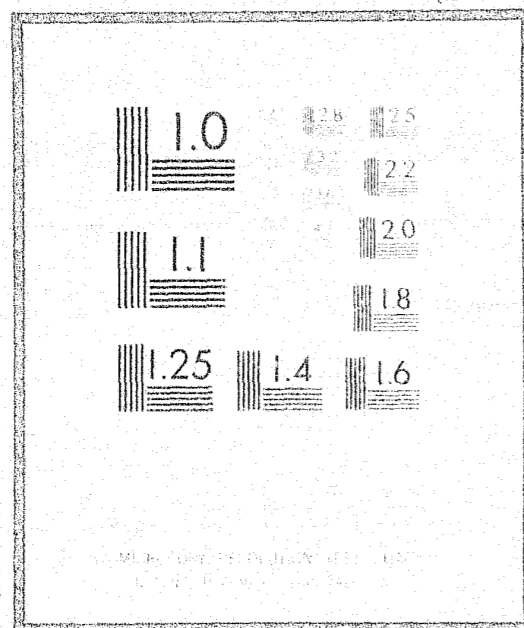


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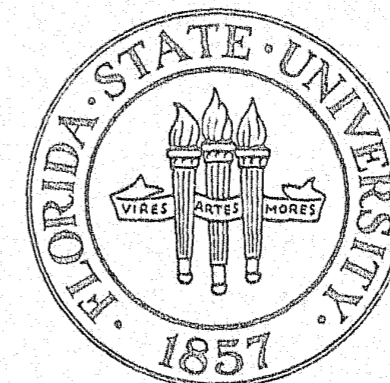
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Regional Conference for Criminal Justice Planning Personnel

Edited by W. William Minor



Sponsored by the School of Criminology and the Division
of Continuing Education, Florida State University.

Tallahassee, Florida

September 17-19, 1973

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ACQUISITION

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Funded by the Law Enforcement Assistance Administration
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Grant Number 73-TN-04-0006.

Preface

Criminal justice planning has emerged as a very significant endeavor within the general effort to improve and professionalize the national system of criminal justice. The criminal justice planning field has grown faster than the opportunity to effectively organize the body of knowledge supporting it. In order to meet the educational and training demands rapidly generating from the field, ad hoc measures have been taken to quickly bring didactic material to bear on the real, ongoing problems faced by criminal justice planning personnel.

Recognizing the acute need to provide forums for the exchange of information and experience among those involved in criminal justice planning, the Law Enforcement Assistance Administration has funded a number of conferences for that purpose. The Regional Conference for Criminal Justice Planning Personnel, held in September 1973 under the auspices of the Florida State University School of Criminology and the Division of Continuing Education, brought together active criminal justice planners from an eight state southern region. Meeting with them were criminologists and planning experts from several universities. The interchange of knowledge and experience was accomplished on the grounds of both theory and practice, as these Proceedings will reflect. An important feature of these Proceedings is the recording of questions and answers addressed to both practical and theoretical problem situations. The result, I think, is a useful document to be added to the nascent literature on criminal justice planning.

Eugene H. Czajkoski, Dean
School of Criminology
Florida State University

Editor's Foreword

The Regional Conference for Criminal Justice Planning Personnel was held on September 17-19, 1973, in Tallahassee, Florida. The purpose of the conference was to bring together academicians, administrators, and planners to discuss ways of improving criminal justice planning. As a medium for the exchange of ideas, the conference seems to have been successful: Topics had been carefully planned and integrated, speakers had prepared their presentations carefully, and participants worked to maximize usable information. Convinced that the conference was a worthwhile endeavor, I have attempted to make the Proceedings an accurate, complete, and usable document.

Several precautions have been taken to make the Proceedings as error-free as possible. Notes were taken during the conference, and each session was recorded on tape. Each speaker furnished a written outline of his major points, and some speakers submitted prepared papers. The Proceedings was prepared principally from the transcribed tapes, but whenever a point could not be clarified by the outlines, tapes, or notes, the speaker was contacted directly.

The Proceedings is organized as follows: The presentations follow the same sequence that they did during the conference. Each presentation is preceded by an abstract (written by the editor) intended to remind the reader of the general subject matter. In most cases, a discussion section immediately follows the formal presentation. In this section, "Response" identifies the comments of the principal speaker. For those papers with attachments or a list of references, such attachments immediately follow the presentation. This organization is intended to encourage the use of the Proceedings as a working document.

Many people have been instrumental in the preparation and execution of this conference, and should be acknowledged here. Dean Eugene Czajkoski and Dr. Frederic Faust, Co-Directors of the project, shared the major responsibilities of planning and organizing the conference. Dr. Mary Pankowski supervised the administration and organization of the conference. Tricia Lantaff prepared all of the administrative and financial paperwork and supervised the transcribing of the tapes. At the conference, Linda Anderson and Miki Vohryzek served as troubleshooters and recorders. Robert Watts prepared, conducted and analyzed the evaluation of the conference. Alcista Gillies typed the final draft of the Proceedings. Finally, the

grant received from the Law Enforcement Assistance Administration through the Florida Governor's Council on Criminal Justice made the conference possible. The efforts of all these people, combined with those of the conference's speakers and participants, have made this volume possible.

Tallahassee, Florida
January 1974

W. William Minor

39954

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Welcome Address

O. J. Keller*

ABSTRACT

State criminal justice plans are futile unless subscribed to by the agencies involved and by legislative leaders. Plans should anticipate actions which may be forced by court decisions. National consulting firms may not be recognized as repositories of expertise. Some university professors are too theoretically oriented to provide useful consultation. Inmates and lower-level staff are an excellent source of practical advice. Planners should also consider recommendations affecting the larger society, not just the criminal justice system.

I will spend most of my half hour this morning asking questions or presenting questions to you that maybe you can find answers to during the course of the conference. I think it's interesting that your meeting this week is simultaneous with some of the important legislative committee meetings here in this state. The newspaper this morning pointed out that Senator Dick Pettigrew's committee on the criminal justice system will be meeting for four days starting today, Monday through Thursday. This is interesting because what will be happening in these legislative committees is not only Senator Pettigrew's committee but also Representative Dick Hodes' Committee on Health and Rehabilitative Services. They will be considering some of the very issues that all of you are concerned about, such as: "How should the criminal justice system be set up?" "How do the plans relate?"

*Secretary of the Department of Health and Rehabilitative Services,
State of Florida.

I want to ask you these questions though: Do you really plan for the whole system? My understanding is that you work for the state planning agencies, are largely funded by LEAA funds, and have to develop a state plan because you cannot get the LEAA funds unless there is a plan submitted which is acceptable to LEAA in Washington. Is that correct? Do you all feel that you are doing comprehensive planning for the criminal justice system in your states? I'm really asking you how much clout - how much influence - you really have on what is done in your states in the criminal justice system. For example, if each part of the state system has it's own planners, as the Division of Youth Services, the Division of Corrections, and the Parole and Probation Commission do here in Florida, and if you are with the state planning agency, how much influence do you really have with regard to the plans which are being developed by those major parts of your criminal justice system? They all have their own planning components and they all have their own ideas as to what should be done. Do you really coordinate with them? Now Charles Davoli - who's a personal friend over here - is coordinated with the Division of Youth Services because Davoli used to work with the Division of Youth Services and really knows that agency. Thank heavens for Davoli's having been there for the past couple of years because he really was calling the shots with the Governor's Council in regards with youth corrections. As far as that Federal money was concerned he was making some major decisions which I thought were excellent decisions and he was pretty well coordinated with the youth system. How do you feel we were coordinated, is this fair Charles, how do you feel you're coordinated with the prison system? In other words, I guess what I'm really asking you, what was the relationship between the state planning agency and the agencies that make up the criminal justice system? How do you feel it was between the prison and the state planning agency? Did it depend on the personalities of the people? I guess one of the points I'd make is that in many states, if your states are at all like this one, you have various parts of the criminal justice system each doing it's own thing. If you don't have a very good working relationship with those different parts of the criminal justice system in your state, I contend that your state plan is going to be a bust. Because if you don't really connect with Youth Services, for example, and know what they are thinking then when you put something in your plan and they decide that it isn't their input they can sabotage it. You really have to be close. I'm not sure really how close in many states the relationship is between the individual components that are doing their planning and you people who have the responsibility of putting together a state plan.

I'm also interested in knowing how you feel the planning is related between, let's say, the parole commission in your state and the adult prisons. What's it like in Alabama? Do they really work together as far as overall criminal justice plan for Alabama is concerned? I imagine there are some in the parole commission in your state who have a working relationship with the penal system. I don't think we have much of one here. I think the penal system sort of goes its own way here and the parole commission goes its own way and they both come up with plans. I'm not sure that those plans are very well related.

How aware do you folks think you are with regard to some of the legal decisions which are being made now in the country with regard to the rights of offenders? Are your offices up on that? Are you aware of the fact that in some cases the courts are doing the planning for us? The court has actually decided that it will be such and such and you will have certain kinds of services and this is the treatment that you will give. Now California had a meeting that I attended this summer. They actually had a lawyer on the staff of the adult penal system in California whose responsibility it was to anticipate what may be coming from the courts, so that they can plan for it instead of having a hodge-podge. The judge obviously doesn't really know what should take place in a criminal justice system, certainly not in corrections. He decides the guy is there for treatment consequently you must have three more doctors and psychiatrists. It might not be at all what you people who work in this system have in mind. So California actually has a lawyer who reports to the head of the adult system what he anticipates may be coming from the courts. So that's just another one of my questions: How aware are you of some of the decisions that are being made by courts that definitely affect planning?

Now if you submit a plan - and this is the \$64,000 question - in the state of Alabama or Georgia or Florida, how much do the decision-makers in your state really look at the plan as a blueprint for your state? When the criminal justice plan is submitted for Florida and it is accepted by the Governor's Council on Criminal Justice then goes on up to Washington, has that plan really been subscribed to by the Governor's Office, by Senator Dick Pedigrew, by Rep. Dick Hode, and by those all-powerful people in every state, the State Budget Office? So in it goes. One of my major questions then would be: Is there really a relationship between what you work on and submit and what happens then in your state, or do you find that the politicians do their own thing? I'm not opposed, by the way, to politicians doing their own thing because in this state I do feel we've got some politicians that are genuinely concerned about the criminal justice system and even though there are bad bills submitted regularly, there are enough "good guys" in this state that if it's a

bad bill they kill it. It doesn't get out of committee or it doesn't get passed. But what do you suppose the relationship is between you planners and the key politicians in your state? What is the relationship for example between the state planning agency and guys like Senator Dick Pettigrew who is one of the instrumental people with regard to criminal justice reform in this particular state? There really hasn't been much effort made on the part of the state planning agency of Florida per se but there has been input to Pettigrew and his committee largely because of personal relationships. I would suggest that the man who heads the state planning agency for your state should actively seek a relationship with those politicians who have an avowed interest in the criminal justice system. There are for instance in this state the man who's going to be speaker, Rep. Don Tucker, who has publicly stated that he is concerned about the prison system, and the present speaker, Terrell Sessums who has challenged Dick Hode, the chairman of the Health and Rehabilitative Services Committee, to do something about the prison system in Florida to make it better.

What have I said in this mess so far? I think I'm saying that each one of the components of the criminal justice system in most states probably do their own planning, that they don't really relate that planning to the state planning agency, and that the state planning agency puts together a plan which is then rubber stamped by the Governor's Council on Criminal Justice, which doesn't really have the time to give it careful attention. Then it goes to Washington in order to get the money, but whether there is really a connection between what the plan says and what is being planned for the state is a moot point. Does the Governor's office really pay attention to what you put down, do the legislative leaders really pay attention? I contend that if you don't have a real close relationship with the different parts of the criminal justice system then when you've got your plan together it can be sabotaged because the guy from the penal system may say you never talked to him about it.

Suppose that in your own house you don't feel you have the knowledge to write a criminal justice plan that you think is tight and that people cannot challenge. Suppose that you really want to come up with a plan that is solid and has expertise behind it so when a legislative committee actually considers what you put down you can say that the experts really backed you. Who are the experts in planning in this country? I really don't know. I'm not sure who you would turn to as far as a national firm is concerned. Your position would be strengthened if you could say, "Well I've got the firm of Smutz, Tuloga and Amulbomb (hypothetical) who are noted planners. We've been using these consultants as planners and they back everything we say." So then a nice book comes out that Smutz, Tuloga and Amulbomb put together. Here we are now in Florida interested in trying to develop a plan for the prison system. Guess who's offered

to write the plan? Does anybody know the firm of Curtis, Davis? They are architects. Architects are eager to write your correctional plan and there are a lot of administrators in adult and youth correction systems who have been told by legislative committees to get a plan together. Who's going to write the plan for me? Curtis and Davis? These people are all right, but it seems to me there may be a conflict of interests as to whether an architectural firm should write your state corrections plan. Who else do you turn to? NCCD maybe? Some people say they are expensive. I don't know whether to turn to NCCD or not. Well, shall we turn to Dick McGee's consulting firm in California? His name is well known but California doesn't have the reputation it used to. California used to be looked upon as the best as far as corrections was concerned and now in 1973 people say I'm not sure McGee did such great things during the 50's and 60's. How about the John Howard Association? I'm a booster for the John Howard Association but I really pulled a sneaky because I took the guy who's been the director of the Association for the youth correction system for this state, so they've had a shuffle up there. Hopefully they will continue to be good consultants but they are under new management. And then there are those business consultants. You know, "We've done all sorts of management studies for General Motors and we've helped such and such a corporation and we believe with just a slight change here and there we'd be able to do the planning for your state's criminal justice system." My point is: I don't really know a list of 5 firms in this country that would be truly knowledgeable in developing a state plan to give you the kind of support you want when it gets down to the brick throwing. When people say, "Is your plan any good?" "What makes you think you are an expert?" and "Why should we buy what you are saying?" that's the time when you hope you've got that expert prior knowledge behind you.

Well then, how about cutting in the University? The question is whether these men in the University know the situation. I caution you that there are some that do, and there are others that I would urge you to avoid like the plague. There are some who put their feet in the water, who are in touch with the actual operating system, and there are some University professors who want to remain uncontaminated from the real world. These are the guys who write journal articles for each other in correctional journals but are not aware of what works and what doesn't work because they never go look nor do they work even on a part-time basis with an operating system. Now the guys that want to remain purely on the theoretical level and who don't want to be contaminated by the real world I would avoid because they are not aware of the realities of the situations which administrators must face. They don't know the constraints which would keep you from implementing the plan. If you're going to get help from the University system get people who are aware of the political realities so that it isn't just a blue sky plan. One of the things that bother

me about some of the plans I have seen prepared by the University is that I've seen plans that are so full of generalities and truisms it's as if some of the people who put the plan together had gone to a learning experience which you've already been through. They come out with 5 points and you look at those and you say, "What else is new? Those are just starting points, not let's get to specifics." "Well that will have to be phase 2 and that's going to take more money." However, some can really help and I'm saying that it's possible that you can get some help from the University system if you really work with the right people. Work with people who are interested in seeing improvements in the corrections system, not just interested in doing a dissertation, guys who choose to work during their summer vacation in the corrections system.

I think it would be great if professors from the Department of Criminology for example every seven years would be assigned on their sabbatical to work either in an administrative post or even further down the line. I think what is missing in much of the plans is that much of the information we need to know to improve systems needs to be obtained from where the action is. If you want to improve the prison system I don't think it's sufficient to talk to guys like Louie Wainwright who administers prisons -- I think good planners need to know what the frustrations of prison guards are. I've got a distant cousin who's finished two years as a parole probation officer for youth services in Jacksonville and he's about to start law school at FSU. I asked him how he liked his two years with DYS. He said it was great, good preparation, showed him he really wanted to be a lawyer. I asked him what some of the problems in the system were. These are things planners really don't know about. He said the paperwork is terrible. He said you see many young people coming into the system and then leaving it because they don't see any chance for advancement. He said the turnover is fantastic. He said one of the problems is dead-assed supervisors who've been around for awhile and who never get out and see what the problems of being a probation officer are. I think a guy like George Kirkham who teaches at FSU did the kind of thing this summer that's going to help his planning -- he worked as a police officer this summer on the street level. He's going to come back to FSU with knowledge of what it's like to be a policeman and what might be advisable to help improve law enforcement. He will have some personal input. I'm saying that if you want to plug in the University don't plug in those who want to be uncontaminated and on the theoretical level. Do plug in those people who are actively interested in the system and who have shown an active interest. Then you've got a guy who is articulate and experienced.

How many of you people believe that in planning criminal justice systems you should involve the inmates? I'm for that. In Alachua County the man in charge of the jail system in Gainesville has as one of his consultants a former inmate of Raiford. I've read some of the recommendations that this guy was making to improve the jails and it looks to me like he has some good advice to make life more bearable. The DYS a year ago tried a participatory management conference where we brought together people from different levels -- staff, administrators, probation counselors, foster parents and kids. I contend that at the end of that day-and-a-half conference we had more good specific recommendations for improving that agency than from any other conference we've had. If I implemented 3/4 of those recommendations that would be one hell of a good agency. We really talked about how to make the system better. I think it would be good for planners to talk to offenders. If you talked to enough of them I think you would get some very valid input for your planning. You would begin to get patterns of where change needs to be made.

Do any of you have the opportunity to get together with people from other states as you're doing now and swap ideas as to what works? Are you ever given travel money so that if you want to look at a particular program in California or Minnesota you could actually do that? When I worked with the Senate Studies of Criminal Justice in Chicago I got a chance to travel and visit programs and compare them. You can smell whether certain programs are good or not. Then you can innovate the good things into your program. I did that with Florida. I've never had an original idea -- I've used ideas from many other programs. I would hope that your bosses would let you travel and visit different programs.

My final question is how far do you think planners should go with regard to plans. Do you dare make recommendations for larger systems? Last night I was reading an article that the research bureau put on my desk. The article said that research studies indicate that no matter what the rehabilitative program it really doesn't make any difference, that the recidivism rate hangs at 50 mph. 50% are going to fail. I don't buy it. Supposing that you say no matter what you do the same number of people are going to come back, should you look beyond the criminal justice system and plan some things that ought to be done in the larger society? For example, Davoll is concerned about the public schools -- that we aren't really going to do much about juvenile delinquency in this state unless we do something much more dynamic in conjunction with the public schools. How many of you people feel that your state plans should get into that? Are you really going to say that it is the opinion of the state planning agency that a major effort should be made in conjunction with public schools? You can think of other aspects of society that are directly related to the adult system.

That's the message. To sum it all up I would ask whether people really read it when you put your plan together. Does it tie together with the components of your states - courts, youths and adults, parole system? When you get the plan together do the legislative leaders pay any attention to it? I don't really know of people in the national field that I would know who do a good job. If you call in the University people be careful; call in people who are really interested in working. I think it makes sense to talk to people on the street level -- line personnel, prison guards, foster parents, parole officers. Finally, maybe you should talk about things outside the criminal justice system as to how those elements of society are directly related to future delinquency and crime.

What Are We Planning For?

Ronald L. Akers*

ABSTRACT

A brief summary of the current state of knowledge about crime and criminal justice is presented. In particular, this presentation summarizes our knowledge about crime, causes of crime, deterrence, and rehabilitation.

I think that all of us can agree that if the question means what are the goals toward which we are planning, then that means a more just and more effective criminal justice system. But the question as I understand it is not that, but what is the state of knowledge, what do we know about criminal behavior and about the criminal justice system. Now in a way, that's a question with no beginning and no end and what I'll try to do is get across what I think are some general conclusions that can be drawn about what we both know and don't know at this point in time about criminal behavior. I've organized those comments around two major headings: One having to do with the criminal behavior itself and second, what seems to work or doesn't work in trying to deal with criminal behavior. Much of what I say will seem quite obvious to you, much of it is well known and I think that's the way it has to be to get the high points and summarize the knowledge. But view these just as opening statements, as part of a general proposition that can be the basis for further discussion. I think the thing we always have to do is begin by asking what knowledge we have and finish by asking what we want to do with it then. How do you incorporate current knowledge into your planning activities?

Let me just summarize for you some of the things that my reading of the research literature leads me to think that we know and try to indicate those areas which we don't know anything about. First, on the topic of what we know about crime and criminals, I think we know quite a bit when it comes to simple description. We have a good deal of descriptive knowledge particularly when it comes to "run-of-

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the-mill" offenses, that is, the kind that are likely to be caught up in the criminal justice system, the kinds of people that you will be most likely planning for. We have a good deal of descriptive knowledge about those and let me just indicate the general things. First, it's mainly property crime that we're talking about when talking about crime problems; when people in this society are victimized by crime it's usually property crime. And I think that will continue to be the case. Also, I think all of you know and have read the Uniform Crime Report that since about 1970, the picture has changed somewhat so that the rate of increase has been higher in violent crimes for the first time that I'm aware of. Previously, my readings of those reports always showed not only were most of the crimes property crimes but the biggest increase came in property crimes. But since 1970 that hasn't been the case. Property crimes have leveled off more and violent crimes have increased.

We need some more unofficial studies to really confirm to what extent the real behavior besides that which becomes official notice is mostly property crime or violent crime. What has been done so far pretty much confirms that people report property, but we don't have many good unofficial studies yet except for delinquency, for which we have a whole history going back about 15 years of some pretty good unofficial studies. Unofficial studies of major felonies we just don't have yet, aside from the few victim surveys that have been taken. Those tend to indicate that about half of the major felonies get reported and of those about one in five or less ever result in some kind of arrest or official action. We still don't know what the exact ratio is. It would seem to be an important item in planning to have a good grasp on just what is the exact relationship between all the crimes committed and the number that get called up into the criminal justice system.

We move beyond the property and violent crimes to get into the victimless crimes and I think we know much less about that. We have some idea, though, that even a smaller proportion of those victimless crimes get acted upon officially. We do have some good idea of the rate of marijuana use and alcohol use since for those two items there has been enough research done that we've got a pretty good idea of what rates of use of those are. We know that something like 6% of the adult population have serious drinking problems. We know that 16% of the adult population and between 12 and 14% of the younger population have used marijuana. Those things are pretty well established, but beyond that we really don't know. We have much less on victimless crimes than on the crimes that have victims, and I think for the very obvious reasons that most of our knowledge comes from official data the kinds of things that are likely to result in official action are those things where a victim is involved and presses charges or reports it to have something done about it. Otherwise, we've got to go out

and get the information ourselves and that results in less of a discovery rate. I think a general conclusion can be made that the less serious the behavior is considered by society the more frequently it will occur. For instance, marijuana use, alcohol behavior, prostitution, all occur more frequently than do such things as heroin addiction and homosexuality.

Now for both of these types of crimes, both victim and victimless crimes, we know that those which become crimes of the criminal justice system primarily involve males, although it may be changing now. At one time the rate was about 9 male arrests for every female arrest; now it's down to about 6 or 7. People arrested tend to be young, members of a minority, lower class, and live in urban areas. Now the unofficial report studies done on delinquency tend to challenge that last description a bit in that they tend not to see much difference in delinquency by class, but as yet we don't have the kind of studies we need on adult populations to know what the true distribution or variation is in the population. But we can sufficiently describe it: male, young, minority, lower class and urban.

Now when you move beyond those typical run-of-the-mill crimes you get into white collar crimes, organized crime, and professional crime. I'd say we're very, very ignorant in those areas. We know that they're costly in our society and probably more costly than the other kinds of crimes put together. We don't know, however, just how costly these are or how much money is involved or how much loss of life results from these kinds of crime.

We do know something about the kind of activities that they are involved in. We know that organized crime controls gambling and drug distribution, but we're still very much at the stage of journalistic reports and informers regarding the internal structure of organized crime. That's about all we have. So I would say in terms of our areas of ignorance those are very large areas. Now again, I'm not stopping here to try to spell out what implications that has for criminal justice planning. It seems to me that in the future the criminal justice system is going to have to respond in a better way to such things as white collar crime, organized crime and professional crime and we have to know a whole lot more than we do now.

Okay, beyond descriptive knowledge we also have knowledge of causes of crime. We all know from prior study that in the area of causation we still have the most controversy; that is still the most unsettled area. It is easier for us to agree upon facts than it is to agree on how you explain them. I'm not going to try to resolve all those, what I'm going to do is give you a couple of paragraphs summarizing what I think the evidence supports. I think the first

important thing is that criminal behavior is no different than any other kind of behavior. Criminals don't differ in any fundamental way from non-criminals. The notion that crime is learned by the same process as any other kind of behavior I think is not conclusively but persuasively supported by the evidence. While it is the individual who learns and the individual who acts, I think that the evidence supports that his behavior stems from social and group influences on him. His behavior does not stem from individual pathology; neither biological nor psychiatric disturbances seem to explain crime - or at best, they only explain a tiny portion of it. If you're planning to try to construct the criminal justice system on the assumption that there is something biologically or psychiatrically wrong with the people you're dealing with then I think the system is going to be screwed up.

Now there are various theoretical perspectives on just what the social variables are and I won't try to lay them out for you, but in general, we know that we can look to the larger social structure, the class system and the economy at one level and at the other level mainly at his family and his friends. That shouldn't come as any great surprise, it's the same thing that influences the rest of us: family and friends, the primary group.

Okay, I just laid those out as general statements of what I think we know and don't know and obviously there are a lot of areas I haven't touched on about behavior. But let me stop there and lay out for you as quickly as I can what we know now in terms of deterrence and rehabilitation. We know, for instance, that just the mere existence of capital punishment does not deter homicide, but other evidence shows that if you use something less than capital punishment, and the more severe that punishment is, then indeed homicide is deterrable. When you have more certain punishment and to some extent a longer prison sentence then crimes like homicide go down. For the other major felonies, the robberies, larceny, and so on, the evidence shows fairly clearly that certainty of punishment deters, but severity seems not to be too much related yet. At least the data are not clear on that. We also know that perception of certainty and to some extent severity of punishment confirm this, as we know that the more people can see what the punishment will be the more likely they will refrain from prohibited behaviors. But we still don't know what the relationship is between what the penalties actually are and what the people think they are. That's another important item that we have to know to make effective planning. What difference does it make to you if the legislature passes a law on drug possession either increasing or lowering the penalty? I think we have to know more about how that relates to people's perceptions of what the penalties are. Does it make any difference to the professional bank robber, or professional burglar if we pass a law that we are going to increase the sentence

by three times and we are going to step up police surveillance? What about the non-professional offender? How does that relate to his perception of what those risks are? The evidence says that if he perceives them to be greater, he will, in fact, refrain from behavior. But we don't know how the perception is affected by the actual change in the law. For other than the major felonies, again with the exception of marijuana and a couple of other cases, we really don't know how they relate to the perception and actual penalty. We also don't know very much about the variables which make some types of crimes responsive to the threat of penalties and others not responsive. It does seem that the less committed the offender is to a sub-cultural way of life and the more instrumental or goal-oriented the behavior is the more likely this is to deter. Also, it seems to be a little bit surprising, that there has been a good deal of research on what difference it makes with regard to swiftness. Suppose you set a limit on how swiftly you bring people to justice. Does that make any difference in terms of deterrence? As far as I know, there is no research on that right now. We do know that both reward and punishment in the immediate environment have a great effect on behavior, but it seems to me that the question for criminal justice planning is about the very formal kind of punishment or threat of it that the criminal justice system represents. Does that have any effect on criminal behavior? And we really don't know because it hasn't been tried, but what effect would it have if besides punishing criminal behavior we introduced a systematic reward for non-criminal behavior?

In terms of rehabilitation and prevention, we know mainly what doesn't work rather than what works. We don't know what kind of prevention strategies work. All of the delinquency prevention programs that have been tried in the last 20 years have not worked. Some of them presented some marginal change in delinquency behavior, some marginal impact, but by and large, I think you'd have to say it hasn't worked. The community planned recreation programs didn't do much; neither did the drop-in houses, etc. All those things when evaluated (which was very rare), didn't have much impact on delinquent behavior. That's what I mean by they did not work. They may have worked in other ways, but in that way they didn't work. In some special cases, we know that intensive and very expensive surveillance seems to prevent some criminal behavior, for example, skyjacking. In other cases, it doesn't work, for example to stop drugs from coming across the border. We've had a very expensive border surveillance program for many years now and it doesn't seem as though it does much to keep people from bringing drugs in.

Rehabilitation, individual counselling in depth, and psychiatry have not made much of an impact on delinquent or criminal behavior. The group technique seems to be a little bit more successful, but

even there it's just marginal success. The behavior modification programs using both individual and group behavior modification are very effective at the time. The evidence is clear and I would say conclusive that you can set up a behavior modification program and change the people's behavior in the immediate environment easily. The question is what about the long-term effects, and there the evidence is not very encouraging. In only about 3 or 4 instances have they even tried to follow up on the behavior modification program and when they have recidivism rates have not been all that encouraging. We don't know yet how effective halfway houses and the whole community based treatment movement are going to be. That's the wave, there are things starting there now, but it's based more on faith than on any hard evidence.

I think what we can do now is try to raise some questions about what I've said or get into some other areas, try to get some handles on things that we may know and don't know. I think we all agree that planning should be based either on what we know for sure to be true or at least have some good evidence that it will hold rather than on untested assumptions and without recognition of our areas of ignorance. We have to choose between those and I think we all agree that we want those based upon knowledge. The question is how much knowledge do we have and how much of it do we have a good handle on. We can proceed with questions or comments, anything you want to open up with right now, either, on what I said or an entirely new area.

DISCUSSION

Question: Is robbery a property crime?

Response: Well, robbery is one of those mixed cases that is a little bit of violence and a little of property, but I'd call it property crime.

Question: I'd like to make one comment regarding your statement on capital punishment. We know capital punishment does not deter homicide. There have been thousands and thousands of pieces written on that pro and con, some statistically supported, others not. It doesn't seem to jive with your other statement that reward and punishment have an effect on criminal behavior. I'd like to have your comments on that.

Response: Research evidence that shows that capital punishment doesn't deter shows this: that the existence of either having or not having the death penalty doesn't make any difference in homicide.

It doesn't make any difference even if you throw in a lot of variables. The imposition and execution of the death penalty at the rate which we do it, which is a very, very low rate, has no effect. Now the question is what would happen if we upped the rate of execution. I don't know because no one has tried that and that would answer the question. So it doesn't say that reward and punishment don't work; it does say that having the death penalty and imposing it at the low rate we do has very little effect. Now we do have the data on deterrence from penalties less than the death penalty, such as life imprisonment or some long prison term that does have an effect on homicide. That is, the certainty of it not the length of it, although there is some marginal effect of the length. My reading of the deterrence literature is that the most important variable is the risk of getting caught and something being done, almost regardless of what that something is. If there is a high risk of being caught and punished, then it has some impact, but just the severity of it doesn't seem to have much effect.

Comment: But don't you think it's a combination of both?

Response: It is, but I'm trying to put them in order. I think we can go beyond saying it's a little bit of both and put them in order, saying the most important is certainty and next after that is severity. It may be swiftness, but we don't know yet.

Question: I'd like to comment on the question of organized crime. I think everyone thinks it's overly complicated. After all, organized crime only exists in certain kinds of crimes. I think we spend too much time trying to trace down the connection between various car tails and kinds of automobiles they drive, and the whiskey they drink. It's a total waste of intelligence rather than nailing the people who keep them in business. Is that a reasonable assumption to make?

Response: You say, if you spend your time nailing the people, you mean the consumer, the people who buy the drugs.

Comment: I think that the top people that you're always trying to identify and jail as conspirators are the ones so far removed from the actual crime itself and you're wasting a lot of time attempting to actually make the case.

Response: I don't think that there is any question that if you can dry up the source of income then they'll get out of the racket. But I think the further question now is how to do that. Are you saying that you can do that by cracking down on the people who are the consumers?

Comment: Like the individuals who are selling tickets, they are the ones who are producing the revenue, the gambling places and whatever that may be.

Response: What about the people who are buying the tickets?

Comment: If that's one of means of stopping it, then we'll take them all too, but primarily the seller.

Response: What about legalization of those? For instance, during prohibition days when the rackets got involved in liquor, legalization of liquor virtually drove them out of business. Now you mention prostitution and gambling. Well, you could legalize prostitution and gambling with controls. A person who gambles is going to gamble if it's legal or illegal. And there's a vast majority of a segment of our country that sees nothing morally wrong with gambling. And gambling seems in legislation to be a moral issue, as well as prostitution, and so with control of organized crimes and those people who profit off them.

Comment: I'd like to say my personal opinion is that for organized criminal activities such as gambling and prostitution, the problem with legalization is that I'm not so sure the governmental leaders wouldn't become the same element, play the same role as organized criminals, making it a state function, and tend to get involved and corrupt themselves. The question is, who is getting the profits?

Response: What we have here are two questions. One is what do you do about organized crime and the other is what are the consequences of whatever you do about it, and I think there are consequences in whatever action you take. If you take the action of cracking down on the sellers and the consumers, then you're going to have the same sort of thing that prevailed for so many years, and I think still prevails to some extent in law enforcement, where all your police time is taken up hassling street addicts without really drying up the sources anyhow. You just run them in one side and out the other of the institutions. That's one of the unintended consequences. If you take the action of legalization, then you have the unintended consequence of the effect on people who are now in charge of maintaining those activities, whether it be government officials or private parties, whether they will do the same thing that organized criminals have done. What do you do then about the issue you raised? This is an area we don't know much about. We need some good research and good demonstration projects, but none of the consequences I can see would be as harmful to society as the existence of organized crime. You talk about corruption among

the officials - probably the single largest source of corruption of government officials is through organized crime. They are the ones now who have the power to do that. You talk about what will happen if private parties take over gambling that is now legalized and they too engage in things. They at least won't kill the witnesses against them, rub out their competition in the way organized crime does. To me, that's one of the very crucial differences of organized crime and simply socially organized crime. Today they have their enforcement armies and if you have any witnesses against them, you have any evidence, you have customers that aren't behaving right and competitors, what's the method? You rub them out. At least legalization might get rid of that one source of homicide. But again, if you're going to plan in one direction or the other, if you're going to plan for legalization or if you're going to plan for clamping down on law enforcement, then I think you have to examine very carefully what your assumptions are about what organized crime is, how it's set up, how it is organized, and how it operates internally. We don't know that much about it yet.

Comment: I'm involved in the Florida LEA Program and I think the greatest position of the program in Florida currently is the fact that we're too concerned with trying to fund the program that is half successful or to some degree successful. We hesitate to attempt to try to use some of the funds that are available in the LEA Program and try to devise and determine tests and develop additional means to cope with the situation. If it works great, but over the past four years, for example, after the first year's funding, and even at the end of the second year's funding, we still hadn't succeeded in starting a demand project that remained active to a degree that they could be evaluated and the same thing occurred up through 1971. So in 1971 and 1972 in preparation of additional plans we were still trying to find out how effective the 1969 activities were. There is no fourth channel where we can seriously measure the effectiveness of the expenditures and funds up to any point.

Response: Have you in your position with LEA had a chance to look at the records and data taken from these various projects?

Comment: Well, in the first place most of the projects are not written up so that they can be properly measured and evaluated. We found less than 5% were written up in a way that could be intelligently reported. A county district in the panhandle with 55 local agencies, is having this problem with their social workers - unintelligible reports. They are unwilling once their program begins to go to the local government and say, "We are

going to be able to get \$50,000 to test this program over the years, we will expect that if this is successful, next year you will pick up 50% of it. So we are looking at third and fourth year requests for continued funding. There have been no innovative changes in the program, it is the same program, yet it is getting bigger all the time, more people, more clients. What in effect is happening, is that we find ourselves packing more money into more and more programs, without an honest appraisal of just how effective these programs are. I hope that we will see this change radically.

Response: How does that compare with experiences of others? It seems to me that the only time the funds for a given program are lessened, is when the program is really successful. It seems that local governments are discouraged from making their programs successful, and for that reason, they are still able to receive support.

Comment: I don't think we should lessen the funds going to a program when it is proving to be effective. Just because we funded it last year, we should not say that the money is not available to continue the program on a local basis for the next year, when the money is available and the program should be continued.

Response: On what is the formation of these programs based? Say you have a drug problem in the community, and this can be traced to the homelife, social standing, etc. So we say we are going to start a program which attacks both those problems. Are those assumptions that are made, and are those assumptions checked out and evaluated before we ever start a program? How often in your experience are those assumptions carefully looked at to determine which of them are true and which of them we don't know much about before the program gets started, let alone checking on the program after it gets going and seeing if it is really working? How often does that happen?

Comment: There are very few programs that work as successfully as hoped. As for the checks on assumptions before the programs are begun - this is usually pretty complete as far as such things can be checked out. The comment has been made that regardless of what we do there is about a 50% failure. This raised the question in my mind of how much we should continue to fund programs that obviously have a predictable failure rate of 50%. When you look at the drug problems, like Lexington, Kentucky, I understand their failure rate is 96-97%. It makes me wonder if rather than continue to fund these situations with this failure rate, we shouldn't avert a large percentage of these funds into other programs and see if we can do better.

Response: One thing I think we should consider is not whether these programs work or not, but why they do or don't. Because if we can find out why certain programs work and others don't, then perhaps the failure rate can be lessened. You asked a question about the behavior modification program. My reading of what they have done is that the reason that they work while they are in the institution is that the contingencies are operating. They have got controls, they can make various rewards contingent upon the proper behavior and take the rewards away when they are not engaging in what is considered proper behavior. But there is no plan within those programs for trying to carry those contingencies over into the community and to try to make them as natural as possible. An institution is an unnatural environment, so if, for instance in this National Training School Program in D.C. with the delinquent boys, they sit them at a desk, and if they sit at the desk with a book for half an hour, they get to go and play pool for 15 minutes, or they get some other type of reward. In a natural environment, like in school, if a kid does good work, the teacher doesn't say O.K. you have done good work, now you can go to the pool hall, she gives them an A or B. Therefore, my reading of the program is that they do not make those very natural kinds of contingencies that would carry over. We have to look at the various programs and see why they don't work and be sure that we do not rebuild back into the programs those areas that did not work. I think the same thing would go for the Methadone Maintenance Program. We know some of the reasons those programs haven't done much good, one of them being that the program is not being very carefully controlled. So you are right! It is much harder to plan if your knowledge says here is what we don't know, rather than what we do know, but I think we could still use that as a base for trying to find out why it doesn't work.

Question: What is your opinion as to why Criminology has not advanced further in terms of identifying things that we do know?

Response: Well, why aren't we determining more about the long list of things you say we don't know? I think there are a number of reasons. One is that if you speed up the time between the commission of the act and the time something happens to them for that act, the problem is that criminologists can't go into the courts and say speed that time up. It has to be done. An individual has to be tried. For instance, a woman was released on a homicide charge recently because they didn't get her to trial soon enough. When the courts start doing that sort of thing, we can then test the effect. You just can't go out and order it to be done, you have to test it. If you look at the other side of the coin, pretrial intervention is slowing the

progress of other cases, first offenders especially. Before they go to trial they have someone see them to try to find out what their problem is and make an effort to solve it, and this actually stops criminal justice.

Comment: All right, that is a first offender. But when you are talking about armed robbery, you are usually talking about a person who has committed a number of crimes up to that point and has nothing to lose and needs resources to defend himself with. So these are actually two different problems.

Response: I think the basic question is if you pass a statute that shortens the period of time, what assumptions are you making? Are you assuming that doing that will cut down on crime? The answer is we don't know. Well, why don't we know? The answer is it hasn't been tried. This thing I was talking about before: Maybe there should be some sort of reward for those of us who do not commit crimes; maybe we should get some type of subsidy or something for keeping our noses clean. But we still don't know, because it hasn't been tried.

Comment: That is an interesting point. I was thinking that maybe we are creating a narcotics market because we have vast sums of money now to buy narcotics so we can make arrests. I have never known in the history of Florida - and I have been in law enforcement for over 23 years - where we have had any influx of narcotics coming from the state of Missouri, and all of a sudden we had a commissioner here from Missouri who had contacts in Missouri and through some dealings with criminal elements arranged to have some narcotics purchased. So they flew a bunch into the Jacksonville Airport and they bought them and arrested these people. Actually, in my opinion in this case what they did was create a market. So I'm not so sure that when you talk about using money to entice people not to commit crimes you are probably creating a market for crime already.

Response: I wasn't making a serious proposal; I was using it as an instance of why things are still uncertain. Anytime you do something like that, you have to be aware of the consequences, other than the consequences you desired. What would be the consequences, for instance, if you legalized all narcotics and lifted all controls? What would happen to the use of those drugs? Well, I think one consequence would be that the use of drugs would go up. The question is, are you willing to live with that. But, we really don't know what would happen until it is tried.

Question: Then you're saying that any change in criminal justice is going to affect all of us?

Response: That is right.

Question: If you speed up the time between arrest and trial, then you are going to have more people going to jail in a shorter amount of time. Before you speed up the system when the rehabilitation system is not what it's supposed to be, but is less than it is supposed to be, don't you need to anticipate the results?

Response: I think you have to be aware of it. In the group that was in here right before you came in, one of the persons was talking about a program for jails for misdemeanants where they had a group that they brought into a facility where they worked with them in a discussion setting, and our discussion was how effective the program was - was it a selected population, yes it was a selected population - was it matched with a control group, no it wasn't - was it random assignment, no it wasn't. How do you know it was an effective and successful program if all you know is that you have 30 people and you have some cases that you think you can say are successful cases. Someone said, how about a control group, assigning some to this program and some to a control group. Well, then you are denying some of them if you don't put them in this group where they get the good treatment. Then there is another difficulty about gaining knowledge about what works and what doesn't work. Every time you set up a good program, someone is going to say, "I don't want to deny anyone this good treatment," even though he doesn't know it's good treatment yet, "so I'm going to put him in the treatment group," and then you wind up not making any conclusions about it. There is another reason why we don't know any more about what works and what doesn't work and that is, as you found out with the LEA program, people don't evaluate the programs. They don't let you know. If they do get evaluated it is usually by someone outside, who finds out that they don't work very well. So maybe that is why we have all this knowledge about what doesn't work.

We just have a few more minutes. What are some of the other areas that you are involved in, and what are some of the assumptions you are making about the causative nature of crime and delinquency. Is there anyone here in the area of planning for corrections, either local corrections or state corrections? What kinds of programs are you involved in now in planning and corrections?

Comment: I'm from Florida and we are facing the basic issue that last year's legislature authorized some 48 to 50 million dollars for construction of prisons and institutions to house the criminally

insane. Since the change in departmental leadership of HRS it is now a matter of do we need new prisons or not. Is incarceration an appropriate plan for adult corrections? Then there is the other basic issue of fragmented adult corrections, since we have separate programs for the Parole and Probation Commission and a Division of Corrections, which are now separate. Should there be a consolidation of these services? There are two basic assumptions - one the necessity of large prisons operating under a consolidated system and the other the need for an independent parole board. Until those assumptions are decided upon by the existing leadership and the political mood of the state, whichever way that goes will decide pretty much how our plan goes.

Comment: What if you start with an assumption like this, and I think you could test it out. What if you start with this assumption: that only a small fraction of the current proportion of the population that is incarcerated needs to be incarcerated for the protection of society at a given time. We know that there are certain members of the population for whom the only way you are going to keep them from injuring other people and committing crimes is to incapacitate them at the time. Let's take the assumption that that is a much smaller proportion than what it now is and plan only one institution instead of a series of institutions and assume that there are other people that you don't have to do anything with. I think that one of the major problems that we face in the planning process is that the people involved in planning may satisfy themselves, educate themselves or discover facts that they think are sufficient to pass judgment on. Then you get into this problem of trying to convince other people. The first problem is that we have local councils that we have to convince and they are not convincable sometimes and if they are it is for a "rubber stamping" effect and when it goes to the state level we run into the same thing. It goes to a supervisory board who are well-meaning individuals but they rarely even take the time to read what is on the agenda. Then finally when you have discussed these problems with the legislature it is doubtful that you could even find a handful of people who are interested enough in trying to educate themselves as to the facts at hand. Personally, I think that even though you may find common people, you might find the kind of facts that you need and report the planning, I'm not so sure that after that it isn't a PR problem.

Comment: Going back to the capital punishment issue, there is also a problem of statistical interpretation. The capital punishment studies do not allow us to conclude that capital punishment does not deter; we can only say that the studies haven't disproved that it doesn't deter.

Response: Yes, that's true. It's the statistical problem of Type II error.

The Social and Economic Climate for
Criminal Justice Planning in the '70's

Joan G. Haworth*

ABSTRACT

Economically, criminal justice planning is faced with several difficulties. First, as a service industry, criminal justice is labor-intensive, and is unlikely to demonstrate the kinds of productivity increases which would justify increasing budgets. Second, migration from cities to suburbs reduces the resources available to provide services for those in the city who cannot afford to pay for them. Finally, most social services are dependent on state and local revenues, but taxes are structured in such a way that these revenues are less responsive to economic growth than federal revenues are.

What I have been asked to talk about today is the social and economic climate for criminal justice planning in the '70's. It seems to me that the greatest concern of most people in planning is whether there are going to be any funds available, and if so what are their constraints going to be, and where are the funds going to come from. I would like to make at least two points. The first point is that criminal justice planners have the same kind of problems with respect to what I am going to call productivity, that education has, and welfare programs and health maintenance programs. Criminal justice is a type of an industry that has sporadic changes in productivity. That is, somebody suddenly sees that you can use a computer to process a lot more cases. Then the computer once installed for that particular application doesn't show any more productivity increases, it doesn't continually speed up at a nice rate. It just makes a nice big jump. It speeds up your productivity that your particular service provides. Now other industries are not all this way. Some industries are technologically active - and what economists mean by

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that is by changing the ratio between labor and capital in a particular company, you can increase your productivity. You can, for example, hire one man to dig a ditch, or you can hire ten men to dig a ditch and get it done faster. That is increasing your labor supply. You can, on the other hand, substitute a power shovel and get that ditch done much faster, but it takes a lot of capital and only one input of labor. Now if you can make this substitution between capital and labor you can show great productivity increases and they seem to be regular. The point is that there are some technological changes that affect productivity, and you can find yourself producing more each year than you did the year before because of these capital-labor substitutions. And sometimes because of economies of scale you have a power shovel and you need it to dig a ditch; fine, it does the job. Now you find, in fact, with that same power shovel you can dig 10 ditches. Now these technologically active industries are the ones that are really a problem for non-technologically industries, like you all; because when each year the demands for increases in funds, paid wages, for example, occur, they can pay for their increases in wages by their increases in productivity. An industry like criminal justice or rehabilitation of the criminal, that kind of thing, does not have these kinds of innovations and its costs go up each year because there is nothing to help absorb some of that increased cost - there are no technological advantages. The reason is because it is so labor intensive in a service oriented industry. What is really important is the person themselves - the policeman on a beat. There is no substitute for a policeman on a beat. The judge has to hear the case; there is no substitute for a judge. He has to hear the case and his case load just gets bigger and bigger. As a consequence you are going to find yourselves, as you have in the past, I think with no change as I see it, in the foreseeable future, having to constantly increase costs and constantly having to ask for more and more in terms of budgets. In my mind this is a very depressing picture, because not only do your costs increase yearly, one of the reasons they increase is that you have more people to serve. Another reason your costs go up is because the technologically innovative types of industries that have productivity changes, their costs are going up and when their costs go up everybody else wants a wage increase too. It doesn't seem fair to pay a teacher less than you pay a ditch digger; but if someone who handles the ditch digging has shown productivity increases, then he is therefore worth more, whereas that teacher has not shown productivity increases and it is therefore a one-on-one thing and the best you can do is make the classroom hold more students, which isn't what we call a good thing usually. Then you are asking the public to pay more to the teachers even though their productivity has not increased. They have to. You know the cost of living increases are there, they have to live. It is going to be a bitter pill to swallow for the public. Not only city sizes go up,

therefore more demand for your services, but also your wages and other labor costs are going up, and there is very little offsetting productivity change. People work harder as a consequence of this. A patrolman on a beat no longer has just a single beat, he has a whole lot of paper work to do in the mornings, then he goes out on his beat, and when he comes back he has a whole lot of paper work to do. We are asking him in fact to produce more, to increase his productivity, so that we can justify increasing his salary. But, as you know, there are limits to the amount of productivity that one can increase that way. You can't ask him to take two beats; and yet, you have got to have someone there. You can't ask a judge to increase his case load indefinitely; at some point he has got to say, "Look, you have already given me so many that I will not reach the end of it by the end of my life." So you have got to stop.

Then in addition to that bad picture in terms of increasing your costs, there is a problem of what I'd call "accumulative urban decay" - some of this is a thing that William Baumol at Princeton has talked about, the problem of labor intensive industry, like we have. The problem of urban decay is that in the flight to the suburbs where people feel that their social services will be better satisfied, and their environmental climate will be better, when they flee they take with them their resources. They leave behind the people who need at least as many social services, and probably more, than the ones who fled, but they can't afford to pay for them. They don't have the resources available - like the elderly people, the poor. Those are the ones who are left and who need the services the most, but can't pay for them; and out to the suburbs go the other people. As soon as anyone in the city center gets any money together, they move out taking their resources with them, so that is why we think of it as an accumulative process - it just gets worse and worse.

This is a process of economic growth that puts services like criminal justice and education in a very sad position. And I think it means to me, if I were a planner, that we have to recognize that there are going to be some tough years ahead in terms of asking for funds, and this is why. Economically speaking, you know, it is just going to be hard to get funds for this kind of service industry; and education is gearing itself up for it. You see a lot of headlines that the number of students is declining and we are going to have to do something about this. In effect what they are saying is that we now recognize that the cost for our industry is going up and continuing to go up, but we are not showing any changes in productivity.

I think economics has something to offer in terms of its analysis and it can tell you what is going on and whether the political machinery will be able to be pulled together to make changes that need to be made. For example, we know that not only does economic growth show this kind

of unbalanced growth between the two different industries. I don't mean to indicate that every industry can be either classified as one or the other, but the service sectors are more inclined to be in that labor intensive, cost increasing cycle than the others. But, at the same time, economic growth is occurring in the United States.

We are improving by productivity changes at 2% a year to our gross national product. We know that resources are increasing, which means, for planners, that there are funds around. There are going to be more funds next year than there are this year in terms of real funds, real money, because we are increasing our productivity. We do see some real growth coming up, and we know that it is going to continue, or we suspect that it is going to continue.

We do not anticipate anything happening to the economy that would not allow it to continue, but the question is how is the economic growth hitting our resources. What is it going to do to our revenue? What happens is that not every revenue is sensitive to economic growth. Economic growth has its greatest impact on income taxes - they are very sensitive to economic growth. So the federal government gets a lot of response and increased revenue when we see this economic growth. The federal government gets more and more revenue coming into it. On the other hand, we have property taxes, sales taxes and excise taxes. To some extent, sales taxes are slightly sensitive to growth. If you have more money to spend, it is possible that you will spend more and therefore have more sales taxes. Sales taxes are sensitive to growth, but they are more likely to increase due to population increases, just by more people being there spending money, than they are by changes in productivity, more real products being generated. Property taxes are sensitive to growth only in the sense that as land values get higher because more population enters the city, tax bills are going to be higher. Unfortunately, that tax bill is not at all related to the incomes of the people that are seeing their incomes go up. It doesn't matter whether you happen to be in an industry whose income is moving right along with the rest of the economy or whether you are a person whose income is fixed, your property tax bill is still based on what happens to the value of your land while the population is moving into that city, and hence, you see a huge tax bill; and this is especially hard on people with fixed incomes. In addition to that, the property tax suffers from another real problem and it is a once a year thing. People still suffer from what we in economics call "money illusions." You still think that if you have more money in your pocket than you had last week you are better off, even though in the back of your mind is the nagging thought that you have to pay more for everything you still suspect that it will all come out in the end and you have got more money to spend. What you would really like to know is how many more products you can get. That is tough to measure because people say that since they have got more money they are better off.

So suffering from money illusion, if they get an increase in income, they know a certain percentage of it goes out for taxes, and they just write that off, and it goes out kind of painlessly and they never see it. Sales taxes, they just know that they have to buy things. They buy more things because they are wealthier, and when they buy things they pay sales taxes; and that goes out in dribbles and is fairly painless. The property taxes are not painless - they come in one big bill. If my property taxes this year were \$300, and the bill comes next year and it is \$900, I know it increased, and I say my income didn't increase three times; and therefore, there is something wrong with the property tax and that is one of the major problems that state and local agencies have, because the state and local agencies are the ones who are getting, for the most part, the sales taxes, excise taxes and property taxes. It is the federal government that is getting the tax that is most sensitive to growth and most able to realize benefits from this increased productivity that we are getting.

Therefore, the situation is really that we are demanding more of our services, these are very labor intensive and their costs are increasing steadily and are going to increase steadily. And at the same time, the revenues available in the traditional manner, the property tax revenues for instance, are just not going to support that kind of service increases. It is not going to take very long at all, if it hasn't already happened for a lot of you, that you are going to have to say no. The best that we can do is maintain the services that we maintained last year; we can't even maintain the program that we started this year - because we are just not getting the increased revenues that we need. To put the point in a slightly different way, two-thirds of our tax revenue go to the federal government, and two-thirds of the services provided by government, excluding defense and social security, are provided by state and local government - and that is where the problem is.

The other point to make economically speaking is that, which is a really hard question for planners, how do we convince the people who are providing us with funds that we have got a product that is going to help not just this local community but the whole country. If you reduce crime in a local area, you have still reduced crime. You in effect helped the whole country. If you educate some people, you have in effect helped the entire country improve. That external benefit, benefit external to whoever is actually paying for it, isn't something that funders are willing to accept. They do not like paying for someone else's benefit - and so they argue about that. Just like an industry doesn't want to pay for the pollution that comes out its smokestack. It doesn't bother their production, so it is tough to have to pay for it.

DISCUSSION

Question: What do you use as a measure for the productivity of the criminal justice system?

Response: That is a question that I would like to get some input from you people on. We started thinking about this after I was asked to work on this particular topic for you. I find that hard because if you say it's a decrease in the crime rate, one fast way to decrease the crime rate is not to report the crimes. If I were a policeman on the beat I could very easily show statistics to show that our crime rate had reduced. Maybe on the other hand, you could say that it is an increase in the crime rate. If there are more people out there reporting what is actually going on, that would show an increase. I don't know how to measure productivity in this field. Maybe it should be a smoothly flowing system, where no one suffers interminable delay at any one point once they encounter the system; once somebody gets arrested, for instance, maybe productivity is measured by whether or not there are great log-jams where they get hung up and can't get out without some inequitable arrangement. I think that is a really tough question. Maybe what it is is a one on one relationship, whether you have any impact on an individual. If you can measure that impact yourself, the policeman, people on his beat, then you can say that is productivity. There is a friendly feeling in that neighborhood when I walk down the street, and a year ago when I walked down that street, I walked down the middle of the street; and you have got to call that an improvement. I think you would want to call that some kind of productivity. People say, "Oh, the policemen are doing a good job," but whether they are really willing to call that productivity and pay for it, depends a lot on the community.

Comment: I spent a whole graduate seminar on productivity and we came up with nothing because it all boils down to increasing your arrests.

Response: I wonder if it would be possible to use just the number of people within the criminal justice process. I hate the word system because I don't think it as a system. Could that be something? You do try to get them through as quickly as possible and you do try to keep them out. Could that be a meaningful count, the people in it? What would you want to do, increase that count or decrease it?

Comment: Decrease it. The fewer people involved in the criminal justice process, the better would be your productivity.

Response: I would think that you might have the problem that, I can accomplish that by just cutting the police force in half and then they can't arrest as many people and then there aren't as many people in the system.

Comment: About the only thing that you can really do in looking for an increase or decrease in actual crimes, not using arrest data, would be to do what they did in Flint, Michigan, and have an extensive self-reporting system and measure the fluctuations in that system over a period of years. It would be like "how many crimes did you commit this year, and what types of crimes, were you caught or not," or something like that. It would give you a better picture.

Response: In a sense, you are thinking of productivity as efficiency there, aren't you? That is, you are saying, if via the self-reporting system you find that most of them were caught, criminal justice system is efficient.

Comment: No, you would be going one step further. You would be saying that in all reality we had an increase or decrease in the rate of crime.

Comment: What about the other goals in criminal justice, for instance, rehabilitation? How would you measure productivity in that?

Response: Follow-up on the people is the only way to measure that.

Comment: There are some real problems in following up because of the reporting systems in various states. You don't know when a person goes back into the system in another entity, another city for instance.

Response: I think the reasons these questions of productivity measurement come up is because of the recognition that if we can't say that we have increased our productivity, you have a bigger problem of obtaining resources. I would think that criminal justice planners, therefore, really need to work on this question of how you are going to measure your productivity. In essence you have several goods that you are trying to market, and the question is how do you bundle them up attractively. In education, for instance, you try to convince people that having a very large class of students is a bad technique. In essence you are saying that you are measuring productivity by how much

a student learns each year; and they figure that on some national basis of tests, where their kids are going to college, if they are, or how employable their kids are after they get out of high school - that kind of measure of how well their students are doing. If they have got a measure like that then they can say, "See, we can show that students do better when we have small classrooms." In education, what they are trying to do is to improve employability, improve educatability, improve literacy - and they measure these things. If you could figure out as planners what it was that you were really trying to do, then what we need to do is measure it.

Comment: Well, that is not the problem. You can measure it, but you have nothing to hold it against. If you have no standards, measuring it doesn't do a thing. If you were illiterate and now you are literate, then you can measure it because you know what is attainable, what should be attained by that certain group of people. Not so in criminal justice. We just have now the barest skeleton of minimum standards, which have just come out across the board by a select national commission, and they are arbitrary. There are simply no standards against which to evaluate your measurements.

Response: There certainly do need to be standards. There was a time in education when there were no set standards. The definition of literacy is something that came from Charlie Nam's work at the census bureau, who said one is literate if one can, and then proceeds with the definition. And we decided that literacy is a good goal, therefore, we will measure it according to this definition. It is true that you certainly have to establish goals, but I would think that you people must write so many proposals with goals at the head of it that you would be swamped with what your goals are. Now are there any that come out in every proposal that you write, or most of them?

Comment: Definitely.

Response: Then are these the minimum standards.

Comment: Oh, no; because they are to reduce crime and reduce recidivism, or prevent the causes of crime.

Response: Fine, then you must define it further than that.

Question: Of course you must, but by how much, what is realistic and how do you measure it? But what we have all done now, or most of us, is that we have backed way off and we are dealing with performance measures that we can measure that have some small amount of meaning.

Response: Not only that, but something that you feel is really going to feel progress.

Comment: Let me give you an example. A certain group said that they as a private entity would come in and they would reach 125 offenders in the Hillsbrough County jail system. Somebody funded them on that basis, and said well, gee, that is great.

Response: Reach 125?

Comment: Yes, reach - whatever that means. So when we went down there to evaluate the program, by December 15 they had only reached about 30 or 40 people and they took the first 6 months to train their staff at our expense; and when they heard we were coming, they all of a sudden reached about 185; and therefore were more successful than it would look - meaning that we should continue with another \$200,000. But what we found out in that grant was that in a new area where we had no basis to compare their goals, at least in a new program, don't go for the qualified goals, you try to have them part of the system where the constant can be maximized and their minimum gained. If there is nothing to compare against, if they say 500 or 5,000 it doesn't mean anything. Whereas, if they had a system where you can see that they will be constantly in a day's time maximizing their staff work, you can determine the amount of people they can reach and the amount of people they did something with, and what happened to them later. Their system was more important there than their goals. We spent about \$170,000 before we realized that it was not working, but we had no basis then to close it down because they went past their stated goal.

Response: Lack of criteria also makes it difficult to assign priorities to each of the functions within the criminal justice field. Is the law enforcement capability more important to strengthen one year against, say, prevention. If you have no criteria within your process, it is very difficult to equate one to one.

Comment: Not only that, you can't even tell which one is worse off even within its own realm.

Response: That is what I mean.

Question: I would like to go back to the economic problems that we discussed briefly. In considering funding and the flight to suburbia, some cities as I understand it have tried an intercity income tax to circumvent this vicious circle. Has that really avoided the economic dilemma?

Response: To the extent that they were able to place that income tax on the people that were really fleeing, it works, because the income tax is so sensitive to the number of people and the economic growth that you really see an increase in funds. Now it works in that it increases funds for that local agency, whether those funds are then allocated to criminal justice rather than to welfare programs, that is another question. It definitely works to tax an income tax at some local level - it might be a state level. Many states have an income tax, or some states do, I should say. It would make better sense to allow your state or local income tax to be a credit, so that you would not have to pay federal income tax on the income that you had already paid out as state income tax. So it makes better sense in that kind of a system if you decided to go income tax oriented, to include within your income tax system the ability to have a federal tax credit as well. But it does work. It really does help in bringing in some extra revenue from those people out there who live there at night but use the roads, use the transportation system, live in the city and demand that their passage be safe while they are in those cities. They want to walk down those streets and they want to be safe; and they just don't understand why that city can't provide them with the kind of protection that they want.

Question: Has anyone ever been able to determine the share that those corporations that they work for pay, perhaps even through an indirect method like paying their rent on the building, or property costs, back to the city? If they don't pay much, then it would raise all of our prices because now we are paying income tax which the corporations are not paying, and higher salaries and we are paying the costs of maintaining that corporation in a high property value area.

Response: That is why I suggested that if we do put in a state income tax you would have to put in a federal tax credit to alleviate somewhat some of the total tax burden. What I am suggesting is that instead of two-thirds of the revenue going to the federal government and two-thirds of the services being provided by the state and local government, you should redistribute those revenues. Revenue sharing is another one of these proposals. Here we have this money, very sensitive to growth, coming into the federal government, and it is these people back here in our areas that need the money. So revenue sharing tends to get it back to them too, or that is the theory behind revenue sharing at least. Considering the amount that corporations or businesses pay, governments pay no taxes at all. Tallahassee and Washington, D.C., are good examples of places where government is your largest industry and you have a very small tax base. Of course, you can say that as a result of that maybe we don't need the same level

of protection since it is not the same kind of city that a city with an industrial center would have. But in fact that is not what happens. Certain kinds of industries don't require different kinds of protection or different criminal justice systems.

Question: What I am talking about is don't those industries pour enough money into the local economy to justify their being there? Doesn't that pick up a big piece of their load?

Response: I don't think so. Large corporations do their buying outside of the city unless their wholesaler happens to be in the city. Industries, for the most part, are not location oriented, except for service industries like state and local governments. Those pump money right into the system, right into the city they are in, because they pay people who live right in that area.

Question: Office buildings. How is the city going to reap more tax benefit by filling that office building full of people to live in there than it would by having a giant enterprise in it? I should think it would be less to fill it up with housing units rather than commercial units.

Response: It depends on the kinds of tax bases you have got. If the local people, if the local government is financed primarily through sales taxes and property taxes, then the property tax is going to be the same whether the people are living there or whether it is an office building - very nearly the same. The sales tax is the next question. You are asking me, you know, will 1,000 people living in that building spend more than a large corporation housed in that building; and that is very much a function of what is in there, what kind of people. If I have high income people with a lot to spend, I'm going to get a lot of sales tax revenue. If I have a poor little corporation that counts every pencil, I won't get very much, and vice versa. So that is very hard to analyze. I can say, however, that most corporate taxes are not paid to the state and local governments. Florida has a state corporation tax, but most states don't tax corporations because in the past they have always been glad to have them and they certainly wouldn't tax them extra for being there. So most corporation taxes go to the federal government, not the state and local governments.

Question: Since criminal justice dollars are so hard to come by, some correctional officials think that a way to go is put detention facilities in the hands of private industry. Would you care to comment to that economically?

Response: Well, it has been done with old age. The difficulty is that the goals of private industry for profit maximization are not the same as the goals for public welfare. In our minds, criminal institutions are great if they have no one in them because there is no one left to put in them because there are no criminals. The goal is to maximize rehabilitation efforts, to improve the ability of people once they get out to stay out. Now, if I were a private industry housing people who were there for criminal reasons, I would neither encourage them to leave, especially since I assume I would be paid for each one of them, nor would I encourage them to stay out once they got out. It would be more to my advantage to keep them in there. So I think that the goals of private enterprise in this case are too much at odds with the goals of public welfare.

Comment: Unless you have a very high supply. Unless your money was based on a system where the more you turned out and the better rehabilitated they were when turned out, the more you got. Then your profit motive would be to turn out rehabilitated offenders.

Comment: Some reward system could be conceivably built into a private system.

Comment: Yes, like the number of offenders you received from the courts would be based on the quality of your services.

Response: What you people are telling me would be very hard to measure.

Comment: Well, I just walk around thinking that there is nothing to be measured.

Response: If you can't set up some good criteria for yourselves and you are all cooperative, then it may be difficult to set up similar criteria for private enterprise if you really want to end up producing your goal. I think that the point about private enterprise in correctional agencies is that we assume that their goal is profit maximization, and that is their only goal.

Question: So the problem would be to make this profit maximization compatible with our own goals?

Response: Not only compatible, but improve your goal. The only way to maximize profit would be to achieve your goal.

Comment: Of course, you know that Texas had an extensive system of private profit organizations operating their juvenile corrections quite recently. They are now in the process of closing all those down because they were maximizing their profits by holding people in the institutions and cutting down on overhead.

Response: Don't you have a mini-system, juvenile system, in the foster home program, where you pay somebody to take care of this child that you have got to have some help in caring for and you really don't want to institutionalize? I don't feel that this has been a great success, but it is, to many people's thinking, better than putting them in a giant institution. What is the difficulty with that program?

Comment: There is not enough of it.

Response: What do you mean by there is not enough of it? Do you mean that there are not enough mothers and fathers willing to take juvenile offenders? The only way to increase the number of families willing to take the juvenile offenders is to increase the economic benefit to them, which increases its cost.

Comment: This gets right down to the level that we are seeing occur at many levels in the criminal justice system of Georgia. The county correctional institutions or the county work camps or whatever you want to call them, are becoming so expensive that the counties can do it easier and cheaper through automated equipment; so they are getting out of it as the state requires them to initiate programs for rehabilitation. It is not economically feasible, so that every time the state requires something for betterment of assistance, the more load it puts on the state; so they really have a problem in implementing any of their ideas, any of their programs at the local level. It is a problem. It's a matter of economics. You just cannot fund a system if you want it to improve in a lot of areas. Foster homes is another. There are a lot of problems that come with foster kids.

Response: One of the questions that occurred to me is, "Is it possible that there would be ways to improve productivity in your industry?" Now, of course, we have got the problem of how you are going to measure it, but we won't discuss that anymore. Just suppose that we reach some way to measure productivity in the various areas. For instance, suppose that we say that productivity means things went smoother through the criminal justice system, the courts, the people were able to go through it fairly smoothly. If you got caught or accused, was there a way to get through the system with minimum impact on you where it shouldn't have impact, and maximum impact on you where it should have impact? If you weren't guilty, if you hadn't done it, you got out with minimum impact;

if you had done it, you got the maximum effect so that you were rehabilitated when the whole thing was over. Are there technological techniques around that would be able to improve your capabilities in this area?

Comment: You are talking simply about speeding up the system without jeopardizing quality.

Response: Well, that is one way to do it, certainly; but I don't think that would be the only way. What I am really thinking of is whether there are roles for computers in this area. Do you really need 100,000 more judges in each district rather than computers? What are the constraints, what are the binds? Is it an information bind - in which case a computer could probably help a lot - or is it a scheduling bind? Where are the binds within the system that really tie things up?

Comment: One thing you don't know; because there wouldn't be that bind in the same courts if the corrections and the police functions were more efficiently operated. By the same token, you just don't know, if you halve every police agency, your courts wouldn't be backlogged.

Comment: Some states are trying computer trace of offenders. You can find any offender by just feeding the proper.....

Comment: I think it's his history, the things about him, that you can find, not where he is.

Comment: No, Georgia has built into their state plan the capability of finding an offender. The person must report every year, whether he is on probation, in an institution, or whether he is still in court, or where he is from apprehension to termination. Whether or not it is going to help or not, I don't know. Some states are trying this and whether or not it will really be beneficial, I don't know.

Comment: Well, it has to be. This is called the Offender Based Transactional Statistics, isn't it? When you put it all together between the information from various states you will have a basis for comparison.

Response: You people as planners in the next decade have got to make some decisions to fund this thing or another thing, recognizing that the costs for this thing this year is going to be a whole lot more next year than it was this year, simply because of the nature of the criminal justice system, not just your system, but any labor intensive system, as I have talked about before. How

are you going to allocate these fairly restricted resources? What criteria do you set up? You know that there are going to be some funds available, now how do you decide who is going to get them? Do you fund those whose productivity you can measure best?

Comment: We fall into that trap quite often where we give more meaning to the services with measured productivity.

Response: And then do you go out and lobby for state and local income taxes, because they are more sensitive to population and economic growth and that what causes you all your problems is population and economic growth?

Comment: We work for better legislation.

Response: Then, of course, you have to define that.

Comment: Something that will effect some type of positive change in the criminal justice system.

Response: It might be that it would be wiser for you as lobbyists to be concentrating on economic legislation than on criminal justice legislation, simply because what you really want is revenues to research in areas where you really don't know anything, like what our goals ought to be in terms of a measurable thing, like setting up standards.

Question: With question to economic legislation, what are you suggesting here?

Response: Well, I wouldn't want to be put in the position of saying that you should lobby for this or for that, but I'm suggesting that one thing you need is to lobby for ways to get that tax money out of the federal government and into the state and local hands. You need to be very aware of the fact that 2/3 of the revenues are collected by the federal government and 2/3 of the services are provided by you all.

Comment: The problem is that if we did do that, we would have more funds but we still wouldn't know what priority, we still wouldn't know where to put them.

Response: The only alternative, as I see it, is sitting in an ivory tower and planning some things that won't ever get funded, because we have no money for them.

Comment: We don't have plans for our existing funds, so the problem is not money.

Comment: Identifying where to put the money that you have so it can do the best is the problem.

Response: It is beginning to sound like another good suggestion would be to put your money where the productivity can actually be measured, where you can actually see the results. Maybe you'll divide your funds into two piles - a little bit for "I don't care whether I see any results, just kind of experiment with this kind of thing," but a whole lot for "Let's see some results," and productivity increases. Some people call this PR work. I mean you have got to have the showy programs for someone who will go out so the tax-payers won't vote you down the next time. I don't think it has to be thought of as PR work, I don't care whether the tax-payers ever see it, but there have got to be some kind of results that you can measure.

Question: I would like to speak to the other side of that, because I feel that that would be putting all your money on controlling things instead of preventing them. It might be that prevention is most important, and that is the most difficult thing to measure. To put money into prevention, who is to say to put it to where the productivity can be measured?

Response: I was not saying that we should necessarily be bound by non-prevention and go to the controlling.

Comment: Just because that is the easiest to measure. In other words, you effect change to the system instead of preventing people from coming into the system.

Response: If we use what has been going on in the past to project what is going to happen in the future, if we affect that projection somehow, and decrease it, we have prevented something.

Comment: I don't have the expenditure or the distribution here in Florida, but surveys done in Georgia found LEA funds had been available, federal funds that accounted to less than 2% of the total criminal justice budget in the state per annum, so you are not going to see anything dynamic in the first place.

Comment: I just heard that the statistic nationally is 3 to 7 percent.

.....

Question: What do you mean by the criminal justice industry?

Response: What I am trying to do is characterize all criminal justice planning and criminal justice activities as an industrial sector, which has a problem which any industrial sector which is service oriented would have, namely, at this point,

since it does not contain technologically active things within it, that any increased demand for its services has to come by increased personnel. Labor is very costly to start with, and their cost increases with the cost of living. That means that not only does their absolute cost increase as demand for services increases, but in addition to that, their absolute cost increases because there is a labor intensity. Now, what I am suggesting is that the demand for the services is very population oriented. Currently the revenue for the services is very population oriented. Unfortunately, the only way that you can cover the demand for the services, or the cost for the services, is by getting some benefits from economic growth. And I am not seeing them occur. You cannot cover your increased costs by economic growth factors because you are not getting your funds from those that are most affected by economic growth, like income taxes. So how are you going to cover your costs? You go to the state and local governments and you keep begging them and after a while they are going to point out to you that they only have so many funds and they have to allocate them between the health people and the hospitals, etc., and the transportation people, and they have told us already of the number of miles of road that they have built has increased by half, and they have told us already that they have had no traffic jams at any one of these 20 intersections, where there have been traffic jams before. So their productivity is higher and we will have to give them money.

Question: Are you saying that if we could show that we have done a good job or a good productivity, that we would get additional funds based on that alone?

Response: I am saying that if there is a way to measure productivity and then improve that rate, you are better off.

Comment: That is very difficult because the basic productivity factor is to reduce crime. The criminal justice system exists on crime. If we do away with crime, we do away with it.

Response: I don't argue at all with that statement of yours.

Comment: What you are saying in a sense is that we don't mind putting \$6,000 out for a new car each year because we can see it and see what it does, but we gripe when criminal justice costs go up because we don't see any change.

Response: That is one of the things that is our problem.

Comment: The same thing is true in criminology, you can put millions of dollars into it but it is hard to put the results on paper and

therefore hard to see what you are getting out of it. You do some good, but there is no way that you can put it on a scale of how it rates.

Response: And what is worse is that not only are you doing some good, but the effects of your good are being so swamped by things that are inherent in the labor intensive system that every time you point out that we have done this much some other commissioner or someone else is going to say, "Yeah, but look your budget is this much higher this year; why do you need all these many more people; isn't there a better way to do this; we don't think that you are doing your job very efficiently."

Comment: I think that that is true because in Alabama much of our money (LEAA) goes into personnel, and the majority of these projects are not going to be able to fund them once the program is ended, and there they are going to lose personnel.

Response: One of the things that people often suggest is that one way to improve your situation is to collect more data so that you really know where to concentrate your efforts. If we only knew what was happening, maybe we could come up with some very effective allocation methods, which would improve our efficiency. In order to collect that data, however, generally speaking, we have added duties to the people who are already out doing something. For instance, consider the patrolman who is out on the beat. Now he doesn't only have the beat that he had before, but now he also has a data collecting requirement, and that increases his productivity because he is producing more in the sense that he is now being asked to provide two things. But obviously he only has a certain amount of hours, and now with this added requirement he is now having to work overtime and that is going to cost you. So clearly in a case like that, if you think data is important, what you do is figure out how to get that data without cutting productivity, because what happens is that when you have him collect data and have to pay him overtime pay, you are decreasing productivity because it costs you more to get what you were getting before. One way to do it might be to send a patrolman out with a data collector beside him. The data collector writes up the reports on the right forms, takes down everything that happens, and the patrolman patrols.

Comment: What I am saying in effect is that we are not talking about trying to increase the effectiveness of current resources, we are actually talking about adding more on the units of work activity. If we justify that we needed whatever it was that we had to begin with to do whatever service we have done, it should be understandable that the added duties of collecting data should be an automatic method of legislating a budget for the purpose of these kinds of services.

CONTINUED

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Response: People get cold feet at certain levels. It's alright to budget \$10,000 for this kind of activity and provide a good service. Well, now we say that we need two patrolmen because the population has increased. Alright, now we budget \$20,000. After a while, perhaps after the tenth patrolman, somewhere along the line somebody is going to say, "Wait a minute, we have got so many patrolmen out there that they should be able to allocate their efforts more efficiently." What I would contend is that the data collecting is not what is bad, unless you are collecting data just for the sake of collecting data, but what is really bad is taking a patrolman who is earning a salary for his skills and knowledge and asking him to put numbers on paper which someone at half the salary could do. One of the complaints that I have heard frequently from people involved in patrol type jobs is that there is too much paper work. That is the only reason that I would suggest that maybe they need someone else to take over the paper work and let the patrolmen do the job that we are really paying them for. Someone can sit down and take stuff off a dictating machine. I would think that the same thing would work in rehabilitation, that there are certain skills that one has and those skills might not necessarily include writing up great reports and collecting large volumes of data. It may be that you could pay somebody a lesser amount to collect data right along with the guy who is really using his talents to their advantage.

Comment: If you appear before the legislative committee, and if they have been around for any length of time, the usual comments are that people have been planning and planning and gathering data, and all we hear is planning, when are we going to get around to really doing something about it. So that is why there is argument about if you are going to have to continue to gather data in order to justify something that you have already established as the best way to accomplish that particular thing.

Response: I didn't mean to imply that my solution to the whole thing is collecting data. I agree with you, you can waste a lot of money collecting data and starting information systems that never get off the ground. The federal government has put out over 5 billion dollars to create what they call the Generalized Information System, and it has never been operable and looking at it I would say that it will never be operable. Maybe therefore that is not the route to go at all to increase productivity - it's just a stab in the dark. What else can we do? I feel that that is the real important thing for you to do, because I feel that people are going to complain over and over that too much of your money is being spent on personnel. In fact what they are saying is what I was talking about before; they have this feeling that costs are going up more than they should be.

Does anyone have any other comments? Well, let me ask that question that I did ask and we didn't get a chance to get a response to. What happens within your own budgets when you know that your population is increasing from year to year? For instance, in your case you have a budget to present to the county commissioners and you know that your population is at least 10,000 more than it was last year, what happens to your budget? Does it automatically increase 10% if you had a 10% increase in population? Does it increase personnel? How do all those increases take place?

Comment: I assume you are talking about the overall budget, because you have to be talking about a substantial change in some given level of activity. Most of the people in the LEA program and planning are not necessarily looking at the overall budgeted activities and the question of how much it must be increased. It would be an internal management question, rather than a planning question, I think.

Response: That is true, but suppose that you as planners all knew that the people that you were working with were not adequately planning for an increased population. Therefore, next year they were going to get an awful lot of flak because they could not provide the services that they had planned to provide. In addition to that, you recognize that the problem you are going to have is that the only way they know to provide that extra service is to add more people, which increases their cost at such a rate that they are going to have a lot of trouble getting funds. Now you as planners know that. Is there anything that can be done to help those people out there doing some kind of operational decision making? Are there any grants that need to be done, studies that need to be done, are there any plans that need to be set forth?

Comment: Aren't we back to the same point that I made a while ago, that it is an operational problem? If we were consultants to management or if we were internal planners, then obviously we would be making arrangements to take care of this, but we are supposed to be involved in a little bit more innovative level of planning. Planning to deal with things that are needed, not things that have just increased because the population has increased.

Response: Anybody else have a comment?

Comment: I think I know what you are getting at. In corrections now, we have found that more counselors are required; and we have found that they spend about half of their time in investigative reporting, so we have suggested that you take the paper work for the

investigations away from the counselors and hire people at a lower salary to do this type of work.

Response: That is the type of thing that I am talking about. It seems to me that you as planners have funds to allocate into different kinds of innovative things. What innovations are you most interested in? One innovation is the paraprofessional; another innovation is an information system; a third innovation, that is not an innovation, is calling in reports via a telephone or a radio and having someone else write the paper work up. There are a whole variety of innovations that you have to decide whether or not these are things that are worth looking into. I was just giving you a few criteria that I thought might make those decisions.

Comment: If I understand the LEAA program, Congress provides money to test and prove certain things. This may be the only way that it can occur because the local units of government are not equipped to provide funds to test programs. This to me is nothing but looking at what is going on at the present time and determining if it can be done more efficiently. If the population is going to increase and the need to provide services is going to increase, obviously the paper work is also going to increase.

Response: That would mean that if paraprofessionals work, and I don't know whether you have any test cases to tell, you might have to fund something to test that program; but even if it worked you might also have to fund programs to produce paraprofessionals unless those are already nicely set up.

Comment: What I am saying is that I don't see this particular need being identified as dependent on some economic factor of growth. It is obvious that it should have been done whether you had growth or not. Growth is incidental to it. It just means that you are talking about more paper work when there is less paper work.

Response: What kinds of projects do you envision being funded?

Comment: Well, for example, the rehabilitative type programs, pre-trial referral services. At the present time, if a person is arrested, nothing is done with that person until he is actually tried and convicted, or tried and some determination made. A new innovative approach is diversion after an arrest is made and before trial. Ultimately the purpose of that is to meet with the state's attorney and the trial judge and to say to the judge that you think there are alternatives, maybe the individual has been arrested for the first time, or you think that it is an educational or vocational problem, or a family background problem, or whatever

the case may be. He is then diverted from the system completely and provided these services, and it actually stops at that point and never gets down further in the criminal justice system.

Response: How do they measure whether or not he responds?

Comment: Well, I think that his attitude would be one thing that could be measured. If the problem is education, whether he is responding could be measured by his grade averages.

Response: I was wondering whether, for instance, the probation department kind of got involved there, kind of checking on him to see if his attitude had changed, even though he really wasn't a probationer, whether they kind of reviewed him.

Comment: Actually, if whatever is expected to occur occurs at an acceptable standard, then the decision is made at some point within a reasonable time to not have this person tried. He then goes through the arrest, but he doesn't go through the trial or sentencing.

Response: Is this the reason that that particular grant appeals to you? It seems to me that the goal of that is to improve the quality of the service that is being provided, in that it not only relieves the load on the system, but a person is treated individually and may actually be pulled out of the system, and that would be better for the person and better for the community.

Comment: Well, another side to this is that it would probably be cheaper to involve them in some vocational or educational program than it would be to put them on parole and have the parole officer doing all the paper work.

Response: At least, it is cheaper in the sense that criminal justice doesn't have to pay for it, isn't it? Education would have to pay for it.

Comment: It does in the sense of the recovery of a useful individual.

Response: I don't mean to narrow the conversation here completely to economics, but, what I have been saying doesn't conflict in my mind with what you have been saying at all. In describing your projects, that one looks like really an economically viable program, because it improves the productivity of the entire system, and it may very well cut your expenses and you may, therefore, be able to provide service to the same number of people for less cost, or to more people for the same cost, which is a way to measure what you do.

Comment: What we are getting down to saying is, in terms of economics or whatever way you want to measure this, which is going to be better, the reduction of paper work in a program over here or the trial of a different kind of program that may be more successful - convert more people, save more money, recover more souls, or what have you. These are the kinds of decisions that I think we need to be making, but are not making in reference to planning in the LEA program.

Response: I had hoped that you would not expect me to say that you should be doing that one rather than this one, because what we are saying is that there are some economic criteria that you should look at. I didn't go into cost-benefit analysis and that kind of thing because I feel that that is a technique for doing something, and that is not really the climate in which criminal justice system planning is going to be made. But certainly there are a lot of criteria other than economic criteria, and you certainly listed some of them. To me the important point to remember from this is that you are in an industry that is very personnel oriented and that that is going to cause you some problems. Just to be aware of that should be a big step in the understanding of the kinds of problems you are facing. In addition, you have to recognize that economic growth is going on in the country, and therefore there will be continually increased amounts of funds available at the federal level and at the state and local level, if any of those federal funds are ever taken back either through revenue sharing or income tax or what have you; that is where the funds will be. Now whether you can get them or not is a political question, but within your professional decisions you will want to instill some cost-benefit analysis. Consider marginal productivity, how much additional amount of productivity one can get for the dollar and compare its advantage - whether it is better for the policeman to write out the report or for the paraprofessional.

Question: How can you ever get away from paper work?

Response: There is no way to get away from it. It is just that we don't want a policeman to spend 8 hours a day on paper work. That is when you decide that you need a secretary.

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The Impact of Social Movements and Social Change
on Components of the Criminal Justice System

Abraham S. Blumberg*

ABSTRACT

Five major movements of the 1960's - the civil rights movement, the peace movement, the youth movement, the women's liberation movement, and the law and order crusade - have influenced the administration of justice in the United States. Courts have been radicalized by "show" trials and transformed into political forums. Corrections has been affected by the Muslim movement, which forced the expansion of prisoners' rights. The police, funded by LEAA and bolstered by technology, came to see themselves as the primary defenders of the American system. Implications of the reactions to these movements are discussed.

My name is Abraham Blumberg, I'm at the John Jay College of the City University of the City of New York. My specialties are Sociology and Law and I thought that a good way to get this off the ground would be to talk about what has happened in the past decade to what we ordinarily conceive of as criminal justice. That would include, obviously, not just the police, courts and correction systems, but would also include the legal profession. I think in order to get some insight into what happened to these institutions, we have to begin with the organizing '60's, when the civil rights movement began and then began to spread into the Black Panthers, etc. You might also have to look for the roots of what happened or what had begun to happen to police, courts, the legal profession, the correctional system. We have to look at the so-called "youth movement," which tied in very closely as you recall to the war in Viet Nam, and also to the emergence of a drug culture in America. And we might also want to perhaps, at the end, look at the Labor Movement for a minute and I would tie these as I said to the Peace Movement.

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I think that the movements I have mentioned - the civil rights movement, regardless of what may have happened to that movement as it went along, the women's movement and the youth movement - that these three have had a profound impact on the criminal justice system, by the way in which the system responded to the strain, to the contingencies that these various movements introduced. I would like to see if I can just run down a list and give you some notion very quickly as to what I'm aiming at. Let's take the courts. For the first time in the history of the Republic, virtually, the courts were radicalized in the '60's. In this sense, courts became living theaters, stages in which radical movements could be expressed, and indeed in which all the ordinary roles which we associate with the courts were challenged. Judges in particular and the legitimacy of the system were challenged, more often than not by young radicals and their lawyers.

Trials became show pieces in which these movements would attempt to at least verbalize their ideology, to at least portray in a verbal form what they were trying to communicate to the nation at large. The legal profession was affected because the legal profession became polarized, where formerly anybody who was a member of the bar of any jurisdiction had to of necessity at least meet the minimum standards of the canon of ethics of lawyers and the kind of conduct that was described by that canon. The polarization occurred not just in terms of lawyers like Kunstler but many younger members of the profession began to see the canons as nothing more than a straight-jacket which in essence was restrictive of activities they saw as necessary in defending the poor, the black, and those who were espousing unpopular ideas. So you find the legal profession becomes fragmented and un-unified the way it was about the canons embodied in the legal profession.

I think related to that would be the judiciary during this period. Because of the behavior of some judges and because many of the radical lawyers and their clients were waging such an aggressive campaign in the courts to espouse their ideas and to gain vindication legally because of criminal charges they faced, the judiciary in the process would no longer seem as a sacred profession which could not be challenged. In the interim, of course, there were several scandals which served to reinforce the notion of the judiciary not being the sacrosanct profession.

Another sub-system in the total system that was affected was the prisons. In the prisons we found that the one group that had the greatest impact was the Black Muslims, but again you could see them as a spin-off of the original civil rights movement. Black Muslims were challenging many of the traditional practices of the average maximum security prison. Some of them had to do with the practice

of their religion, their right to privacy, indeed, culminating in the right to be rehabilitated. They complained about the general custodial system of the prisons. That began essentially with a movement which attempted to galvanize blacks, who constituted the majority of the inmates in many of the prisons. They started a movement for religious freedom but it evolved into many other issues including the right to have ones mail uncensored, the right to personal safety, the right to a parole review, and finally the right to be rehabilitated. And, indeed, one can track many of the correctional changes to the Muslim movement.

When I think of the '60's, I use the word "radicalized"; I mean how is one radicalized by the radicals. Very simply, a line is drawn and police see themselves as the main line of defense against revolutionary movements. I think in the film "State of Siege" (and I may be confusing it with another film) one of the chief protagonists makes the statement to the effect that political parties and political systems go, but the police always remain. The police see themselves as a barrier between peace and complete chaos. The police are further radicalized by the fact that within the police there is a black versus white polarization. Indeed, the police see themselves as defenders of the American system and radicalization of the police occurs. By radicalization of police I mean police militancy, and the police becoming more and more involved in politics and more and more ex-policemen running for mayor. The police were becoming more and more involved in a unionization movement of police themselves and what had served to radicalize the police finally were assassinations - obviously the assassination of John Kennedy, the assassination of Bobby Kennedy, and several more. This has been for the police blacks generally enough of assassinations, but has increased polarization between the police and the rest of the population and within the police between blacks and whites. They generally have seen blacks as what Skolnick called the symbolic assailant and have generally condemned them as the symbolic assailants. So, as I say, this radicalization of police has led to police unionization, and police professionalism has taken on some of the biases that have been posed by the impact of these various movements of the '60's. When policemen go to college even now they only see their stereotypes with regards to especially poor, urban blacks as being confirmed. In other words, they're not in school for any particular purpose, but are just passing time to get some public funds maybe.

I would say that another movement has had a very serious impact, not only on the police, but also on legislatures. Legislatures have been radicalized, by which I mean the transmutation of individuals from one stand to another as a consequence of events in their life space. That is the culmination of all of these movements into what

one might call the Law and Order Crusade. The Law and Order Crusade emphasizes for the most part the police. The police more and more come to see themselves as the only subsystem in the total system that really counts. They have some very strange notions, which are very difficult to shake, because they see themselves as standing alone. They see many of the other subsystems within the system, including the legal profession, as ultimately just one more dimension in their lives that simply keeps them from doing their job. Instead of seeing themselves as they really are, or should be, as just another subsystem like the judiciary or the legal profession or the corrections system, as simply having a part in the process of crime control, too often the policeman believes that he is actually policeman, juror, judge, probation officer, parole officer, and every other role in the system.

Another consequence of all these movements has been one which we really don't take into account too often unless you read the police journals or are in close contact with the police, and that is its effect on technology. As a consequence of the riots of the mid-'60's, as a consequence of rather elaborate funding at the federal level as it filters through the states, we find the police becoming not only directed toward politics but also going off into military directions of technology and equipment. We find troop carriers, helicopters, vehicles which are really more like tanks, and police are getting 2/3 of LEAA funds.

In fact, I'll go further: Long before the Warren Court became the Burger Court, the Supreme Court of the United States which is certainly a part of its total system, was affected by the movements I have mentioned and even the Warren Court had begun to back off from some of its earlier rulings and give police more power; indeed, the stop-and-frisk decisions of the Supreme Court in effect simply confirmed what states had been doing all along anyhow in really mitigating the impact of the Mapp decision and the Terry vs. Ohio decision simply finalized that and gave the police really what they wanted.

Another consequence of the impact of the '60's and these social movements I have mentioned is LEAA. The development of the LEAA as a link to the states is a very significant development in the entire criminal justice field. In fact, I have already mentioned that 2/3 of the funds - estimated at 800 million dollars in 1973 - go to the police. As a consequence, a spin-off from this is the development of a hardware industry. A hardware industry which up until now has in a large measure found its market in the military: riot guns, troop carriers, computers, special hardware for wire-tapping and bugging; in fact the Viet Nam technology is being adopted lock, stock and barrel wherever it can. You get a large variety of firms that are interested in cashing in on this: IBM, UNIVAC, and others now

all have vested interests in the police technology being developed further. Furthermore, technology, one of the really interesting things, has had the effect of tying the 40,000 police units much closer to the FBI than before. So in effect, I would conclude that the old statement that J. Edgar Hoover used to make as a morning prayer that we have no national police is no longer true. We do have a national police as a consequence of the '60's movements and this developing technology that I have just mentioned. One of the side effects of this too has been, as I mentioned, that the police have gained power and as a result have gone into politics (Rizzo, Bradley, Stenvig), and perhaps even in New York City and other cities throughout the country it will not be unusual for an individual to present as one of his major credentials for a municipal post that he has served in some capacity in public safety, especially the police. A man with a police career, if he has a personality, can look forward to a comfortable career in politics at a local level, and I would assume even at the state level, perhaps even at the national level.

I want to mention Women's Liberation for the moment. As a consequence of Women's Liberation there are more women police and female lawyers. Women in police departments now are more likely to be assigned to radio cars than before, more likely to be sent out on dangerous assignments than before. In fact, one of the consequences I might say is that there are more arrests of women now. In fact, it could be argued that women were formerly the beneficiaries of male chauvinism because they had lower arrest, conviction, and commitment records. Women, in fact, have been one of the mainstays of some of the youthful radical movements. This has had its impact on police and courts in their attitudes toward women.

But where are we now? Actually if you examine the country you will see that the youth movements are virtually dead. The drug culture has taken on an entirely different complexion; it is no longer an acid-dropping hard drug culture. It's back to alcohol in its various forms and marijuana. There is no such thing as a peace movement. The labor movement for all practical purposes has not only been weakened but it looks more every day when George Meany is to speak they would sound very much like the president of Mobil Oil or General Motors. So big labor in many ways has had no real impact in the sense that these other movements have had on the criminal justice system. I want to bring up what I see are some points of danger possibly in the '70's and it wasn't because of Watergate that I am going to say this. Anybody that has had any experience in police work, or working with the police or any offices of this branch, knows that wiretapping and bugging are not unusual. The technology has been around a long time and there has been a good deal of judicial comment on issues involving wiretapping and bugging; there has even

been a good deal of case law on the subject that has been handed down. What is important is this - one of the things that could be spelled out of the Watergate affair that I thought was very, very dangerous was the historical parallel with the Weimar Republic. I mention the Weimar Republic because I met a West German professor of law at a sociological meeting and I hashed this out with him because he knew his history better than I did, and I didn't do that much reading about Weimar; but apparently this is what emerged: The Weimar Republic as you know is that government which Hitler very easily destroyed. It had all the features of what we like to call liberal democracy - universal suffrage, separation of powers, checks and balances, judicial control of the administrators, organized political parties. It had, unfortunately a skeleton army, a free press and had very strong trade unions. One of the things that it lacked, and it turned out to be the crucial thing, was a monopoly of coercion. In fact, the Weimar Republic kind of paraded itself as being a politically pious entity. In other words, they said here we are, we are living in an immoral world, but we are not going to be immoral. They allowed maximum freedom to everyone. The Nazis gained power finally, and after they were voted into office, they did not proceed at once to dismantle the Weimar Republic. What they did was that they duplicated every important arm of the republic - the police, the army, the civil service. The security police became responsible for all police work - criminal, security, etc. One of the things that disturbed me most about the Watergate thing was that the executives organized groups parallel to legitimate organizations, such as the FBI and the CIA. In other words, to constitutionally legitimate organizations were added parallel structures which would be responsive only to one person or one group of people. The plumbers were only responsive to those who hired them, unlike FBI men who have to be responsive to their superiors, who in turn have to be responsive to the Attorney General, who in turn has to be responsive to the Courts, hopefully. In other words, what I want to suggest is that in a sense part of the defense that is being presented by the perpetrators of Watergate is correct. What they perceive to be the outrages of the '60's has culminated in the arbitrary use of police power and the kind of thing that happened in the Weimar Republic involving spying, secrecy, brutality, the temptation to act as a law unto oneself. These became characteristics inherent in every police structure that was erected by the Nazis and in every totalitarian system the police and the criminal justice system became critical. Modern technology actually increases the possibility of abuses and the more society makes behavior technically illegal - in other words, the more crimes we make possible for a person to commit - and the greater the discretionary powers of police authority, democratic regimes can only survive if they keep criminal justice institutions under control of the duly, lawfully-elected officials of institutions and do not create parallel illegal institutions to perform their duties.

What I am suggesting to you is one of the lessons of the '60's is that the outrages of the '60's really weren't so outrageous because many of the movements of the '60's culminated in a much looser society, looser in the sense that we all have more freedom, certainly in connection with the blacks. Some of the situations were really laughable - you mean that someone couldn't walk into a five-and-dime and order a coke or they couldn't ride on a bus or train or attend a school. So many of the issues that began as a civil rights movement did have an impact as we see in a more radical offshoot as the Black Panthers and the kind of outrageous behavior as the Black Liberation Army, assassination of policemen and so forth, but these did have an impact on every substance of the criminal justice system.

In reaction thereto, what is most dangerous is that in the '70's we should be careful that we do not take measures to use the hydrogen bomb to control a flea. I would suggest too that our technology may be more important than we think in terms of the future behavior on our parts in the system. How are you going to deal really, not just with the very sophisticated methods of bugging and so forth, but also with the ways we have of controlling human behavior? What are we going to do with this technology in the '70's? There are all sorts of temptations and it depends I guess on the view you have of the world. If you are a very Hobbesian person you might say, "My God, 1984 will be here much sooner than we think." If you are a much more optimistic individual you would probably say, "Well, perhaps we have learned some important lessons and the technology will be controlled." Even though we do hook the computers up and we do computerize everyone, none of the information will ever be used with malice. There will be a growing tendency, I think, in the '70's to import and employ the technology of the military at the civilian level. I think that the drug law that we have recently enacted in New York state may be, even though it may not be entirely successful, the kind of wave of the future of legislatures practically breaking their necks to see who will get their name on the first proposed bill to restore the death penalty, even though it is convenient to ignore it, just as it is convenient to ignore our experiences with hard drugs and that we have had very severe laws on the books at the state and federal level for many years but it just hasn't worked. In New York, everybody is making dire predictions that the jails will be full before we know it because of certain features of that law, no plea bargaining in many instances, lots of trials and lots of new legal business, new courts, lots of new lawyers that will be needed for defense counsel. My own feeling is that we have to go through with it, suffer through all the problems and then if necessary, we can look back and say, "Look, this doesn't work." Americans being what they are, basically a radical people in that they enjoy nothing better than success and hate failure, and having experienced failure, they will take a more moderate course.

Indeed, I want to tell you that Rockefeller's hardest selling point in connection with what is a rather severe program is, "Look, the other system failed," of course, the other system being what he felt was a libertarian one with the state spending some 200 million dollars creating jobs and addiction centers without dealing with all the other fundamental problems, forgetting that you can't treat just the symptoms. We have simply gotten to the point in dealing with the drug issue that the whole thing has become ideological. You are either a believer or a non-believer. In the case of the New York situation, I think they are going to find a lot of mistakes. I wanted to show you that where we are today is really a product of the '60's.

DISCUSSION

Question: Do you think that out of these movements that you outlined, that the police element in our country as well as the executive branch of our government and the legislative branch and the majority of the population of our country have overreacted? I can't help but get that attitude out of your comments.

Response: The police reaction is certainly understandable. There have been police assassinations. There has been a good deal of rhetoric about "pig," etc.; of course, you hear less and less today, by the way. I think the overreaction is largely in connection with the whole "crime in the streets" issue, but it's the nature of the overreaction. I wouldn't mind if there were overreaction if it took other forms, instead of taking the form mainly of technology. Better technology is not the way necessary to the kind of success you are looking for in a crime control situation.

Question: Then you don't believe in a better mousetrap.

Response: I do believe in a better mousetrap. I just know that a better mousetrap is not enough. A classic case of that, again I hate to bring up a painful subject, but the greatest technology on the face of this planet did not subdue a people who were just wearing pajamas and fighting with the third rate equipment that the Chinese and Russians were willing to cast off. Of course, that was a different situation. They had the element of nationalism in the situation. I would say that technology is simply not enough, it has to be coupled with hard, common sense based on what we do know. For example, the death penalty: it may satisfy us for the moment to simply have this kind of

retribution, but in the long run the death penalty really cures nothing by way of new offenses. You are not dealing with a single problem whether you are talking about the death penalty, drug addiction or any other crime. I believe that things should be done in small ways. One thing that I think could be done that is a small thing, though you may think it is a big thing when I mention it, is gun control. If we can pay farmers, and we have been paying them since the 1930's, soil bank payments and all sorts of other payments not to grow certain crops or to grow certain crops or to do certain things, and we have been paying subsidies to people for now well over 30 years to accomplish certain desirable goals, why can't we do the same thing in certain kinds of industry. Pay the arms manufacturers to only manufacture for the military and buy up all the guns that exist. You know it would take only a small part of our budget. I know that I am not dealing with the big issue of gun ownership, but maybe we should research substitutes for it - you know, for making a man feel good besides the possession of a gun.

Question: What would you hope to accomplish by gun control?

Response: I would like to save the lives of those 9,000 people who get killed each year. What was it, 52% of the homicides.

Question: If you bought up all the guns and passed a law that it would be illegal for a private individual to own a gun, all the law abiding citizens would turn theirs in, but the criminals would not. What good would that do?

Response: Recently in looking over a report I noted that in all the assault cases, or virtually all of the cases, a pistol was used. This didn't strike me as unusual because I have seen such reports before. I want to suggest to you that it is do-able, it is feasible. It is true, as you say, that the criminal will not turn his gun in, but that is the very thing that would make it true.

Question: I recall someone saying that if you do away with the tools you would do away with the problem. But it seems to me that even if you take the gun away, if a person is intent on doing bodily harm, he will find another means. I don't agree that you should pay someone for not being a criminal.

Response: Look, I'm not trying to oversimplify what is a real problem. It seems to me that you have to ask yourself the first question, what is a criminal justice system and what is its real purpose. It seems to me that its real purpose is to provide for an orderly society which has a minimum amount of hazard, inconvenience and

loss of liberty to the ordinary citizens. Let's get very practical about this. What is the characteristic about the gun that makes it such a deadly weapon? It is its speed. To do something with a club or knife takes much more time than a gun and is not as sure to be deadly. As this gentleman has indicated, if a man is so determined to kill, he could give his own life and by forfeiting his own life probably achieve the objective under the right circumstances. It is just that I think that the whole weapon culture that the gun has created in the United States is part of our problem.

Comment: I don't think that you are being realistic. The public wouldn't accept such a law.

Response: I don't doubt that. People feel that they really must have their guns. It would be like taking away their automobiles. The very same problem exists in the ecological problem, especially in the energy crisis. No one has suggested that we should tailor our needs to the reality; they have suggested ways of increasing the energy supply. No one has suggested that we should tailor our needs to a very simple mechanism, and I admit that this would be revolutionary in the United States, but Congress could simply pass a law saying that no engine should be produced with more than so many cubic centimeters of displacement, or no automobile should be longer than x number of inches, or you name it. But the point is that we are going to come to that, or at least your generation is going to come to that, I'll probably be off the scene by then. Certainly in the realities of the energy situation, we have not thought of tailoring our lives to the reality, and this is the same thing with the gun and drug situation. We may even come to the conclusion that even though it is a public health problem, just as alcohol is, it might be a good idea under certain circumstances to give people their drugs under some sort of Medicare program, I don't know, for the safety of the rest of us and for their mental health. True, it is an extreme measure and it might be considered fascism. Look, none of these are easy problems, but I am trying to tell you that you have got to start somewhere, and that somewhere, I happen to think, is to get the guns off the streets so to speak where legitimate sportsmen and what have you would not be affected, it would just mean less guns around. In England this does a lot, I think, to keep violence down.

Comment: If in fact the taking away of guns, indeed, only reduced violent crimes by 1/10 of 1 percent, then the whole effort would be wasted. You might well have spent less money and accomplished it by some other means inductive to changing the persons' attitude.

Response: Let me just bring up a few points here. I think that the people in the criminal justice system and their supporters, people

who proclaim themselves to be friends of the police, etc., their notion has been, as I have read it for more than a decade, that this has been a decade of excessive license and permissiveness, that there has been erosion of discipline and respect for constituted authority. I want to suggest to you that in part gun ownership, to me, is permissiveness, that erosion of discipline and respect for authority are also part of the question of gun ownership. There is no reason in a mass, industrial, urban society like ours where communication is virtually instantaneous, where anybody but the police and other duly constituted authorities and the military should have weapons of any kind. There is no need for it. I am simply trying to indicate that if you want to bring crime down to some degree, you have got to start somewhere. My question to the group would be where do you want to begin. I guess that one way of doing it would be to repeal many of your laws and then you wouldn't have as many crimes. Where would you begin?

Comment: Guns have uses other than killing people, I mean unlike marijuana, there are legitimate uses for guns.

Response: There are legitimate uses for marijuana and LSD; there are medical uses for them. Seriously, terminal cancer patients have been treated with heroin and LSD to help them deal with the problem. I really put the question, not because I want to play the role of the devil's advocate, but because I really want to know from a group like this. I assume you would all be interested to some degree to pick up the FBI crime report to see that crimes have reduced, like crimes of violence in '74 and '75, or that the other crimes have gone down. I really would like to know. Do you have any place that you would want to start?

Question: Well, I think you used the term crimes specifically. I think this is the whole objective of the LEAA program: to reduce the crime rate. If you are talking about crimes of violence, take that as a category and don't isolate the fact that gun control laws, whether you have them or you don't have them; that is just a small part of the overall problem. Why are these people being assaulted with guns seems to be important to me. What studies do we have to indicate that?

Response: In many instances we know that crimes of violence are not pre-planned, they occur between people who have had very intimate relationships.

Comment: Speaking of other crimes, I think we still need very indepth looks at everything conceivable that might have created the problem.

Response: Let's examine what it is that people feel in this country, at least in the major cities. Rightly or wrongly, whether it be part of their hysteria, people are afraid in New York, in Chicago, in Los Angeles, in San Francisco, etc. They are afraid of being mobbed, women are afraid of being assaulted sexually. The reason I stress the crimes of violence is because this is the one that seems to have everyone up-tight and it seems to me that the criminal justice system has to address itself to these issues because if they want to get future funding and support they are going to have to address themselves to those types of crimes. Most people feel about property crimes, "Well, the insurance company will take care of it." Of course, I personally don't feel that way, having been the victim recently of theft of a beautiful AM-FM radio which my insurance company did not compensate me for entirely when you think of the inconvenience and so forth. Still I would say that my neighbors and most people are more concerned with crimes of violence and less about property crimes. That is why I ask you again to think about where we start. If you were to make one small start, one small step in some direction what would it be? Where would it go? In other words, I would like to hear from you. Do you have any notions or suggestions?

Comment: I think the success of any movement is in long range programs. We have a number of short range programs that are supposedly aimed at a stop-gap measure of alleviating the problems that we have now; but early intervention it seems to me to be the key.

Response: What are the components of early intervention?

Comment: What I am thinking about myself as early intervention is like in a juvenile program, is to recognize your deviates, and again a certain amount of deviation is healthy to society; but to develop some system of early recognition among juvenile systems. To treat people earlier, probably before they are ever in juvenile court, but to treat them earlier through the systems that are failing at this time. By the time a kid is in the youth development center, these other systems have failed. I think there should be a lot of significance placed on the long range program in education. This is one point we discussed earlier. If we are to ever get anywhere, I think that is one of the areas we have to work in.

Comment: You have also got to do something about those treatment programs because a lot of the studies that are coming out now are saying that a lot of the kids that aren't getting picked up are doing better in the long run than those that are involved in our system.

Response: There may be some truth to the notion that being involved in the system is something that commits an individual deeper to a deviant life style. But by the same token, it works for some.

Comment: Some of the kids we may label as being in need of treatment may shape up by themselves.

Response: Right. There is evidence both ways: That juvenile correctional institutions and agencies seem to confirm deviant careers and also interrupt deviant careers. As bad as some of the juvenile correctional situations are, they do some good in some instances.

Comment: I think that no matter how you state your goal, you are going to have to attack all parts of the system. To reduce a specific crime you are going to have to work at it through not only law enforcement, but also through the courts and corrections.

Response: You see, one of the problems has been, if this was a roomful of policemen, let's say, the policemen seem to conceive of themselves as the criminal justice system, rightly or wrongly. This is a big part of their problem. A large part of the people who are in non-police agencies have to obviously work with the police. The police are only a part of the total system. Everyone keeps talking about a system. Is there really a system?

Comment: No, there isn't.

Response: That's right. We have a process. I'm not sure that we want a system at the moment until we determine better what the "system" is supposed to do. All parts of the country are different and require different "systems."

Question: Do you think the correctional system is ready to handle an increase? It seems to me that it is not. What do we do with these people? Do we try to rehabilitate them?

Response: On the contrary. I think they see themselves as successful and only failure needs to be rehabilitated. I think that is another lesson that flows out of Watergate. Most of these men thought of themselves as quite virtuous. If you recall this very famous study by Cressey on embezzlers, he was trying to establish a model of embezzlers. The embezzlers he found were individuals who generally had jobs in trusted positions, who then developed what Cressey called a non-sharable problem (a problem he couldn't do anything about or go to anyone about to seek help, but a problem that could usually be solved by money). What the

individual then did was to help himself to some of the funds he had access to. But as he did so he never looked at himself as a thief, but always with the notion that he was going to put the money back. In time, of course, he would find himself hopelessly enmeshed and in time it would come to show that he was nothing but a thief. But even when the embezzler is convicted and goes to prison, he never considers himself a criminal or capable of not being trusted. This problem of self-image is hard to overcome. The problem of white collar crimes has been with us for ages. And the white collar crimes are not limited to the upper class. Every class has some form of the do-it-yourself larceny. Large corporations are considered fair game, because after all ITT does it to me, I can do it to them - that kind of thing. In part our whole culture lends itself to this kind of thinking - that crime is good for the economy. I'm sure that at times many of us don't see some of the things that we do as having criminal potential. I don't mean just expense accounts and that kind of thing, but I can see how high office leads people to all kinds of mischief. I don't mean just political office, I also mean corporate office. I know in England for example, the real problem is not violent crimes, but minor property crimes, as it is here. It's just that we seem to pay more attention to the street crimes or violent crimes. We seem to shrug off the property crimes, or think "Well, the insurance company will take care of that." We are all enmeshed in this feeling of having to protect ourselves. It's funny, but the majority of the films coming out now all seem to be geared to the "man unto himself" image - Jesse James, the Dalton Gang, etc. That is one of the reasons I hesitate to even discuss gun control, especially in the Southeast. The Southeast and the Southwest people see owning a pistol as a right.

Question: You addressed one point that I would like to discuss. The local police as I understand and from general observation have traditionally had to usurp powers that were not theirs to handle various situations. At best, they have functioned in this regard under broad interpretations of the law, often in fact they have been outside the law. Do you see this as a critical factor in the near future of this being challenged?

Response: Well, it has been challenged. The compromise, so to speak, that has been worked out culminates in stop-and-frisk laws and your no-knock legislation especially in connection with this whole area of drugs. You see the police traditionally in this country have pretty much misused, particularly at the local level, their power. What has happened in many communities is that the police have engaged in things that have nothing to do with police work. 85% of a policeman's time is very often spent in non-crime

control activities. I am not suggesting that you want to remove the police at a state level from dealing with accidents and emergencies. Very often the only ones around who can effectively do this are the police. You just keep piling on the activities, whether it's catching stray dogs or cows, etc., on the police because they are the only agency that is on duty 24 hours a day.

Comment: Recently a small city in Florida, Dania, requested technical assistance for the police department for somebody to come in and look at their management, operations and budget. Someone came in and looked at the place and left and sent a report in that just raised a lot of problems. It all centered around the fact that they have had 8 chiefs of police in 9 years, and an 80% turnover in personnel. The consultant's basic recommendation was that in order to increase productivity of the police department the first thing that needed to be done was for the city council to come up with an objective, the objective being whether you are to be a watchman, serviceman or law enforcement department. Then whatever you select, cut back on the other parts.

Response: They try to do all three more often than not, or at least this is my experience.

Comment: Well, the people tell us what they want. You made the comment that by the time you start something after a while they change their minds. This is the way it has been for the last 200 years. The people change their minds and the laws are just a reflection of what the people think and feel at that particular time. Now legislatures meet all over the state and they don't have any turnout so they go back to the capitol and they pass laws and the people say well this isn't what I want. Well, why don't you come out and tell us what you want. The people aren't interested in telling you what they want, they only want to tell you what they don't want. This is why laws are made and repealed and changed. In the criminal justice system we feel that same impact. We get these things from the agencies -- the police, courts and correctional agencies -- saying that this is what the people want. Then we go along with it and we change from year to year. So the people do tell us, I think, what they want, even if it's by telling us what they don't want. Then when they get tired of it, we change and go to something else.

Response: But usually the amount of what we call social lag or time lag involved is incredible. For example, I know that the President has said that we have turned the corner on the drug

thing. Well, that's true. You know, if you talk to any kid in college or a kid on the streets nobody really wants to use LSD, etc. But we have a tremendous alcoholism problem that everybody is just sweeping under the rug. You can't get people excited about alcohol. One of the ways that it might be possible to do something about alcohol and the whole public intoxication statute, you know what the problem is, it's medicine. And, like in New York, it is not unlawful to be publicly drunk. I must not disturb the peace or annoy others, but I can be rip-roaring drunk if I want to. Where it really becomes a police problem, in any event, an intervention problem is where the individual becomes criminal trouble. Any of these addictions is a medical problem in that we do not have the medical technology for a cure of any of this. Yale University had a fantastic grant at one time; there was a big Yale Center of Alcoholism. They came up with a lot of interesting publications and did a lot of research and learned a lot from the alcoholics about the alcohol problem and learned a lot about what alcohol did to the body. But they never came up with anything like a "cure" for alcoholism. The only cure for any addiction, and that includes food, is stopping or cutting down your intake. Certain addictions you simply have to stop - like smoking. I must tell you, in the way of a confession, that to me the hardest addiction to overcome is smoking. It took me ten years to get over the feeling that I wanted a cigarette after I quit. Seriously, I would follow people around just to smell their smoke. It has always disturbed me to wonder why it is that we always tend to downgrade the users of other substances, but tobacco seems to be more or less an honoristic addiction.

Question: If the educational program on addictions were better it would help. I know when the government stepped in and scared us, everyone started dropping back on their smoking or stopping.

Response: Well, in many instances that I know of it wasn't the government. I know in my case it was back in the early '60's before the government got into it, I was down to smoking everything but a rope. The point is that it was a matter of self preservation. It's true, I was addicted. But it's amazing. Once you are free of it you are almost like a reformed drunk. You feel so holy, so saintly, you are busy telling people how they can do it. But there is a real problem of decriminalization in any of these fields. The substitute - what do you furnish as a substitute? What has happened, it seems to me, is that we have dumped a lot of these problems into the laps of the police because it is cheap; they are available to do the job; they are on the job 24 hours a day.

Comment: Historically, if you go back to 1965 and come up, you see a tremendous amount of LEAA money going into different areas of the police. You hear a lot of feedback from people who are in police planning that we are losing a lot of money here.

Response: Well, I would like to see a lot more of the money going into probation, parole, in other words, the correctional services; and not too much money - I know the hardware thing is dead, and I know you can't get Uncle Sam to buy you a tank or anything.

Comment: Yes, you can; you just have to go down the right avenue.

Response: Well, yes, but the thing is I think they should hopefully begin putting more of their money into the courts and corrections.

Question: You indicated a moment ago that some of the movements we have here would tend toward LEAA sponsoring defacto nationalized police, the structure of the courts, and such. Did you indicate that you felt that this was like a virus and would have to run its course? Do you have a tendency to feel that we are not going to get over this virus?

Response: Well, I hope that it is going to be a virus that is going to run its course. There will be reaction formation, I think, against all this, and what will happen is that we will bring back the death penalty. And I think a lot of the states are going to try to ape the New York experience. There are going to be a lot of politicians who are going to want to cash in on this idea and try to eliminate drugs through very stern measures that have already been tried anyhow. There is going to be a lot of reaction in the sense that sterner laws will try to achieve our objective. I think that people will see very quickly that this is really not working. One of the reasons we experienced the great big crime problem is that we are finishing our post-war baby boom. They are all beginning to get into that situation where you have a wife and a mortgage. The point is that that big youth bulge is phasing out and we will find that our crime rate will begin to go down a little bit. And I think in time that we will see a lot of material removed from our criminal code. It's true with this drunkenness thing, I agree with you that it is a failure unless you have some other system. The problem is that all these other systems are more expensive than the criminal justice system, and people are not really anxious to increase their taxes.

END

7. 11. 1951