same ratio
7 to such remainder as the population of the State bears to the
8 population of all States.

9 “(2) Of the sums authorized to be appropriated pursu-
10 ant to subsection (b) and available for seminars in accord-
11 ance with paragraph (2) of subsection (d) of this section,
12 each State shall be allotted \$15,000 for the fiscal year
13 ending June 30, 1974, and for the fiscal year ending
14 June 30, 1975; \$30,000 for the fiscal year ending June 30,
15 1976; and \$15,000 for the fiscal year ending June 30,
16 1977, and, from the remainder of the sums so appropriated,
17 each State shall be allocated an additional amount which
18 bears the same ratio to such remainder as the population of
19 the State bears to the population of all States.

20 “(3) Of the sums authorized to be appropriated pursu-
21 ant to subsection (b) and available for improvement pro-
22 grams in accordance with paragraph (3) of subsection (d)
23 of this section, each State shall be allotted \$200,000 for
24 the fiscal year ending June 30, 1974, \$300,000 for the
25 fiscal year ending June 30, 1975, \$400,000 for the fiscal
26 year ending June 30, 1976, and \$600,000 for the fiscal

1 year ending June 30, 1977, and, from the remainder of the
2 sums so appropriated, each State shall be allocated an addi-
3 tional amount which bears the same ratio to such remainder
4 as the population of the State bears to the population of all
5 States.

6 “(f) The Board is authorized to allocate the remainder
7 of the funds appropriated pursuant to subsection (b) of this
8 section on an equitable basis.

9 “(g) From the sums allotted pursuant to subsections
10 (e) and (f) of this section, the Director is authorized to
11 pay State and local courts and public agencies and private
12 nonprofit organizations in that State having applications ap-
13 proved under this subchapter.

14 “§ 641. Definitions

15 “As used in this subchapter, the term—

16 “(1) ‘State’s highest judicial authority’ means the
17 person who has been granted, by State constitution or
18 statute, supreme supervisory authority over the courts
19 of the State or, in the absence of such a grant or desig-
20 nation, the chief judge of the highest court of a State;

21 “(2) ‘State’ means each of the several States and
22 the District of Columbia; and

23 “(3) ‘population’ means the more recently pub-
24 lished State population figures cited in—

25 “(a) the latest decennial census report of the
26 Bureau of the Census; or

1 “(b) the latest Current Population Reports,
2 series P-25, published by the Bureau of the
3 Census.

4 **“§ 642. Annual report**

5 “On or before April 1 of each calendar year, the Board
6 shall report in writing to the President and to the Con-
7 gress on its activities pursuant to the provisions of this
8 chapter during the preceding calendar year.”

9 SEC. 4. (a) The analysis of chapter 42 of title 28,
10 United States Code, is amended to read as follows:

11 **“Chapter 42.—FEDERAL JUDICIAL CENTER AND**
12 **THE DIVISION OF STATE COURT ASSISTANCE**

 “SUBCHAPTER I—FEDERAL JUDICIAL CENTER

 “Sec.

 “620. Federal Judicial Center.

 “621. Board; composition, tenure of members, compensation.

 “622. Meetings; conduct of business.

 “623. Duties of the Board.

 “624. Powers of the Board.

 “625. Director and staff.

 “626. Compensation of the Director.

 “627. Retirement; employee benefits.

 “628. Appropriations and accounting.

 “629. Organizational provisions.

 “SUBCHAPTER II—DIVISION OF STATE COURT
 ASSISTANCE

 “Sec.

 “631. Division of State Court Assistance.

 “632. Board; composition, selection, tenure of members.

 “633. Meetings; conduct of business; compensation.

 “634. Duties of the Board.

 “635. Powers of the Board.

 “636. Director and staff.

 “637. Retirement; employee benefits.

 “638. Procedure for obtaining grants.

 “639. Control prohibited and approval of chief judge.

 “640. Appropriations and allocations.

 “641. Definitions.

 “642. Annual report.”

1 (b) The table of chapters of part III of title 28, United
2 States Code, is amended—

3 (1) by striking out

 “42. Federal Judicial Center”

4 and inserting in lieu thereof

 “43. Federal Judicial Center and Division of State Court Assistance”;

5 and

6 (2) by striking out “631” after the matter “United States
7 Commissioner” and inserting in lieu thereof “651”.

END