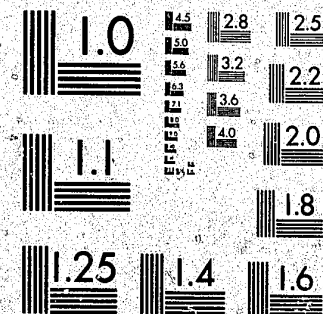


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ACQUISITIONS



## PHASING OUT OF THE LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

TUESDAY, JULY 29, 1980

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON CRIME  
OF THE COMMITTEE ON THE JUDICIARY,  
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:50 a.m. in room 2237 Rayburn House Office Building, Hon. John Conyers, Jr. (chairman of the subcommittee) presiding.

Present: Representatives Conyers, Edwards, Volkmer, and Sensenbrenner.

Also present: Hayden W. Gregory, counsel, and Deborah K. Owen, associate counsel.

Mr. CONYERS. The subcommittee will come to order.

The Subcommittee on Crime begins its hearing on the phasing out of the Law Enforcement Assistance Administration program. Before we recognize our ranking member, I would like to just note that in March of this year the administration announced its proposal to terminate the LEAA program. This was despite the fact that, only 3 months earlier, Congress had completed a 2-year process to rewrite a 4-year authorization to run through fiscal year 1984.

The first budget resolution approved by the Congress for fiscal year 1981 followed this recommendation in most respects, as does the fiscal year 1981 Department of Justice Appropriations bill recently approved by the House. To date, the only programs of LEAA that have survived the budget and appropriations process are the programs of the Office of Juvenile Justice and Delinquency Prevention and the police and firemen survivors' death benefits program. In addition, the research and statistics programs of the National Institute of Justice and the Bureau of Justice Statistics, formerly components of LEAA but separated from it by the Justice System Improvements Act of 1979, have been supported in the budget and appropriations process to date.

The impending probable termination of the remaining LEAA programs raises a number of questions which we will address at this time. Most important of these is, perhaps, the question of whether there can be an orderly process for the management of Federal funds already in the LEAA pipeline which is reported in the neighborhood of \$600 million and much of which will not be expended for the next several months or even years.

Another important question is what plans are being made for the assumption, by other agencies of Government, of some of the better LEAA programs, such as the program of support for community



crime prevention efforts. We also will be examining the administrative structure of the Office of Justice Assistance, Research and Statistics—OJARS—to determine if its structure which was created for the purpose of coordinating the programs of LEAA, NIJ, and BJS, needs to be altered or the office abolished if LEAA is terminated.

These and other matters will be considered by our witnesses. We call the ranking Republican member of the Judiciary Committee, who is an ex-officio member of this subcommittee, the distinguished gentleman from Illinois, the Honorable Robert McClory.

We will accept into the record your prepared statement, Mr. McClory, and allow you to proceed in your own way. Welcome again to the subcommittee.

**TESTIMONY OF THE HONORABLE ROBERT MCCLORY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS**

Mr. McClory: Thank you very much, Mr. Chairman. I am pleased indeed to have this opportunity to participate in the eulogies to the Law Enforcement Assistance Administration.

[The statement follows:]

**STATEMENT OF THE HONORABLE ROBERT MCCLORY**

Mr. Chairman and Members of the Subcommittee on Crime: I want to thank you for giving me the opportunity to speak here today. I strongly regret, however, that the subject of these oversight hearings is the so-called "phase-out" of the Law Enforcement Assistance Administration. As the Members of this Subcommittee are well aware from their work in this area, the LEAA is the only federal program which provides valuable and necessary aid to the states and localities in the war against crime. Without its assistance, most of the programs initiated with LEAA money will die.

I think we should remind ourselves why we are here today discussing the threatened demise of this valuable program and the serious consequences of that demise. It was only a year ago that, in response to certain criticisms of LEAA, this Subcommittee and the full Committee on the Judiciary embarked on the arduous task of completely restructuring and revitalizing that program to make it a more viable agency for allocating modest amounts of funds to states and localities. The result of these efforts was the Justice System Improvement Act of 1979, which passed the House of Representatives by a vote of 304-83, and which President Carter signed into law on December 27, 1979. The President further evidenced his support in his budget request for Fiscal Year 1981, submitted early this year.

Subsequent to that request, the Administration decided to make a concerted effort to balance the budget. This is, of course, a goal with which few of us would quarrel, and, certainly, absent pressing need, it is reasonable to expect the imposition of certain economies on all programs in order to achieve that worthwhile purpose. Unfortunately, LEAA was called upon, not to make a sacrifice equivalent to that of other government programs, but, to make the ultimate sacrifice. This came as a surprise to the Congress which had worked so hard to pass the JSIA and which had witnessed the Administration's imprimatur on that Act. To add insult to injury, almost simultaneously, the Administration began to further ravage the LEAA by reprogramming its funds to other functions of the Justice Department.

The wisdom of these actions is highly questionable, both in terms of their substance and the means with which they were achieved. Some of the effects of LEAA's termination are obvious: valuable programs initiated by the LEAA, such as the victim-witness, arson and corrections programs, will end, in spite of their success. The LEAA Report on program effectiveness, released in March of this year, is strong evidence in support of the value of these programs. Nevertheless, the precipitous action of the Administration means that these programs praised in that Report are now on the "endangered list."

Many states and localities that desperately want and need these programs will be unable to assume financial responsibility for them no matter how successful they have proven to be. Thus, the argument that removal of federal intervention will not end these programs is unpersuasive. In my own district, for instance, programs establishing prosecutorial management information systems to expedite caseload

processing, reforms in education and job training in correctional facilities, improvement in police communications systems, half-way houses, and computerization of court records are threatened. In Kane County alone, LEAA grants brought various community groups together to assist senior citizens, provide counseling on child abuse and rape, and to run a drug detention system. All of these programs are jeopardized by the termination of LEAA. In addition, programs which are in the planning stages, involving law student assistance for judges, arson investigation, and the up-grading of certain correctional facilities, will have to be abandoned.

The means by which the termination of the LEAA is being achieved by its foes are most questionable, particularly in light of the overwhelming support demonstrated for the restructured program by the Congress just one-half year ago. The legitimate method would have been through legislation to repeal the Justice System Improvement Act of 1979. This would have afforded this Subcommittee and the full Committee on the Judiciary the opportunity for deliberative consideration so that the ramifications of such a repeal could have been brought to light before action was taken by the Congress. However, since the repeal route would have been incongruous in light of the overwhelming support demonstrated for the restructured program by the Congress just one-half year ago, termination was effected through the budgetary and appropriations processes, over the repeated protests of the Committee on the Judiciary. As a result of this hurried and haphazard approach, the ramifications of repeal are being considered after the fact. We are faced with the near impossible task of minimizing the undesirable consequences of this action, consequences that might have been avoided had the correct process been pursued. At a minimum, the following problems may be anticipated:

1. Because of the unique three-year funding mechanism employed by the LEAA, there is currently \$600 million "in the pipeline." In order to insure that these funds will be properly expended and accounted for, sufficient administrative funds are needed. The \$15 million provided for in the Fiscal Year 1981 appropriations bill recently passed by the House is probably insufficient for this purpose. Furthermore, since no funds for state and local administrative expenses are included, these duties will fall upon the federal government, but no additional administrative funds are being provided for that purpose. I understand that Juvenile Justice grants are similarly affected by insufficient administrative expenses.

2. Close-out costs are enhanced by the more stringent auditing requirements imposed recently by the OMB. A GAO Report issued in February of this year suggests that there is a great burden borne by taxpayers by virtue of waste stemming from inadequate auditing procedures. Although these precautions involve additional expense, current appropriations do not provide for such auditing.

3. The most unfortunate effect of the abrupt termination of the LEAA must be measured in human costs by reason of the termination of jobs. Thirty thousand state and local jobs will be affected and 500 Justice Department positions are jeopardized. The LEAA estimates, I understand, that attrition will be insufficient to compensate for these cuts.

Mr. Chairman, these are just a few of the problems that termination of the LEAA presents, and I have described them only superficially. The confusion that results from the "phase-out" of the LEAA is in direct proportion to the lack of consideration that was given prior to the abrupt and ill-conceived decision that it should be terminated. In particular, the expertise which this Subcommittee and the full Committee on the Judiciary could have brought to this matter will become sorely apparent when the phase-out begins. I commend this Subcommittee for holding hearings on the problems surrounding the termination of the LEAA and I hope that the result will be to minimize the chaos emanating from the decisions of the Administration.

I want to assist in any way possible to help resolve the problems which these hearings bring to light.

Mr. McClory: While I am holding out some faint hope that the Senate may yet provide funds which could be preserved in conference to keep the program alive until next year, when we could reconsider these appropriations, the determination of the administration, and particularly the Office of Management and Budget, seems to be so unyielding that these hopes are rather faint.

We are threatened with the destruction of what is an extremely valuable program, the restructuring of which you and I took part in less than a year ago. The legislation which is now on the books authorizes substantial amounts to carry out the program as re-



structured, so the destruction of LEAA is not due to any lack of authorizing legislation. It is the result of actions taken by the opponents of LEAA through the appropriation and budgetary processes. They have seen fit, by denying funds, to virtually repeal the legislation which the Judiciary Committee considered very, very carefully, and which the House approved by a vote of 304 to 83.

It just seems unbelievable that this measure, which President Carter signed into law far less than a year ago, on December 27, 1979, should meet its demise in this way. This is not the appropriate method for repeal of legislation, and I have tried to emphasize that on the floor of the House, but unsuccessfully.

Many States and localities that desperately need and want these programs will be unable to assume financial support for them at this point, no matter how successful they have proven to be. Thus, the argument urged by supporters of the cuts that removal of Federal intervention will not end these programs is quite unconvincing.

In my own district, for instance, programs establishing prosecutorial management information systems to expedite caseload processing, reforms in job training in correctional facilities, criminal diversion, improvements in police communications, halfway houses, and computerization of court records are threatened. In Kane County alone, LEAA programs brought various groups together to assist senior citizens and to provide counseling on child abuse and rape. All these programs are jeopardized by the termination of LEAA. In addition, programs which are in the planning stages involving law student assistance for judges, arson investigation, and upgrading of certain correctional facilities, will have to be abandoned.

I think that the main contributions of the LEAA program have been the guidance and direction that the Federal Government has given to the localities, which is so vital to the whole subject of law enforcement and criminal justice. Within six blocks of this hearing room, there is an agency established through LEAA—the neighborhood anticrime program. I know about this program because I have attended their meetings.

If there is a sense of greater security here on Capitol Hill, it is in large measure because of the input and the guidance and direction provided by the LEAA. It has brought neighbors, agencies, volunteer organizations, churches, and civic groups together to recognize that the reduction of crime in America is something in which the entire community must be involved.

I do not know how this could be achieved without the LEAA. What other agency has the authority to bring communities and different elements of our society together to fight crime, as the LEAA has done?

We are now faced with the nearly impossible task of minimizing the undesirable consequences of this termination—consequences that might have been avoided had the correct process been pursued. At a minimum, the following problems must be anticipated and considered by this subcommittee as the apparent determination of the administration to phase out LEAA is carried out.

As you mentioned, Mr. Chairman, there is \$600 million in the pipeline. In order to insure that these funds will be properly ex-

pendent and accounted for, sufficient administrative funds are needed. Fifteen million dollars is provided for this function in fiscal year 1981 in the appropriations bill recently passed by the House. It is however, probably insufficient. Furthermore, since no funds for State and local administrative expenses are included, these functions will fall upon the Federal Government as well. I don't think that the States and localities are in a position to assume those burdens.

I understand that even the juvenile justice grants, which are continued, will be similarly affected by insufficient administrative expenses.

Close-out costs are enhanced by the more stringent auditing requirements imposed recently by the Office of Management and Budget. A GAO report issued in February of this year suggests that there is a great burden borne by taxpayers by virtue of the waste stemming from inadequate audit procedures. Although these precautions involve additional expense, current appropriations do not adequately provide for them.

Third, the most unfortunate effect of the abrupt termination of the LEAA is the human cost resulting from the termination of jobs. If merely maintaining the jobs were the only consideration, I would not be so strong in my opposition. However, in addition to the other problems I have outlined, skilled, experienced, and dedicated individuals are involved. I am personally acquainted with a number of them. They are vigorously involved in the process of trying to coordinate law enforcement programs and to contribute to the reduction of crime.

These are just a few of the problems that termination of LEAA presents and I have described them only superficially. The confusion that results from the phaseout of LEAA is in direct proportion to the lack of consideration that was given prior to the abrupt and ill-conceived decision that it should be terminated.

In particular, the expertise which this subcommittee and the full Committee on the Judiciary could have brought to this matter will become apparent when the phaseout begins. I commend this subcommittee for holding these hearings on the problems surrounding the termination of LEAA and I hope the result will be to minimize the chaos emanating from the decisions of the administration.

I want to assist in any way possible to help resolve the problems which these hearings bring to light. Thank you, Mr. Chairman.

Mr. CONYERS. I appreciate your testimony here. Have you had any conversations with the chairman of the Judiciary Committee in terms of our approach in trying to keep some funding in the appropriations bill that might be the lifeline?

Mr. MCCLORY. I had conversations with the chairman, who assured me that he was going to work actively with me on the floor of the House when the State-Justice Appropriations bill was considered, but when the measure came to the floor, I was disappointed that the chairman was not there.

My amendment, which would have restored a minimal amount of funds to the grant programs, lost by a slim margin. Twenty votes could have changed the result. If the chairman had been there, the result might have been different. On the other hand, the determination of the Office of Management and Budget, and particularly Jim McIn-



tyre, is adamant and unrelenting. Mr. McIntyre is a Georgian, and the experience with LEAA in Georgia, I understand, was thought to be a very unsatisfactory one by some. This evidently accounts for the hostility of this administration toward LEAA that has been apparent almost since they came to Washington. We were able to overcome this prejudice until this year, when the balanced budget theme was launched. That has been used, or rather misused, in my view, as an excuse to wipe out LEAA.

I do not know what the consequences will be. Right now I feel that unless we get some funds restored through action in the Senate, and hopefully Senator Howell Heflin will work on that, as he did when the budget was being considered. If that does not happen then the only alternative I envision, Mr. Chairman, is that next year, as an early order of business, we should undertake to revive and continue LEAA, by appropriating the necessary funds. The methods that they have used for dismembering LEAA are just outrageous—taking LEAA funds to increase salaries in the FBI and to pay increased gasoline allowances for the FBI and people in the Department of Justice. These activities are completely unrelated to LEAA.

I had no objection to the reprogramming of \$7 million or so to tighten up security at the Republican and Democratic National Conventions. We did that 4 years ago, as I recall, but it is not one of the main purposes of LEAA. To give priority to that and to cut out the grant programs is shocking. It is disgraceful. It really is.

Mr. CONYERS. Have you had an opportunity to examine the amendment to the Senate Justice authorization known as the Kennedy-Baucus amendment that would transfer most of the money to a discretionary aid program administered by LEAA in Washington?

Mr. McCLORY. No, I have not.

Mr. CONYERS. That amendment is part of this continuing saga. I appreciate you bringing us up to date. I recall your role in LEAA. The National Research Institute, now the National Institute of Justice, was an amendment of yours that was quite successful, as experience has shown.

Mr. McCLORY. I want to pay tribute to Hank Dogin, who is the head of OJARS. It took a long time to get him appointed. The administration stalled on appointing anybody as Administrator, but when it did, he took over in a very professional and very effective way. If the administration had not stalled so long, and we had had a longer experience with the revamped LEAA, we might not be facing these problems now.

Steve Boyle has also been an erstwhile supporter and an effective congressional liaison. Both of these individuals have been extremely helpful.

I think the fact that they may be lost to public service is another indicator of this very stark tragedy. Crime in America is a big problem. However, the fact that LEAA has not eliminated crime should not adversely reflect on LEAA. What is the situation going to be without LEAA? Unless we continue to fight crime in the streets, in the neighborhoods, and in the communities, which is where LEAA concentrates, I don't know how there would be any impact on crime.

This is the only Federal program of this nature. This is the only Federal program which is directed toward crime at the community and State levels. Pumping additional money into the FBI and other Federal law enforcement programs will not have the same effect because the focus is different. There is a lack of vision, and a lack of understanding at the highest levels in the current administration, and this is extremely unfortunate.

Mr. CONYERS. I appreciate your observation. If there is any way that we can continue the funding I know that your dedication to this program will help us form the front line of support. I think when many members of the committee become aware of how this is being handled, we may be able to drum up an increased support that would perhaps shed more light than appears at this present hearing.

Mr. McCLORY. Mr. Chairman, may I just add this. I would like to pay tribute to you for your leadership in connection with the community and neighborhood anticrime programs, which I think are really the key to reduction of crime in America. You and I have had differences as to the amount of input there, but not as to the nature of the input.

It is in the neighborhood where crime is going to be reduced. That is where street crime affects us, and that is where it is going to be fought. Individuals, as well as local police departments, civic leaders and community participants, will work together to control this problem. You have been a strong leader in that area, and I want to salute you for it.

Mr. CONYERS. You were the ranking member of the subcommittee when we were finally able to add a community anticrime feature to it.

Mr. McCLORY. That is correct.

Mr. CONYERS. I think that this hearing this morning will perhaps serve as a basis for a closer examination by many of our colleagues on the committee, and I thank you for beginning these hearings in your usual articulate way. Thank you, Mr. McCLORY.

Are there any questions by the members of the subcommittee?

Mr. EDWARDS. Mr. Chairman, I just want to thank our colleague from Illinois, Mr. McCLORY. As always, he makes a massive contribution to our deliberations, and I know of his support and his contributions that have been made to LEAA. I have read his excellent statement, and thank you very much for appearing today, Mr. McCLORY.

Mr. CONYERS. Thank you. We now would like to call the Associate Deputy Attorney General, Mr. Paul Michel of the Department of Justice, who is accompanied by the Director of the Office of Justice Assistance Research and Statistics, Mr. Henry Dogin, and Mr. Homer Broome, Administrator of the Law Enforcement Assistance Administration. Please join us now, gentlemen. I notice that the General Counsel, Tom Madden, is also present.

Mr. Michel was in the Watergate Prosecutor's Office and after that was an attorney on the Senate Select Committee on Intelligence. He has been with the Department of Justice since 1976, first in the Criminal Division as Deputy Chief of the Public Integrity Section, and as of August 1978 he has been in his present position.



We welcome Mr. Broome, who was with the Los Angeles Police Department, and Mr. Dogin previously with the New York State Department of Criminal Justice and has acted as Deputy Assistant Attorney General of the Criminal Division of the Justice Department. We note with regret that he has accepted a regional director's appointment with the Immigration and Naturalization Service in New York. We are very pleased that you could be here with us for this session.

Without further ado, gentlemen, we welcome you and will incorporate all the prepared statements into the record at this time and allow you to proceed on this discussion of the phaseout of the LEAA in your own way.

**TESTIMONY OF PAUL MICHEL, ASSOCIATE DEPUTY ATTORNEY GENERAL, U.S. DEPARTMENT OF JUSTICE, ACCOMPANIED BY HENRY DOGIN, DIRECTOR OF THE OFFICE OF JUSTICE ASSISTANCE, RESEARCH AND STATISTICS (OJARS), AND HOMER BROOME, ADMINISTRATOR, LAW ENFORCEMENT ASSISTANCE ADMINISTRATION**

Mr. MICHEL. Thank you, Mr. Chairman. On behalf of the Department of Justice I am very pleased to have an opportunity to discuss with the subcommittee the efforts and plans which the Department has undertaken in order to respond to the budget changes which are now in progress in the Congress.

As you know, the Deputy Attorney General has supervision over the Office of Justice Assistance, Research and Statistics, and the other parts of the assistance program, the other agencies in it, and Judge Renfrew, the Deputy Attorney General, has charged me to participate on a highly active basis to assist him in overseeing these planning efforts that relate to the phasedown of the LEAA program.

The points which you made, Mr. Chairman, about the needs for the phasedown to be orderly and professional, to provide for assistance and funds for the State agencies to be able to carry out auditing and other functions associated with the phasedown, are points with which we entirely agree, and to which we are devoting substantial energy and attention, and we will be continuing in that vein in the coming weeks and months.

While the action on the fiscal year 1981 budget is not complete, it appears at least to us highly probable that the appropriation for the overall program will be significantly reduced. It appears that with regard to the LEAA, which is of course the major part of the overall program, that the reductions will be drastic, enormous, and nearly total. The administration's position, of course, is clear and well known.

I might note, though, that there seems to be little evidence from action taken so far by the Congress in the budget process that we have any reason not to anticipate, plan and work very hard to make the phasedown that seems to be coming one that has the least adverse impacts on all levels of government, on all of the programs, and on the people involved.

The Department, and specifically the Deputy Attorney General, are acutely aware of the widespread and severe nature of the impact that these anticipated budget actions will have on the per-

sonnel and the programs, and we are determined to minimize the hardships, and to assure that there is in fact an orderly and responsible phasedown of the LEAA program.

As soon as the budget decisions had been made, the Department undertook some very extensive planning in order to begin to identify the actions that would have to be taken in light of these budgetary changes. One of the initial steps was that the Deputy Attorney General directed Mr. Dogin, as head of the Office of Justice Assistance, Research and Statistics, to be responsible along with Mr. Broome and other officials, including Mr. Tom Madden, whom as you noted, is present here, to begin to identify the issues, to develop contingency plans, both for the short and long range, and to then move toward developing additional plans to actually address the issues, identify the options, analyze them, and make recommendations on concrete steps to be taken.

I am pleased to report to the subcommittee that, because of the extensive efforts of Mr. Dogin, Mr. Broome, Mr. Madden and Mr. Diegelman, who is also present in this room, and many other highly expert ladies and gentleman in the agency, very substantial progress has been made in that planning effort.

I also want to assure the subcommittee that in addition to full involvement of all of the Justice System Improvement Act agencies, and of departmental officials, that there has been extensive consultation with State and local representatives from governmental entities and interested members of the broader public.

Right from the start of the process of developing these contingency plans, one of the very first steps was to confer with virtually all of the interested groups and agencies, and I might say that in my opinion the planning and the documents in which the initial planning is articulated very accurately and impressively reflect not only the work of the people who prepared the plans, but the input from these other agencies and people.

One of the harsh realities for the Justice Department, in light of the circumstances in which we find ourselves, is that the more that the planning and study focused on the problem, the larger we could see that its dimensions would be. We have had a growing recognition that termination of the LEAA program involves an enormous amount of work. It is a highly complex program, and the phasedown will likewise be highly complex.

We have, of course, a program in which power, authority, money and responsibility are shared by a very large number of agencies and officials at a great many levels, Federal, State, local and, in a sense, in between. As was noted by Mr. McClory and others, the amount of money involved is enormous. There is more than \$1 billion of Federal funds involved.

In terms of the number of people who will be directly affected by the budget decisions, as Congress makes them final, there is also a large number. There are approximately 30,000 State or local employees working on programs in every one of the States of this country and every major unit of local government. All these people will be affected. Indeed, there are more than 500 Department of Justice employees who will likewise be affected.

Our determination is to take every action that is necessary to cushion the impact, to provide in a sensible and humane way for



the people involved, and above all, to see that the funds that remain, as you put it, Mr. Chairman, in the pipeline, which do indeed approach \$600 million, are spent in a way that is lawful, that is proper, that is fully documented and accounted for, that is in accord with the law, with the guidelines and policies of the Department and of LEAA and OJARS. We are sparing no effort to assure that that goal is achieved.

As of May 1980 there were about \$600 million in criminal justice formula or block funds still active at the State and local levels. This quantity of money involved approximately 15,000 separate grant projects. Of the \$600 million, about one-half remains available for expenditure in these projects which are in various stages of their life span.

Another \$200 million of juvenile justice formula funds are also active at these levels. Therefore, there is more than three-quarters of a billion dollars in formula moneys somewhere in that elaborate pipeline. It is money for which the Federal Government is responsible, for which the Justice Department has the stewardship under the various acts of the Congress, and it is a responsibility that we intend to discharge as best we can, and will.

As you know, Mr. Chairman, the problem is complicated in a sense by the fact that the funding cycle stretches not over one but over 3 years. In accordance with long-established practices, sanctioned by policy determinations by the agency, by the Office of Management and Budget, and by the Congress, the expenditure period for the funds normally runs from the year of award, and then for 2 additional years beyond that.

The benefit of this kind of system is that it has helped to promote the underlying goal of longer range and more fundamental changes at the State and local level in the criminal justice activities and different parts of the criminal justice system.

The 3-year cycle has also achieved its secondary goal of promoting stability of program and of staff. That long-range approach, for example, allowed for the hiring at the State and local levels of perhaps more qualified staff, and the capacity to hold staff in place for longer periods.

Finally, the longer range funding approach allowed the Federal infusion of money to be intermingled with the State and local fiscal processes in the fiscal year period, so that there was close correlation and consistency between the various budget systems, and this has helped to promote one of the other fundamental objectives of the program, which, as you know so well, is to encourage the adoption and absorption and continuation with State funding of programs to the maximum extent that that is possible.

Any other kind of system focusing on shorter range Federal funding would likely have resulted in projects of a less ambitious nature, of a shorter term, and in many instances these projects necessarily would have been limited largely to purchase of equipment. Because of the system which the Congress and the executive branch created, the program has had a high degree of stability, and it has also had a high degree of local and State co-assumption. Of course, the long-range budget cycle creates problems that you are aware of and that we are trying very hard to address and deal with.

The funds in the pipeline, since they are in that pipeline for a long time, and since the funding for administrative costs along with the basic block funding will be discontinued under the anticipated action, one of our top priorities has had to be to provide alternate methods to help the States find adequate funds for the administrative purposes that are essential to proper phasedown, auditing and closeout of individual grants.

In a sense the State agencies function on behalf of the Federal Government, in lieu of Federal employees, to perform all these administrative and auditing functions, and we are very conscious that with the money being terminated, that they need help to do this.

It might be instructive if I could take just a moment to specify another aspect of the problem. Of course, I have been addressing so far the formula of block grants, but in addition there are 1,217 currently active categorical grants, and there are another 400 or so which we anticipate will be the subject of final awards by September 30 of this year.

These are grants for which the agency is already committed through publicly announced programs printed in the Federal Register, for which applications have been received and are now under review, and we are proceeding to make these grants in as rapid and responsible fashion as we can. In all, there are about 2,000 categorical grants that are either active or not closed out. These grants account for more than \$500 million in Federal moneys, and as in the case of the formula grant program, some of these will not expire until 1982.

There is another \$128 million involved in 142 contracts that must be closed out. As the committee will recognize, until all of these individual grants and contracts have been fully closed out, it will not be possible for us to make final determinations that the funds have been properly expended, whether all the property has been duly accounted for, whether any funds may have been misused.

In addition, we anticipate that some funds will be returned, once the closeouts are completed, and the unexpended moneys are deobligated and made available.

Because these residual administrative responsibilities that are needed to assure an orderly phasedown of the program are such heavy responsibilities, the methods to assure and complete the closedown are fairly complicated. Each of the remaining grants and contracts must be individually monitored to assure compliance with the Federal law and regulations, and to guard against any possibility of fraud or abuse or waste. There are, as you know, extensive reports which must be prepared, filed, and reviewed. There are audits to be conducted and other closeout activities to be completed.

We bear the responsibility in the Department of Justice for the proper stewardship of all of these funds, and we can do some of it ourselves directly and a very major portion of it is going to have to be done by the States.

The most immediate effect of the pending and anticipated decisions associated with the fiscal 1981 budget would be that, as I alluded to earlier, there would be no funding available to the State



and local governments for fiscal year 1981 and beyond to support the cost of administering the LEAA programs under those grants and contracts that would remain for another year or two.

Mr. CONYERS. What will become of them then?

Mr. MICHEL. We have made some provision which I would like to discuss fairly specifically, to try to assist them meet those cost needs. As you know, Mr. Chairman, the administrative costs, unlike program costs, are funded on an annual basis, so they face a total cutoff in salary money in just a few months.

Since their role is so important, and since they bear so large of the total share of the monitoring and phaseout of these individual contracts and grants, one of the first matters to which we turned our attention when the budget decisions were on the horizon was to provide some authority for reprogramming of moneys at the State levels to meet these administrative costs.

At the request of the Deputy Attorney General, the Department's Office of Legal Counsel was asked to research the underlying statutes carefully, to see if there was authority to allow a change in purpose in moneys that would still be in the pipeline. The Office of Legal Counsel did provide an opinion. It concluded that LEAA may modify its grant agreements with each of the States in order to allow for the use of unexpended action or program funds for administrative purposes, to pay those very salaries and keep those necessary people in place for the time needed.

In early June, a letter from Mr. Dogin and Mr. Broome to the State criminal justice council directors was issued to inform them of this matter. In a subsequent letter to council directors from Mr. Broome, detailed guidance was provided as to how the States could go about getting the permission to shift these funds in order to support their administrative costs. The essential next step is that each of these States will be submitting a reprogramming request by August 29 of this year, which will detail the process that they intend to employ to administer the formula program during fiscal 1981.

I might add that the State will be reprogramming only unobligated or reverted moneys, so that we are not going to face a circumstance where action projects would be terminated solely in order to pay for salaries of people needed to administer the total program.

Until we receive these detailed reprogramming requests, we will not really know in an accurate and reliable fashion the needs of the individual State agencies, and so we are getting prepared to respond to their submissions in the fastest possible manner.

In addition to this authority for reprogramming, we intend to provide as much relief as we can to the States and localities through distribution of formula grant moneys that are available for reversion to the Federal Government. Once the needs of individual States have been determined, we will be in a position to allocate and utilize these prior year moneys to meet minimum essential requirements of individual States that may simply not be able to have a staff structure survive because of lack—in their particular case—of available action money for reprogramming.

We are determined to distribute and allocate this money in an equitable fashion. We do not know at this time precisely what

those funds will amount to. Our best current estimate is that it will be in the range of \$3 to \$8 million.

We are very hopeful that between these two methods of supporting administrative costs, that most States and localities will be able to continue their administrative operations during fiscal 1981 at an adequate level, although no doubt in most cases with reduced staff.

We are determined to try to provide sufficient funding for the administrative functions, essential administrative functions of the agencies, to assure our minimum duties to the Congress and the public, No. 1, that the funds are expended legally, efficiently and effectively; No. 2, that the appropriate and required records, accounts and reports are made and filed; No. 3, that the required audits are conducted; and No. 4, that the other closeout activities that are required are done in a proper manner.

In addition, the reprogramming authority will help the States continue their administration of the juvenile justice program. As the amount of moneys available for administrative purposes under the Juvenile Justice Act alone are not likely to be sufficient, the Department is considering, among many options which have been identified through the elaborate contingency planning efforts, the possibility of requesting an amendment to the juvenile justice reauthorization bill now before Congress, in order to allow Governors of the States discretion to designate another State agency to administer the juvenile justice program, that is, provide them with that flexibility which may in certain States be a better option.

The Department is also reviewing proposals for reorganizing the structure and the total program to respond to the new budget realities. Of course, our proposals are contingent and dependent on the final action taken by the Congress on the Department's reauthorization bill, and the fiscal 1981 budget. The main features, Mr. Chairman, of our current thinking and planning are the following four points:

First, that we need to have an LEAA structure that is able to bring the State local assistance program to a close in a responsible manner.

Second, we need, in accordance with clearly expressed congressional intent, to assure the functioning and independence of the National Institute of Justice and the Bureau of Justice Statistics.

Third, we need a framework for an independent Office of Juvenile Justice and Delinquency Prevention, should that result from the pending legislative action.

Fourth, we need to provide for evolution of service functions currently in OJARS to these independent agencies over the course of the next year or so.

Mr. Chairman, the reorganization options under consideration in the Department of Justice and under close study by the Deputy Attorney General himself, and many others, requires a balancing of numerous and often competing demands for the increasingly limited total resource of the total program. We have the need to carry out the administrative tasks associated with responsible phasedown. At the same time we have ongoing programs that we anticipate will continue, as noted earlier, in the area of research, statistics, Juvenile Justice, and Public Safety Offices' benefits. And



they must have the staff and the other resources required to carry out their program responsibilities.

Our task is complicated by the fact that the challenges facing us now are somewhat different from those facing us a year ago or 2 years ago when a good deal of our effort went into reviewing new grant applications, which of course we will now not be doing.

As a result, the particular mix, if you will, of skills, expertise, grade levels, and so forth, needs to be shifted, as we shift from the prior emphasis to the new problems facing us, and of course we face the reality that, like Mr. Dogin, many men and women in the agency will be leaving. Many of them are highly skilled, and they will be difficult to replace, and the functions that they carried out, particularly accountants and secretaries, we will have to do quite a bit of juggling in order to fulfill.

As a matter of some of the general directions which we are taking, as I noted earlier, all the remaining criminal justice categorical funds are now in the process of being awarded in accordance with the previously announced programs.

I might add that these moneys are predominantly for continuation projections, so that we hope to have those projects come to full fruition with the awards that will be made over the next month or two. No new awards will be made in fiscal 1981, as all the funds will have been committed.

One of the other major matters to which we have devoted some attention and taken some very concrete steps has to do with the longstanding problem of understaffing in the juvenile justice program. We have provided some relief in that area, and the Office of Juvenile Justice is now recruiting from within the other OJARS agencies to fill 30 positions on an expedited basis.

We anticipate that during the next 12 months, much of the administrative support services: Accounting, information systems, audit, legal assistance, and so forth, will continue to be provided from OJARS. I might also add that we are giving extensive attention to assuring that the civil rights compliance duties are carried out very fully. That was a point on which the Congress expressed itself very clearly, and we are intent on seeing that we carry out our responsibility in that area.

We are considering, for example, the possibility in order to expedite the completion of investigations for some 100 or so complaints in that area, providing on a temporary detailed basis some added staff, and there are meetings going on now with the Civil Rights Division of the Department and the Justice Management Division and other components to provide, on a temporary basis, some additional resources, to give due attention to that area.

Mr. Chairman, the Justice System Improvement Act clearly called for both strengthening and provision of independence to the programs for research and statistics, and we consider that congressional mandate one of the major things which we have to accommodate in this very difficult period. As you know, the National Institute of Justice is responsible for the Federal leadership role in justice research.

It carries out a program of basic and applied research, testing and training, information dissemination and evaluation. We are very hopeful that, with the strengthening and the added independ-

ence, the contribution that the Institute makes will grow, and that it will fill part of the void that is left by the termination of the block grant program.

One of the recurring issues facing the Department with regard to the National Institute, and also the Bureau of Justice Statistics, has been how to assure the kind of independence mandated in the recent congressional legislation within the constraints of existing personnel ceilings and other features of the legislation under which we operate. One approach to assuring the independence and the adequacy of effort in the agencies would be to decentralize the support services from OJARS to these two other entities. We are planning to do that with certain functions at an earlier date, and others over the course of a year.

For example, positions for grant administrators, personnel management, public information, and congressional liaison will probably be transferred to NIJ by this October, and by a year from this October the additional support functions would be reassigned.

Similarly, the Bureau of Justice Statistics has a mandate from the Congress to broaden its effort in the area of statistics collection and analysis. To assure its independence, a similar decentralization of support services will be undertaken. It may be necessary for us to seek an amendment to the Justice System Improvement Act to raise the authorization level for both of these entities, in order to make them viable under their new circumstances, and that option is one of the matters that is still under close study and review, and on which we haven't made as yet final determinations.

The duties of OJARS and LEAA, of course, will diminish over time as that enormous amount of money in the pipeline steadily decreases. We expect that by fiscal year 1982, the support services would have been fully decentralized to the National Institute, Bureau of Justice Statistics, and also to the Office of Juvenile Justice, if it is made an independent agency. Other functions performed principally now by OJARS, such as audit, may, under our contingency planning and options, be transferred to the main Justice Department.

Ultimately, only a small residual capability will be needed to handle the final stage of closeout of the LEAA program. There may therefore no longer be a need for an OJARS or for an LEAA as distinct entities, and recommendations and analysis have been provided to the Deputy by Mr. Dogin as a part of the fairly elaborate planning process which I mentioned to you earlier, and that is one of the options and recommendations which have been presented, and which is now under study.

If I might mention personnel for just a moment, in line with the concern which you expressed, Mr. Chairman, and also Congressman McClory, we have undertaken a close study and have already begun a series of actions that are designed to lead us to a well-planned and orderly reduction in personnel, which relies heavily on normal attrition, and which relies also on an aggressive program for outplacement of personnel around the Government and on a more mandatory basis within the Department of Justice.

Other devices are also being utilized, such as early retirement. We hope through these several procedures to provide for the indi-



viduals who have contributed so much to the program and made it work in a proper and professional way.

Mr. Chairman, in concluding let me stress that as of this date, July 29, we are so to speak in midstream in the study and review and consideration of numerous options and steps which need to be taken. As you can appreciate and alluded to in your opening statement, with which I agree entirely, and which serves as a good guide for us, the issues are many. They are difficult. The alternatives in many cases are not attractive. There is difficulty in which of the several options are pursued, and that is the reason why they are receiving very careful study, and we are not making precipitous decisions or engaging in planning in too hasty a manner.

I agree entirely, and I know that the Deputy Attorney General agrees with the emphasis that Congressman McClory and others have put, and you yourself put, on planning being done well in advance, being thorough, considering all of the ramifications, and providing for the programs that have made the greatest contribution to be continued wherever possible.

In that last regard, Mr. Chairman, we are beginning right now. We have reached the point where we are beginning now to explore with other agencies of the Federal Government the continuation under their auspices of some of the specific programs, such as the community anticrime program, in which you have had such an interest and shown so much leadership, Mr. Chairman. We are hopeful that some of these programs will be adopted by other agencies.

We have in some cases in our initial contacts, for example, with the Drug Enforcement Administration gotten a receptive hearing, and we have some hope that in this case and in other cases the programs will be adopted by other agencies, and we are going to be pursuing the effort to find new homes for some of those particular programs at an increasing pace in the coming months.

In short, Mr. Chairman, I think the Department is attempting to do all of the things that you and others in the Congress rightfully expect us to do. We are devoting an enormous amount of effort to it. Later today, for example, I will be chairing, as I do every week, a meeting involving Mr. Dogin, Mr. Broome, Mr. Diegelman, the heads of all the other subagencies of OJARS and their senior staff. At these weekly sessions we review what steps have been taken in the intervening week, and what steps remain to be taken.

We monitor the decision process, what matters have to be decided by them, by the Deputy Attorney General, or in some cases by the Attorney General himself, in order to be sure that we take the decisions at the earliest possible time when they are needed, and through the device of these meetings and the extensive documentation that have been prepared as a part of the planning process, and through the ongoing consultations in person as well as by phone between the Deputy Attorney General, Mr. Dogin, Mr. Broome and the others, we are making best efforts and extensive and energetic efforts to see to the proper phasedown of this program in the manner in which the Congress would want us to attend to it.

Mr. Chairman, that completes my remarks attempting to give an overview. I have, of course, with me the two top experts in the

whole program, and we would be very happy to try to respond to your questions. Thank you.  
[The statement follows:]

STATEMENT OF PAUL MICHEL, ASSOCIATE DEPUTY ATTORNEY GENERAL, U.S.  
DEPARTMENT OF JUSTICE

The Department welcomes this opportunity to discuss with the Subcommittee tentative plans now under review within the Department for responding to the changes in the Justice System Improvement Act (JSIA) program that may be required as a result of fiscal year 1981 budget decisions.

In late March of this year, the President prepared a revised fiscal year 1981 budget for the JSIA agencies. This budget reflected a dramatic shift from the one originally submitted by the President in January. It resulted from a decision by the President to seek a balanced budget for fiscal year 1981. It proposed the elimination of all funding for the Part D Formula Grant Program, the Part E National Priority Grant Program, the Part F Discretionary Program, and the Crime Prevention Program.

While action on the Fiscal Year 1981 budget is not complete, it appears probable that the JSIA appropriation will be significantly reduced. The Department is fully cognizant of the severe and widespread impact of such an action on personnel and programs at all levels of government. In order to minimize hardships, and to provide for an orderly and responsible phase down of the LEAA program, the Department deemed it both prudent and critical to begin to identify those actions that must and should be taken, if these budgetary changes are enacted.

As a result, the Deputy Attorney General directed the Office of Justice Assistance, Research and Statistics to coordinate the development of a short and long range contingency plan. The planning process has involved all JSIA agencies, Department officials and State and local representatives. It has attempted to begin to deal with the adverse impact of the budget reductions on State and local governments, other grant recipients, and Federal personnel. Underscoring the planning effort has been the growing recognition that termination of the LEAA program encompasses a substantial workload, is staggeringly complex, and has multiple effects.

More than \$1 billion of Federal funds is involved. The jobs of approximately 30,000 State or local employees working on programs in every State and major unit of local government will ultimately be affected by these decisions. At least 500 Department of Justice employees are now being directly affected by the decisions being made.

From a policy standpoint, closure of and accountability for a Federal grant program with the greater part of three years' funding still unexpended is a major new action for the Federal Government. It is a significant responsibility and challenge for the Department of Justice.

As of May 1, 1980, about \$600 million in criminal justice formula funds remain active at the State and local level. The \$600 million includes funds in about 15,000 active formula grant projects. Of the \$600 million, about one-half remains available for expenditure in these projects that are in various stages of activity. Another \$200 million of juvenile justice formula monies are also active. In short, there is more than three-quarters of a billion dollars in formula monies "in the pipeline"—money for which the Federal Government is responsible.

This problem stems, in part, from the three year funding cycle under which the LEAA program has operated. In accord with long standing LEAA-OMB-Congressional policies, the expenditure periods for the funds run from the Year of award plus two additional years. Thus, Fiscal Year 1978 money must be expended by 12/31/80; Fiscal Year 1979 by 12/31/81; and Fiscal Year 1980 money by 12/31/82.

The funding cycle is essentially the same in all States. The whole system is geared toward long-range changes in State and local criminal justice activities, stability so that staff may be hired with reasonably long term employment commitments, and consistency with State and local fiscal year periods so that the grant system may be incorporated into State and local budget cycles. Any other system would lead to funding of short-term projects. Most often these short-term projects would be of an equipment purchase nature. The use of this system for the past 12 years has created a fairly stable program and resulted in high rates of State and local cost assumption. Primarily because the projects are all in the State and local budget processes, the expectation, at the initiation of the project, is that the State or local government will eventually make the project a permanent State or local activity.

As a result of this system, State outlay projections (exclusive of juvenile justice) are nearly \$300 million in 1980; over \$200 million in 1981; and almost \$100 million



in 1982. Thus, approximately \$600 million of \$936 million awarded for Fiscal Year 1978, 1979, and 1980 is still "in the pipeline," and the Department of Justice and LEAA are responsible for all of these funds.

In addition, there are 1,217 active categorical grants, with another 400 to be awarded by September 30, 1980. These are grants to which the agency is already committed for publicly announced programs and for which applications are now being reviewed. There is a total of about 2,000 categorical grants that are active or closed out. These grants account for more than \$500 million in federal monies, and, as in the formula program, some will not expire until 1982. There is another \$128 million in 142 contracts that must be closed out.

Until all these grants and contracts are closed out, it will not be possible to determine if funds have been properly expended, if property has been accounted for, or if funds have been misused. In addition, some funds will be returned when grants are closed out and unexpended monies are deobligated from LEAA's accounts.

In short, the residual administrative responsibilities to assure an orderly phase down of the program are complex and immense. Each of the remaining grants and contracts must be monitored to assure compliance with Federal law and regulations and guard against fraud and abuse. Reports must be filed, audits conducted, and close-out activities completed.

Proper stewardship over these Federal funds is the Department's responsibility, and we are committed to taking every action necessary to assure that funds are legally expended and that unused monies are returned to the Treasury. This fundamental principle underscores all our contingency planning efforts.

The most immediate effect of the pending fiscal year 1981 budget would be to provide no funding to State and local governments for fiscal year 1981 and beyond for the cost of administering the LEAA program. Since State and local administrative costs, like Federal salaries, are funded on an annual basis, such an action would seriously jeopardize the continued existence of the State and local agencies which play a pivotal and vital role in administering the criminal and juvenile justice formula grant programs, and assuring that accountability requirements are met.

As a result, we are taking immediate steps to insure to the extent possible that these agencies have sufficient administrative funds to phase out their activities in a responsible manner. The Department's Office of Legal Counsel has provided an opinion that concludes that LEAA may modify its grant agreements with the States to allow the use of unexpended action funds for administrative purposes. A letter from OJARS director Henry S. Dogin and LEAA Administrator Homer F. Broome, Jr., to the State Criminal Justice Council directors informed them of this decision. A subsequent letter to the Council directors from LEAA provided additional guidance and asked the States to submit a reprogramming request by August 29, 1980 which details the process to be employed to administer the LEAA formula program in fiscal year 1981. It should be clear that States will be reprogramming only unobligated or reverted monies; no action projects will be terminated solely for the purpose of providing administrative funds.

In addition to this authority to reprogram, LEAA will provide relief to the States and localities through the distribution of formula grant monies that are available for reversion to the Federal Government. LEAA, once the needs of the States have been determined, will utilize these prior year monies to help meet the minimum level resource requirements of the States and to insure an equitable distribution of funds.

We believe these actions will enable most States and localities to continue their administrative operations in fiscal year 1981, although at reduced staff levels in many instances. This will allow these agencies to (1) assure that funds are expended legally, efficiently and effectively; (2) maintain records and accounts and file reports of expenditures; (3) conduct audits; and (4) close out grants.

In addition, the reprogramming authority will help States continue their administration of the juvenile justice program, as the amount of monies available for administrative purposes under the Juvenile Justice Act alone are insufficient. The Department is considering requesting an amendment to the juvenile justice reauthorization bill now before the Congress in order to allow Governors discretion to designate another State agency to administer the juvenile justice program.

The Department is also reviewing various proposals for reorganizing the JSIA program to reflect new budget realities. These proposals are, of course, dependent on final Congressional action on the Department's reauthorization bill and the fiscal year 1981 budget. However, our current thinking envisions:

An LEAA structure that will efficiently and responsibly bring the State/local assistance program to a close;  
An independent NIJ and BJS;

A framework for an independent OJJDP, should that be the result of pending legislative action; and

The devolution of OJARS service functions to these independent units by September 30, 1981.

The reorganization options under consideration require the balancing of several, often competing, demands for increasingly limited JSIA resources. The significant remaining grant workload necessitates an OJARS/LEAA structure that can carry out the administrative tasks necessary to responsibly phase down. At the same time, on-going programs (research, statistics, juvenile justice, public safety officers benefits) must have the staff they need to carry out their continuing program responsibilities. Complicating this already difficult assignment is a growing imbalance in grade and skill mix. Persons with highly marketable skills, such as accountants and secretaries, are leaving the agency in great numbers.

Let me outline the general directions we are now considering. The LEAA structure in fiscal year 1981 would focus on remaining grants administration duties for the criminal justice assistance programs. This would entail management of existing grants and closeout activities.

All remaining criminal justice categorical funds are now being awarded, in accordance with previously announced programs. These monies are predominately for continuation projects. No new awards would be made in fiscal year 1981, as all funds have been committed.

The juvenile justice program, which has been chronically understaffed, would be strengthened. To meet the immediate needs of this program, OJJDP is now commencing recruitment from within JSIA agencies to fill 30 positions.

OJARS would continue in fiscal year 1981 to provide much of the administrative services integral to the phase down effort—accounting, information systems, audit and legal assistance. Civil rights compliance will be a major area of emphasis. It is the Department's position that every effort must be made to investigate civil rights complaints in order to carry out the strong non-discrimination provisions of the JSIA. Whether or not there is to be continued LEAA funding, we owe complainants a duty to investigate their complaints to the point of making a finding. The Department is reviewing the personnel needs of the Office of Civil Rights Compliance, including needs for additional staff and training, in order to insure that all complaints are investigated before the program is phased out.

The Justice System Improvement Act calls for strengthened and independent research and statistics programs. Implementing this statutory mandate has also been a key requirement of our planning activities.

The National Institute of Justice has responsibility for the Federal leadership role in justice research. NIJ carries out a program of basic and applied research; testing and training, information dissemination, and evaluation.

A recurring issue has been how to make NIJ—as well as BJS—-independent within the constraints of existing personnel ceilings and legislation. One approach to this problem would be an immediate and partial decentralization of support services to NIJ. Positions for grants administration, personnel management, public information and congressional liaison would be transferred to NIJ by October 1, 1980. Within a year, additional support functions and staff would be reassigned.

The Bureau of Justice Statistics has a broadened justice statistics collection and analysis mandate. In order to assure its independence, a similar phased decentralization of support services would be undertaken for BJS. In order to achieve this decentralization of staff and support functions, it may be necessary to seek an amendment to the Justice System Improvement Act to raise the BJS/NIJ authorization level.

Remaining program administration duties requires an OJARS and LEAA structure during the upcoming fiscal year. However, these duties will diminish overtime. By fiscal year 1982, support services would be decentralized to NIJ and BJS, as well as to OJJDP if it is made an independent agency. Other functions, such as audit, may be transferred to the Department. Only a small, residual capability would be needed to handle final close out of the LEAA program. Therefore, there may no longer be a need for OJARS or for LEAA, as distinct organizational entities.

Finally, the Department is fully aware the impact these possible changes would have on personnel within OJARS and LEAA. That is why the Department is committed to a planned and orderly reduction in personnel that is centered around normal attrition, aggressive outplacement, and early retirement opportunities.

In closing, let me stress that the Department is only considering these reorganization options. The issues are difficult and the consequences far-reaching. We anticipate continued exploration of alternatives and thorough consultation in the weeks ahead.



As part of this process, we welcome the Subcommittee's interest. Phasing down the LEAA program in a responsible manner is a complex and significant task. Your help and guidance are appreciated.

Mr. Dogin, Mr. Broome, and I will be pleased to respond to any questions you and the members of the Subcommittee may have.

Mr. CONYERS. I want to express my gratitude to you, Mr. Michel, for a thorough review. I feel somewhat relieved knowing that you are concerned about how this phase down is going to be implemented, and I would like to invite Hank Dogin or Homer Broome to make any additional comments that they might choose at this point.

Mr. BROOME. I don't have any additional comments to make at this time. I thought I might respond to any questions you might have. I think that Mr. Michel covered the area extremely well. It has been very, very difficult. I think when we went through our initial or contingency plan development, we realized that we have quite a massive situation to deal with, one that is uncharted, and I think that that is our primary concern, that we are forged into an area that I am not aware of any other Federal agency having gone before.

We are trying to do it in a very deliberate way with flexibility so that we might modify and be as fair in trying to accomplish our goals as possible, and are working with the States and the complete criminal justice council system. It is something that we are beginning to get a feel for, that we are trying to have as much input from all concerned in regard to the final development of our plan, and it is one in which we are determined that we are going to accomplish in a very effective and efficient manner.

Mr. DOGIN. As my colleague Mr. Broome suggests, we are involved in something that I don't think anybody in this room has ever been involved in, phasing down of a major Federal program. Not many have been phased down in this way, with this amount of dollars and with these amounts of responsibility.

Homer and I have worked very closely and our staffs have worked very closely with the Department of Justice. I think the hallmark of what we are trying to do in this very deliberative way is to assure that if there is a zero budget for LEAA that decisions on the massive block grant program and the discretionary grant program reflect accountability, accountability to the taxpayer, reflect fairness, fairness to the program, fairness to the people in operational programs out in the States, fairness to the Department of Justice employees, fairness in a humane way, responsibility to the taxpayers and responsibility to the individuals.

In putting together our plan, we have had to examine LEAA. What happens to the people in Washington administering the program? What happens to the block grant program? OJARS, that is an open question. There is not necessarily a zero budget for OJARS, but we have had to examine if there is a need for a coordinative agency like OJARS if LEAA is zero.

Finally, as Mr. Michel has suggested, we have had to recognize the realities of what will remain, and to assure in time that they are solid, independent agencies and properly staffed, the research effort, the statistical effort and obviously the juvenile effort. We have worked, I think, long hours. We have worked diligently with some very fine staff people, and most importantly, we have brought

in on a daily basis the Department of Justice, and I think that is crucial to any phaseout plan.

Mr. CONYERS. Thank you very much. I notice that the Director of the Office of Community Anticrime programs, Cornelius Cooper, is present and I want to acknowledge his very vital presence here.

What we want to do in this subcommittee is have a complete record of how this phasedown operation occurs. We want it to be made a continuing public record between this subcommittee and your respective offices. It is very important, and it seems to me that if we need additional staff to accomplish that here with our subcommittee, I am going to make that request, after consultation with my colleagues on the subcommittee. It is critical that this be reflected to have been done in an orderly manner, as you suggest is your concern.

Could you just review for me, Mr. Michel, what you understand to be the reasoning for this phasedown. How did you receive notice of it, and on what reasoning is it based?

Mr. MICHEL. Mr. Chairman, if I could for just a second respond to your earlier point, we certainly have every desire to confer closely with the committee, the members and the staff, as we proceed with this effort at planning, and then taking concrete steps to phase-down the program, and I might say that already Mr. Hayden Gregory of the subcommittee staff has been in close contact with us, and in a very professional and fine way.

I hope that is the beginning of a relationship which will be appropriate and mutually beneficial to the committee and the Department, because we are, as always is the case, in a sense, partners in this enterprise. I look forward very much to working with the committee and with the staff as we move ahead in this area.

Mr. Chairman, with regard to the overall origin of the circumstances in which we find ourselves, I must plead really that I am not the best witness. I was not personally involved in the early months of this year in the very intensive review of how to respond, how the Department and how ultimately the administration should respond to the difficulties of the economic circumstances of the country, and respond to the competing demands of many very worthwhile programs.

We always have felt, and feel now, that the LEAA program has been worthwhile, but we were faced with a circumstance where there was just not enough money to do everything, and the Department made very full presentations about the consequences which we could anticipate, both in person and in writing to the officials of OMB, and once the decisions were made, and the President's revised budget was submitted, we then, of course, were in an entirely different posture.

We then were in the posture of trying to begin to plan how to respond to the budgetary decisions, and that period is when I became personally involved at Judge Renfrew's request, and we started the very intensive contingency planning. I guess at the start of May is when that period began. But I cannot tell you, Mr. Chairman, of all the points that were presented, discussed and considered in those sessions, because I simply was not there, and therefore am not able to give you the full story. I think Mr. Dogin



and perhaps Mr. Broome as well can provide some of the background for you.

Mr. DOGIN. Mr. Chairman, is your question the reasons for the beginnings of the contingency plan?

Mr. CONYERS. No; I am referring to the original phasedown.

Mr. DOGIN. The decision?

Mr. CONYERS. Yes; it came from somewhere within the administration, and I was just wondering what part the Department of Justice and you played in this occurrence.

Mr. DOGIN. Back in March—I don't think any of us were key actors here. I think the key actors were the Office of Management and Budget and the Justice Management Division. I think I first received notification that there were in early March rumblings about significantly cutting the LEAA program because the Department was taking a major cut and the LEAA program was being actually compared to where that cut should be.

I think questions were being asked like, should it be DEA agents, FBI agents, U.S. attorneys, or travel for these other services, or the grants program. I was not privy to those discussions and I don't think Mr. Broome was privy to those discussions with the Office of Management and Budget.

We received notification in early March that these discussions were ongoing, and that the LEAA program was under scrutiny for a major cut.

Mr. CONYERS. This was after the first budget recommendation?

Mr. DOGIN. Yes.

Mr. CONYERS. And prior to the second budget recommendation?

Mr. DOGIN. That is correct.

Mr. CONYERS. In March?

Mr. DOGIN. The first budget recommendation recommending an increase of \$84 million occurred in January. The discussions that I was hearing about were around the beginning of March, I think the first weekend or the first few days of early March.

Our staff met with the Justice Management Division and we proposed certain alternatives to a major cut in LEAA. At that point, I believe—and this again is just from hearsay, not actual discussions with OMB—the Office of Management and Budget surveyed or the White House made a survey of the Nation's Governors, county executives, mayors, and other State and local officials, and discussed prioritization of different programs. It wasn't just LEAA. It was LEAA and a number of other programs.

Then I think there was dialog and/or written materials submitted to Washington and judgments were made as to what programs were cut. I think if you will remember reading the major cuts in domestic programs—

Mr. CONYERS. Were there any people from the Department of Justice involved in this? You are the head of LEAA, so apparently if you were not there, is it fair to effect that type of judgmental decision minus your input?

Mr. DOGIN. I believe the Deputy Attorney General had discussions with the Office of Management and Budget.

Mr. MICHEL. Mr. Chairman, I alluded to that earlier. The Deputy Attorney General made some extensive presentations orally to OMB officials during that period as to the benefits of the program

as we saw them, as to the implications and anticipated consequences, were it to be largely eliminated. So there was that opportunity, and it was taken full advantage of and a very extensive presentation was made, but I was not present, and that is why I am not able to tell you the precise points that were covered or what the course of the discussion was.

Mr. CONYERS. I want to go into that a little bit further, but I have an amendment pending in the Government Operations Committee that I am going to be presently called upon to present in person, so I am going to have to leave. Let me get to another matter that is very important to me, and that is if we are going to proceed in an orderly fashion, how are the decisions made about transfers of funds that are really going on at the present time, that have been referred to already such as fuel costs, FBI programs, and so forth, that are now being made the recipients of LEAA funds at the same time that we are being assured that there is going to be an orderly process of these funds? Presumably the deobligated funds would revert to the Department of Justice or the United States Treasury.

Can you speak to this point?

Mr. MICHEL. Mr. Chairman, I am not sure exactly what part of the circumstance you are focusing on. We are looking to reverted moneys, and we are looking to moneys that haven't been expended by the States as sources to support the administrative costs that the States have, and we don't know reliably the total need of the States. We don't know reliably yet, but we will at the end of August, the total resources available through those two devices to meet those needs, so we don't know how they match. That is a subject that we will be able to address more intelligently with the committee in 5 or 6 weeks than we can today.

With regard to the other reprogramming to which you referred, that action is I believe largely complete, and reflected very difficult choices. We had become so strapped for funds that would give our lawyers, our litigators, who have to go to court everyday in different places, and our investigators in the FBI and DEA who have to interview witnesses, conduct surveillances, follow foreign agents, and so forth, were so strapped for the essential funds to be able to conduct that kind of operational travel that we did, following all the normal procedures of advising the Congress, and working through the normal process, reprogram some money for those vital purposes.

It is quite true, as you suggest, I guess, that that is all the less money that is available for administration. That is true; but we felt that the uses to which that money was being put under the reprogramming were so vital that they just couldn't go unmet. We couldn't have investigations stop for the last 3 months of the fiscal year because the cost of gasoline had gone up so much that the budget estimates made in the normal budget cycle had turned out to be woefully insufficient, and we had to take money from various places in the Department to be able to keep those investigations and trials going, and we did take the money that you have referred to from the LEAA program.



Mr. CONYERS. What we are trying to do, if we are going to keep a complete record of this, is to have that part of the story included in the phasedown of LEAA.

Mr. MICHEL. I believe, Mr. Chairman, that there are extensive papers on file, but not with this committee and it may be that we need to provide you, too, with some of the documentation relating to those transfers, which was provided to the other committees whom we have to notify as a part of the reprogramming requirements.

Mr. CONYERS. We are the authorizing committee of the funds that are now being reallocated, so it would seem to me that it would be appropriate in your report here today that there would be a complete acknowledging of where moneys are being transferred. In other words, there could be no full examination of how we are phasing out LEAA if we don't know that certain money has been moved to DEA, the FBI, the Immigration Service perhaps, and I am not even sure who else.

Do you have any idea how we on this committee might be able to find that out?

Mr. MICHEL. I can't give it to you all from memory, Mr. Chairman, of course, but as I say, there is documentation, and I am sure that it can be provided.

Mr. CONYERS. Do you know who has this documentation?

Mr. MICHEL. Sure, the Assistant Attorney General.

Mr. CONYERS. So we can request that this information be sent to us?

Mr. MICHEL. We can assist the committee in working with Kevin Rooney, the Assistant Attorney General in charge of the Justice Management Division.

Mr. CONYERS. Is he the one who prepared the report?

Mr. MICHEL. Yes. These papers that I am referring to were prepared by him and his staff. I am advised, Mr. Chairman, and I wasn't sure of the exact status of it before, that those papers have been sent to the committee, and the committee is in receipt of the papers, and if there is anything missing, we will see that it is provided.

Mr. CONYERS. Who on the committee received them? I haven't.

Mr. VOLKMER. The staff.

Mr. MICHEL. I assume that it was provided to staff.

Mr. GREGORY. We have received some of these reports. The Justice Authorization Act requires notification to the committee of such reprogramming. Those have come in over a period of several months to the committee.

Mr. CONYERS. I think we probably should hear directly from Mr. Rooney about the matter, so that we don't just get reports that accumulate over a period of weeks and months, and then have to be compiled to find out how much is being liquidated.

Mr. MICHEL. Mr. Chairman, I think that would be perfectly appropriate, and in the meantime perhaps the staff can review the accumulated reprogramming documentation that they have, and if there are any additional facts needed, we could provide it as well, and further materials for the staff.

Mr. SENSENBRENNER. Mr. Chairman.

Mr. CONYERS. Yes, Mr. Sensenbrenner.

Mr. SENSENBRENNER. It was with some reluctance that I attended today's hearing given the fact that I opposed the Justice System Improvement Act of 1979. I do not think, therefore, I qualify as a mourner at this wake over the demise of the LEAA. However, I do have a couple of questions, after going through this material.

I understand that there is a substantial amount of money in the pipeline that will keep criminal justice grants flowing, using old money, during the next fiscal year. I am concerned that the current appropriations levels will result in insufficient auditing capability to insure that these funds are in fact utilized for the purposes for which they were appropriated by past Congresses.

This ties in with the argument over administrative expenses. I certainly do not think that the State and local LEAA bureaucracies should continue full speed ahead during this phasedown of the program, but I do want to have some assurance that there will be an appropriate auditing function, so that the money that is available is spent legitimately pursuant to the terms of the act. What assurance can you give me on that?

Mr. DODIN. That is probably the most single important issue of our contingency planning, the fact that there are action grants that will be ongoing, that will be alive, and the fact that there are no budgeted administrative funds for the agencies that have responsibility over them, State planning agencies and also the LEAA of Washington having responsibility for the overall grant programs and the overall block. This is one of the most important things.

It was so important that we raised it initially with Judge Renfrew, and we went to OMB to get their imprimatur to get some sort of plan that we can provide as best as we can to continue monitoring, auditing and evaluation capability over those programs.

Initially, we sought and received a legal opinion from the Office of Legal Counsel which permits the use of action funds to be used for administrative purposes. We made sure that that could be done. We immediately notified the States over a letter from Mr. Broome and I think at some point in June, I don't have the exact date, we then began the development of some sort of a plan to provide as best we could additional administrative funds to do just what you are talking about, to make sure that there is some oversight, some auditing, some examination of these ongoing programs that will be continuing in 1981 and possibly into 1982.

We approved the use if the States so desire of 1980 action funds. Armed with that legal opinion, they can, if they wish on those programs that have not been obligated with 1980 funds, turn those moneys into administrative funds.

We also will permit the use of any reverted block grant funds, moneys that have been signed off on, that have been utilized, and from different grants that have not been fully expended. There are some dollars available, and some do come back to Washington and some are subject to reversion. We are trying to recapture as much of those reverted block grant dollars, and we will be using those dollars to put back into administrative funds to keep State planning agencies alive.

Mr. SENSENBRENNER. I have two questions on that. No. 1: Do you know if there are any States that are out of 1980 funds or out of



reverted funds, and are consequently unable to pay the administrative costs for auditing?

My second question is this: What are you doing to make sure that the local and State LEAA structures do not do business as usual during this phasedown, and that they will phasedown their operations as well?

Mr. DOGIN: I must have lost the first question.

Mr. SENSENBRENNER: The first question is this: One witness states that all of the fiscal year 1980 action grant funds are contractually obligated by State governments, and, consequently, that there is no money left to pay administrative expenses. Do you know if any State would fall under this category?

Mr. DOGIN: At this point in time we believe they have funds to operate. We have heard that as we move toward the beginning of the fiscal year there may be some States that are getting very, very tight and very thin. That is why we want to examine as expeditiously as possible these documents that got to us on August 29, just to see how thin some of the States are, but each State is different. Some States we have heard have a fairly significant number of administrative funds. Some are getting very threadbare.

Mr. BROOME: We really won't know until we get the reprogramming plans back. We have had—and I am sure that the State representatives will make this point—a report from them that initially indicated that there were a number of States that would not be able to provide any administrative function during the phaseout of fiscal year 1981 because of lack of administrative funds, that there was a need of approximately \$17.1 million.

Mr. DOGIN: With respect to your comment on the auditing and focusing on auditing, I think you are right. That is the crucial part of any grants program. We have an audit staff. We have about 80 auditors on board and in the five field offices. We are very hopeful, we have support from the Department that this cadre will remain and will be retained through 1982 so there is a Washington-based backup audit.

We are hopeful in terms of the State planning agency that there will be enough administrative funds garnered through utilization of 1980 funds, utilization of reverted funds or hopefully any other sources we can identify that can be used to keep some auditing capability at the State planning agency level and the local criminal justice council level as well.

Mr. SENSENBRENNER: My second question on that is this: What is being done to insure that there is a phasedown of State administrative funds, so that what is left of the programs at the State level is not over-administered?

Mr. BROOME: I would say that the way the money situation looks now, as it relates to administrative funds for fiscal year 1981, that is really not a major problem, being over-administered. We are going to have a difficult time in maintaining ample staff for most of the States. It is a real problem.

We have a report on hand from the States right now saying they need \$17.1 million in addition to the latitude that has been allowed them to reprogram. We don't have \$17.1 million to provide to them, so our main problem is going to be can we assure a minimum staff for everyone of the States to perform the task that we so desire.

Mr. SENSENBRENNER: Let me phrase my question another way. Since the department head has allowed reprogramming of action grant funds for administrative purposes, is there anything being done to make sure that there is not excessive reprogramming so that the State and local structures can keep on doing business as usual during the phase down period?

Mr. DOGIN: We have put a cap on the 1981 administrative funds. They can't get any more than they got in 1980, which means they either lose staff or hold staff the way it is.

Mr. SENSENBRENNER: Thank you. I have no further questions, Mr. Chairman.

Mr. VOLKMER: Thank you.

I would like to continue on that a minute, especially the last answer just given. What is the difference between State administrative staff from 1979 to 1980? Did you have a reduction in State administrative staff?

Mr. DOGIN: Our best estimates—and these are all ballpark figures, Congressman Volkmer—in 1979 the State planning agency and local structures in total numbers were about 3,200. That went down to about 2,500, and we anticipate even a further drop as we move into the next fiscal year. There are less moneys available.

Mr. VOLKMER: I think some of the staff here would agree with me. I know we all recognize less work is going to be needed to be done. There is no question about that in my mind. Later on, perhaps the chairman will have additional hearings. I hope so. I do not see a need, if there is still 2,500 for this present fiscal year, and they were programming, they were approving applications. They were going through that process.

I see no need. Twenty-five hundred can do all of that, that you need 2,500 to audit and to have the administration over the audit, because you are going to forget the applications, forget the reprogramming, forget most of that.

Mr. DOGIN: Are you talking about the need for State planning?

Mr. VOLKMER: State agencies, there is need for this \$17.1 million, because the next question I have—and you can answer that later—

Mr. DOGIN: I am going to refer you to a gentleman who will be testifying who I think can address that, who is the chairman of the National Criminal Justice Association, represents all the State planning agencies, Mr. Lee Thomas. I think he can address that directly on point as to the need for people.

Mr. VOLKMER: I won't deny there is going to be need for people. It is just a question of how many people. What you told me, you said no more in 1981 than you had in 1980. Well, baloney as far as I am concerned. You say less in 1981 than you had in 1980. I don't think there is any question about that. That should be what is going out.

Mr. BROOME: What we were doing was setting an absolute maximum. By and large, we will be guided by their reprogramming plan due August 29, in which they will detail their needs, and on which we will work with them in developing.

Mr. VOLKMER: And you are assuring me that when those come in for reprogramming and approval, that they will be for less dollars than they were for 1980? You are assuring me of that?



Mr. DOGIN. It could be the same, depending upon the State, and the State's need, but I would say that overall it will be considerably less overall.

Mr. MICHEL. Congressman, it certainly is correct, as you suggest, and Congressman Sensenbrenner suggested, that staff overtime should go steadily down.

Mr. VOLKMER. Yes.

Mr. MICHEL. As the amount of money goes down, and we have a number of devices in place to monitor that decrease in staff. One is that the plans due August 29 have to justify what staff is needed and what that staff will do during fiscal year 1981.

The second is that the authority to reprogram the money is only good for a year, and we anticipate going through a very similar exercise next summer, where again they will have to come in and justify as to fiscal 1982 what their staffing needs are, in light of the then decreased amount of money, so I think we do have a reasonable device for assuring that there is not an attempt to have staff in excess of what is needed to carry out the required monitoring and auditing functions.

Mr. VOLKMER. We will see that same philosophy entailed even in the Federal administrative structure, correct?

Mr. MICHEL. Yes, that is correct, Congressman. Where the work goes down, the workforce will go down.

Mr. VOLKMER. I understand that the need not be necessarily in proportion to the amount of appropriations. I understand that. You have money in the pipeline, I know you have to, but I want you to understand in my own mind, and I think it is just a question of degree.

In the remaining juvenile justice statistics, et cetera, in making them independent agencies, what do you mean by that, so we know what each of us is talking about.

Mr. DOGIN. Independent in the sense that the administrator of that office, who is a presidential appointee, has signoff authority on grants, and has personnel authority to hire and fire, has all of the support services within that organization, rather than looking for some other organization.

Mr. VOLKMER. Let me ask you this. Have you evaluated the possibility of the Department of Justice being able through a division, of providing support services and other administrative services for all three, instead of each one having their own, like a legislative liaison? To be honest with you, I don't see why all three have to have a legislative liaison, why all three necessarily have to have auditors. I don't see that at all.

Mr. DOGIN. That is one of the issues that will be addressed in terms of the phaseout. Basically, decisions have to be made by the department, in terms of decentralization and independence.

Mr. VOLKMER. Right.

Mr. DOGIN. Where will certain functions lie.

Mr. VOLKMER. That is correct. I can see certain functions being independent but I can also see certain functions being within an umbrella.

Mr. DOGIN. That is right, and those calls are going to have to be made by the Department, and support services such as congressional grants administration, personnel, classification, general counsel,

accounting, information systems, where will they reside, and you might get different answers for each position.

Mr. VOLKMER. That is correct.

Mr. DOGIN. Some you might want to put in the National Institute of Justice, Statistics, Juvenile, some you might want to put into the Department, auditing. Service by service will require individual decisions by the department. Those are the kinds of things we are kicking around daily.

Mr. VOLKMER. The next thing I would like you to look at, since we are looking at it, let's look at it as if it is something new that we are going to be doing. What about the possibility of instead of being independent agencies, they be within the department with directors appointed by the Attorney General. Has anybody even looked at that? No?

Mr. MICHEL. Not since the Congress looked at it in passing the Justice System Improvement Act that became law at the end of 1979.

Mr. VOLKMER. In other words, you are taking the position that Congress has signed off on this, and this is the way it should be?

Mr. MICHEL. I think we feel that there is a congressional mandate that there be substantial independence and self-sufficiency in each of those agencies, and that unless Congress were to provide other guidance, we would follow the independence mandate.

Mr. VOLKMER. Now, the last thing that I have, that I would like for you to do, and it doesn't have to be today or tomorrow or any other time, but as you progress through this, right now, or let's start, say, June 1, OJARS, LEAA had a certain number of personnel. So did the Juvenile Justice, Statistics, and Research.

I would like to know what you envision by next year where those would be in numbers of personnel. I don't anticipate that you have those in mind right now but I do anticipate somewhere along the line you are going to have to make that decision.

Mr. DOGIN. We are playing with preliminary estimates but we haven't focused on exact numbers.

Mr. BROOME. We will be able to.

Mr. VOLKMER. Probably pretty quick. If you are going to go through the appropriation process in trying to get moneys for these in various areas, you are going to have it by fall at least of this year.

Mr. DOGIN. I can tell you on board among all of the agencies we have at this point in time, 519 people.

Mr. VOLKMER. That doesn't answer my question.

Mr. DOGIN. I know that.

Mr. VOLKMER. That is partial. I want it broken down from there, and where we end up. I surely think some people will be disappointed if we ended up with the same amount.

Mr. DOGIN. I don't think you can imply that, because when I came here in 1978 we had over 600 people, and we haven't been able to hire anybody, and we are now down to 519.

Mr. VOLKMER. I know you have done a good job. I am not criticizing anybody. I just want to know what it looks like and where it is going.



Mr. MICHEL. Also, Congressman, there is an important human dynamic. As you know, people who work here in an agency, seeing that it's future is limited, are leaving in droves.

Mr. VOLKMER. I realize that.

Mr. MICHEL. And that will continue, so there is kind of a self-policing that goes on.

Mr. BROOME. Unfortunately.

Mr. MICHEL. In terms of decrease in staff, and rather than our being worried that 6 months from now or a year from now we may have too many people, we are really more inclined to think our problem will be on the other side, that we will have too few because we won't be able to hold them.

Mr. VOLKMER. Just out of curiosity, where are these people going, other government agencies, private?

Mr. BROOME. Most of it is other government agencies.

Mr. DOGIN. Most of them other government agencies. Some of the attorneys would be going into the private practice of law, but I would say most other Federal agencies around the country.

Mr. BROOME. And within Washington, D.C.

Mr. VOLKMER. I have no further questions. Does staff have any questions?

Thank you very much. I am sure that we will be seeing more of you as time goes on. Keep up the good work.

Mr. MICHEL. Thank you.

Mr. VOLKMER. Our next witness is Mr. Lee Thomas, Chairman of the National Criminal Justice Association and Director of the Division of Public Safety Programs, Office of the Governor, State of South Carolina. Mr. Thomas provides staff support to the Governor in public safety programing and policy development in the areas of criminal justice, juvenile justice, highway safety and emergency preparedness. Before assuming his present assignment, he was an independent consultant in criminal justice planning and management, serving public and private citizens.

Mr. Thomas, on behalf of the Subcommittee on Crime, I welcome you here today. As your statement will be incorporated in the record without objection, you may proceed as you wish.

However, I wish to say we have two other additional witnesses, and to be quite frank with you, I have to leave a little early this afternoon.

**TESTIMONY OF LEE THOMAS, DIRECTOR, DIVISION OF PUBLIC SAFETY PROGRAMS OF SOUTH CAROLINA, AND CHAIRMAN OF THE NATIONAL CRIMINAL JUSTICE ASSOCIATION, ACCOMPANIED BY RICHARD B. GELTMAN, ASSISTANT EXECUTIVE DIRECTOR**

Mr. THOMAS. I have with me Dick Geltman, assistant executive director of our national association. We appreciate the opportunity to be with you today. You do have our written statement for the record.

[The information follows:]

**STATEMENT OF LEE M. THOMAS, DIRECTOR, DIVISION OF PUBLIC SAFETY PROGRAMS, STATE OF SOUTH CAROLINA ON BEHALF OF THE NATIONAL CRIMINAL JUSTICE ASSOCIATION**

Mr. Chairman and distinguished members of the Committee, on behalf and as Chairman of the National Criminal Justice Association<sup>1</sup> and as Director of the Division of Public Safety Programs of the State of South Carolina, I appreciate your invitation to the National Association to discuss the proposed phase-out of the Law Enforcement Assistance Administration.

The National Association believes the control of serious street crimes and the upgrading of the efficiency, effectiveness and fairness of the nation's criminal justice system, which was our top domestic priority in 1968, still is one of the top priorities in 1980. The criminal and juvenile justice systems were ignored and underfunded in 1968. Operations and facilities had remained unchanged since the turn of the century. Since 1968, the LEAA program has done much to encourage improvements across the nation, but there is still much to be done. The riots and disorders in Miami, Florida and Chattanooga, Tennessee and the existence of such potential hot spots as Flint, Michigan; Mobile, Alabama; Houston and Dallas, Texas point to the continued need for improvement.

There is a need of a further financial assistance from the federal government to state and local units of government. Congress and the President recognized this fact when they enacted the Crime Control Act reauthorization entitled the Justice System Improvement Act on December 27, 1979. It is unfortunate, therefore, that just a few months later the Administration and Congress want to kill the criminal justice grant-in-aid programs through the appropriations process.

The National Criminal Justice Association has testified on other occasions on both the need for the LEAA program and the LEAA success stories. We shall not dwell on those matters further, here, but we must say for the record that a phase-out of the LEAA program is neither warranted, necessary nor desirable.

Faced with Administration mandates and apparent Congressional decisions to terminate LEAA, LEAA has begun to phase-out its programs. The National Association wants to compliment LEAA on its efforts to date. To the best of our knowledge, no other federal agency has ever been asked to close down a large, complicated state and local block grant program which permits the federal funds to remain available until expended. The process has been complicated by such factors as: the intergovernmental nature of the grant program, the minimum fund life of three years, the uncertainty of whether the program was to be terminated, the loss of federal agency personnel, the little time to prepare for the phase-out, and the transfer of needed phase-out dollars from LEAA to other federal agencies.

All LEAA block and most LEAA discretionary grants are made to the state criminal justice councils (CJCs) which usually subgrant or contract with other state agencies, local units of government and private, non-profit corporations to achieve specifically agreed upon objectives. In some cases the local units of government assign or contract the performance to governmental subdivisions or private corporations. The state CJCs have been responsible for the stewardship of the LEAA dollars in every state. LEAA has not usually had a direct administrative relationship with the subgrantees and contractors. As a result of the foregoing administrative relationship, the program has had to rely upon a close intergovernmental partnership of federal, state and local governments, a partnership which is not typical of most federal categorical programs. Closing down the LEAA program is not easy because it requires close consultation and the continuation for a period of time of all three levels of government in this decentralized delivery system.

Because LEAA money does not revert to the U.S. Treasury at the end of a fiscal year, but rather is legally and contractually available until finally expended by the subgrantee, funds remain in the pipeline for longer than three years. It is the National Association's best estimate that there is more than \$1 billion of LEAA block and discretionary dollars that have yet to be expended and which must be administered and accounted for. The last appropriated dollar will probably not be

<sup>1</sup> The National Criminal Justice Association represents the directors of fifty-seven (57) state and territorial criminal justice councils (CJCs) designated by the states and territories to plan for and encourage improvements in the administration of adult and juvenile justice. The CJCs administer federal financial assistance programs created by the Omnibus Crime Control and Safe Streets Act of 1968 as amended (the Crime Control Act) and the Juvenile Justice and Delinquency Prevention Act of 1974 as amended (the Juvenile Justice Act). During Fiscal Year 1980, the CJCs have been responsible for determining how best to allocate approximately 62 percent of the total appropriations under the Crime Control Act and approximately 64 percent of the total appropriations under the Juvenile Justice Act. In essence, the states, through the CJCs, are assigned the central role under the two Acts.



expended until the end of the first quarter of FY 1983 and final grant close-outs will continue through the remainder of that fiscal year.

LEAA has had difficulty developing termination procedures because (a) it was not apparent until recently the necessity of such actions, and (b) the uncertainty of the amount of money that might be requested and approved for LEAA for Fiscal Years 1981, 1982 and 1983. The amount of funds for FY 1981, 1982 and 1983 is still uncertain.

As the future of the LEAA program became uncertain, LEAA lost a large number of personnel. Both the total number and the uneven distribution of personnel has created major problems. Large losses have occurred in the accounting, grants management and clerical work forces. In addition, the major OJARS and LEAA policy-makers are departing.

Because of the uncertainties and the timing of the decision-making process, LEAA has had little time to develop phase-out plans and has had difficulty providing states and localities with information on a timely basis for state and local legislative and appropriations processes.

Because it appears that LEAA will receive no or insufficient funds in fiscal year 1981, fiscal year 1982, and fiscal year 1983 to cover phase-out costs, LEAA needs every dollar of its prior year appropriations to cover present and future costs. Unfortunately, the President has seen fit to request and Congress has approved the transfer from LEAA of \$16,842,000 to other agencies in the Department of Justice and \$18,000,000 to the Department of Education.

LEAA and the National Association concur, that if there is to be a phase-down of the LEAA program, it should be done in a responsible, professional manner. It should be properly planned and administered. It should provide the necessary administrative funds for the federal, state and local levels to perform the stewardship functions over the more than \$1 billion in existing grants in the pipeline. It should permit the states and local units of government to assume the costs and institutionalize successful projects so that the federal investments made to date will not be lost. It should minimize the disruption (a) to the ongoing institutionalization of criminal justice councils, and (b) of the cost assumption of successful operational programs. And it should minimize the disruption to other federal programs that will continue.

The National Association has undertaken two surveys in the last several months on the need for administrative funds by state and local units of government in an LEAA phase-down mode in fiscal year 1981. The results of both surveys have been provided to staff of OJARS and LEAA. In the first survey we determined that \$33 million for administration is needed to keep a state and substate infrastructure which would be funded only to maintain accountability for the pipeline dollars. In the second survey, we learned that states could reprogram \$16 million out of existing unobligated block grant dollars, but they would need \$17 million more to be awarded by LEAA to pay for the minimally acceptable level of administration. In fiscal year 1982 we believe that the states will be unable to reprogram any significant unobligated program dollars for administration. We are concerned that LEAA will not have and will not make available to the criminal justice councils and substate units the additional \$17 million needed in fiscal year 1981 to perform the stewardship function. LEAA has indicated that it expects to have only between \$3 million to \$8 million available for awards to states and local units of government for administration in fiscal year 1981, and even that total may be lower. It was indicated that states can expect no assistance in fiscal year 1982. We ask that you carefully review LEAA's financial situation for fiscal year 1981 and fiscal year 1982 and find the necessary money in its existing funds to provide for state and local administration in fiscal year 1981. In the absence of funding the necessary funds in LEAA's budget, we ask that you approach your colleagues on the Appropriations Committee to have adjustments made to H.R. 7584, the State, Justice Appropriations bill for fiscal year 1981, or ask your colleagues to resolve these financial problems through the second fiscal year 1980 Supplemental Appropriations bill. If adequate federal funds are not provided many states will not perform the necessary stewardship functions; the accountability of major portion of the \$1 billion will then be lost because LEAA is incapable of performing those functions by itself. We are also disturbed that a failure of LEAA to provide additional funds will not impact equally on the states. Michigan, for instance, because it begins obligating and expending its money on the first day of the new fiscal year, will need substantial amounts of money on October 1, 1980. Other states which have been slower to obligate and expend their funds may have sufficient unobligated funds to reprogram for administrative purposes to carry them through the end of fiscal year 1981. Without additional funds from LEAA, states like Michigan will suffer the most.

The Crime Control Act permitted grantees a reasonable amount of time to have the states and localities assume the costs of their programs, and thereby institutionalize successful projects into the fabric of state and local government. LEAA has administratively interpreted the statute to mean a three year cost assumption cycle. Unfortunately, an abrupt funding termination of the LEAA program rather than a gradual phase-out, will jeopardize a large amount of the federal investment made over the last two fiscal years because federal funding for a vast number of projects will terminate prematurely. State and local governments need the next two years to see that the projects to be assumed as successful and the opportunity to secure sufficient state and local political and financial support. Once again, we urge you to sensitize your Appropriations colleagues to the implications of their actions to terminate the LEAA program abruptly, and find a way in either the fiscal year 1981 or second fiscal year 1980 supplemental appropriations bills to rectify their mistake.

We ask you to review the impact of insufficient funding to the criminal justice councils and the local criminal justice planning agencies. As I indicated earlier the CJC's and the local planning agencies are the key agencies to administer the pipeline dollars. You should know they are also important for three other reasons. First, they are the only agencies in state and local government that play a systemic role in an otherwise uncoordinated, uncooperating criminal justice system. Without these agencies, the fragmentation that held back and disrupted the criminal justice system will return. Second, the CJC's and local planning agencies are the catalysts for change. If there is any hope for long range improvement in the criminal justice system, these agencies must remain, as a legacy of the LEAA program, in order to facilitate change. Third, in an era of recession and cut-back management CJC's and local planning agencies, because of their impartial and systemic perspectives in relation to individual criminal justice agencies, are being asked to play key roles to bring about efficiencies and economies. Funds to facilitate the institutionalization of state and local criminal justice planning agencies must be found.

The National Association is concerned that Congress has not taken into consideration the impact of the termination of the LEAA program on the Office of Juvenile Justice and Delinquency Prevention and Bureau of Justice Statistics programs that will continue.

We expect the Juvenile Justice Act program will survive and thrive in the next few years. Unfortunately, there are insufficient administrative monies available under that Act to perform proper state administration. Most administrative funding support for the Juvenile Justice Act in the past has come from the Crime Control Act program. Therefore, Congress must provide state councils which administer the JJ Act formula funds administrative dollars above the administrative dollars provided under the Juvenile Justice Act if proper Juvenile Justice Act administration is to occur.

The National Association expects the Bureau of Justice Statistics to survive. Two-thirds of the states have statistical analysis centers that are subdivisions of or have close relations with state councils. LEAA decisions on fiscal year 1981 administrative funding for state councils should be written in a way to minimize the impact on the administrative support provided by the councils to the state analysis centers which are important to the functions of the Bureau of Justice Statistics in fulfilling its national mission.

We are aware of Title III of S. 2377, the fiscal year 1981 Department of Justice Authorization bill, which provides some language to deal with the LEAA fiscal problems arising in fiscal year 1981 and the absence of similar provisions in H.R. 6846. The National Association supports those provisions of Section 301 of S. 2377 that would provide for statutory authorization for the reprogramming of action funds for administration, the prohibition of the Department of Justice from reprogramming funds out of LEAA to another agency, and the suspension of the maintenance of effort provision for fiscal year 1981 funds. The National Association is indifferent to Section 302 of S. 2377. We favor the block grant system for the delivery of grant-in-aid funds, which places discretion in the States as to how best to use federal money.

The fiscal year 1981 Department of Justice Authorization and the Juvenile Justice and Delinquency Prevention Act reauthorization bills provide the opportunity to make some statutory changes that could either clarify existing law or change existing law to facilitate phase-out. We would recommend that you consider taking the following actions.

(1) In the fiscal year 1981 Department of Justice Authorization bill we recommend that you:

(a) clarify that the pass-through requirements of Section 303(a)(2) of the Crime Control Act of 1976 are satisfied once the funds are made available to local units of government and they have a reasonable amount of time to receive and initiate grants.



(b) clarify that the adequate share requirements of Section 303(d) of the Crime Control Act of 1976 are satisfied when the initial state plan reflects an adequate share for courts.

(c) clarify that the Section 453(3) requirements of the Crime Control Act of 1976 are satisfied when the initial state plan sets out an adequate share of funds for corrections.

(d) amend Section 520(b) of the Crime Control Act of 1976 by striking the words "shall maintain" and replacing them with the words "shall make available" so that maintenance of effort requirements are met once funds are allocated to juvenile justice in the state plans and the grantees have had a reasonable amount of time to receive and use the funds.

(e) review Section 519 of the Crime Control Act of 1976 and Section 816(a) of the Justice System Improvement Act to see if some or all of the reporting requirements can be eliminated.

(2) In H.R. 6704, "Juvenile Justice Amendments of 1980", we recommend that you amend Section 10 in order to amend Section 222(c) of the Juvenile Justice and Delinquency Prevention Act to increase the permissible amount for state administration from 7½ percent to 15 percent of the formula funds awarded.

In conclusion, I have stated that we need LEAA to continue and don't agree that a phase-out of the LEAA program is necessary. However, if phase-out does proceed we have suggested that (a) adequate administrative dollars must be found to maintain accountability of the pipeline dollars; (b) additional program dollars are necessary to ensure the assumption of cost of programs in their first or second year of funding; (c) some statutory changes to the Crime Control Act of 1976 and the Justice System Improvement Act should be made to facilitate phase-out; and (d) a change to the Juvenile Justice Act reauthorization should be made to ensure adequate administrative funding.

Mr. Chairman, thank you for the opportunity to share our information, assessments and suggestions with you. I would be happy to answer any questions you may have now or later in writing.

Mr. THOMAS. First, before I talk about the phase-out of the LEAA program, I would like to say strongly we don't agree with the phase-out of the LEAA program.

Mr. VOLKMER. I noticed that in your statement. Closing and ending, you say.

Mr. THOMAS. Yes, sir, absolutely, and I make that point again and again and I will make it when I end. We feel that crime and delinquency are alive and well at the State and local level. They are out there, and we are working on them, and will continue to work on them. We would hope that the Federal Government, both the administration and Congress, will take another look at how it can participate with us, providing assistance to State and local government.

I think there is a Federal role that should be played, a stronger role than the one apparently the Federal Government is going to play, in this partnership. It is a Federal, State, and local partnership that has to be entered into if we are going to deal with the problems of crime in this country.

I think that Congress realized that when they enacted the Justice System Improvement Act just a few months ago. What has happened since then, I guess, has been an erosion of that partnership. I am hoping next year there will be a fresh look at it. Let's see how we can build on what we have left.

As far as the phase-out of LEAA is concerned, at the State level we are on the firing line as far as phasing-out these projects. The States with local units of governments are the ones who administer the program. We are in the process of, in short order and I mean it has been fairly short, trying to determine how we are going to do that, how we are going to do it in some kind of orderly fashion.

I would say that as far as LEAA is concerned, and the administration, they have coordinated with us, as they see it, quite well. I certainly don't agree with some of the decisions they have made on phase-out activities, but I will say they have given us every opportunity for input, comment, and discussion.

I would say that that partnership has continued in this phase-out effort to try and make sure that it is a professional one. It is a major undertaking. I think the gentlemen who just testified shed some light on that. It is an intergovernmental process.

It requires both the Federal bureaucracies, the State bureaucracies and the local bureaucracies to all work together to insure that the stewardship of the funds that are out there, and there is a lot of money out there—we are talking about \$1 billion that is in that pipeline—are going to be administered over the next 3 years. We want to make sure: (1) That it is used effectively; (2) that it is efficiently used; and (3) that it is used for the purpose it was intended.

Next, I would like to say that probably the biggest problem we have had in the last couple of months has been the whole uncertainty over whether there was going to be any money, particularly for administrative purposes. As has already been said, the administrative funds are appropriated on an annual basis, whereas the action money is continuing money that is available to us on a 3-year basis. Thus, for this upcoming year which begins October 1, any number of State criminal justice councils and local agencies that administer these funds are looking from where the administrative money is going to come from.

I want to back up and respond to a question that you are interested in. You just finished asking about what kind of staff is going to be needed at the State and local levels to administer this program.

I want to return to 1968 when the LEAA program was initially started. A major purpose of the Safe Streets Act, a major finding at that time, was that there was not a coordinating and planning mechanism for the criminal justice system. There was no system. There was a need for planning. There was a need for coordination between the components of that non-system if we were, in fact, going to have justice, a justice system and a system that could respond to crime. It was declared that there was a need for State planning agencies at that time.

Now, a second part of that Act was to provide Federal financial assistance in the form of LEAA funds. Those same planning agencies were designated as the agency to administer the Federal funds so that those funds could then be used to implement plans that were developed. We have gone along now for the last 12 years. A number of States have perceived and proceeded to pick up that planning and coordination function as an integral part of State government. They perceived, as Congress did, that there was a need. It did need to continue.

For instance in my own State, the criminal justice program that my division administers is largely funded with State funds. My division's planning and coordination office is a part of our State criminal justice system, and that office also has responsibility for managing LEAA funds.



When you ask LEAA how many people are in the South Carolina State agency administering money, they will count all my people in that office. But if you break down just how many are administering those LEAA funds, probably only about a third of them. So when we start talking about how many people are out there, I want to be sure we have got them defined as to what they are doing.

So in my office, as we phase out the LEAA program, we will phase out those administrative people. We won't phase out the planning and coordination people because they have a legitimate function that will be ongoing and will continue, and are institutionalized in our State government. I would hope the majority of other States in this country have that same process because planning and coordination is needed. It is needed desperately.

Look at this current year we are going into October 1. We are depending on LEAA to provide a certain amount of money for administrative purposes. They are not going to do that. They told us that we could reprogram action money. That means we sit there and say, all right, am I going to put a policeman on the street for a crime-reduction effort, or am I going to put an administrator in this office? That is the decision you have to make when you talk about reprogramings.

When you are out there and you know what the need is, your emphasis is going to be to get as much of that action money on the street as you possibly can, so that means we are going to put as little bit of that money as we can into administrative purposes and still maintain as much of an administrative staff as we feel is the minimum level necessary to administer that money.

Now, there won't be any reduction in administrative functions in this coming year in my State. There won't be a one. As a matter of fact, there will be an increase probably, because we are going to have to make sure we get those audits done right up front. We are going to be going through a lot more closeout activities than we normally would.

For instance, normally we will fund a project for 3 years with action money. Each year we review it to determine whether it was a good project. If it was, it will be continued for the next year. The local government or the State agency will be assuming part of the cost of that project until the fourth year when they will have assumed the whole project. But we are not going to have any money to do that, so that means we are going to be terminating a number of those projects during this coming fiscal year that we hadn't planned on terminating, meaning we are going to have a lot more administrative work to do on closing out those projects.

We will be closing out two or three times as many projects in this coming year as we had planned on closing out, a lot more audit functions, property control functions, a lot more reporting functions to LEAA on closing out projects. So as far as the administrative work is concerned, it is going to be there, particularly in fiscal year 1981.

Now, the concern I have is not only is it going to be difficult to come up with reprogramed action money in 1981. It is going to be next to impossible to come up with any in 1982, and yet we are still going to have that responsibility in 1982 to close out, provide stewardship for that money that is out there.

Now, the response from LEAA has been basically that they recognize our problem. They told you today that in their statement. They have a long statement about that being a major issue, but the response is, in effect, it is your problem. Take care of it. Use the action money. We don't have any money for you, other than reverted money. We can't get a handle on how much reverted money there is. They have told us it is somewhere between \$3 million and \$8 million that they may be able to help us out with, but we won't know until sometime in September.

We have got some States that, in effect, are facing a very bleak future come the first of October as far as administrative funds are concerned. These States have not been able to pick up much State money to fund their operation during the past few years. We have got States that are already cutting back dramatically. Alabama is back down to 14 people. Delaware is going down to 7 people. Oregon is talking about cutting all the way back to 2 people. You are talking about States that are going to administer the program. They are not going to have the people to administer it.

We did a survey that indicated over and above what money the States could come up with, the State money they already had, reprogramed action money, that the bare minimum to administer the program they estimated they would need was an additional \$17 million in assistance from LEAA for fiscal year 1981, but LEAA is saying they may have \$3 to \$8 to help. Thus, there is going to be a shortfall out there. The end result is we are going to have problems in 1981.

For fiscal year 1982, LEAA is indicating they don't know whether they will have any money to help our States in administering the program. So administrative funding for States is a major problem. We feel if there is any way possible, a mandate needs to be given by Congress to LEAA that additional administrative funds are going to be required.

For instance, we made a suggestion that wasn't accepted by LEAA. They indicated in their testimony that they had 400 new categorical grants, that is discretionary grants, they will award between now and September 30. We made a suggestion that they stop awarding those grants, and set aside part of that money for administrative costs for the existing projects. That suggestion wasn't accepted. They said they were not going to do that.

Now, it doesn't make any sense to us that we are moving forward with new projects when we don't have the administrative money for the existing projects.

Mr. VOLKMER. Could I interrupt just a minute?

Mr. THOMAS. Yes.

Mr. VOLKMER. I wish I had known that before. I didn't see that in your statement. I wish I had known that when they were here.

Mr. THOMAS. Yes, sir.

Mr. VOLKMER. You say these are new discretionary programs?

Mr. THOMAS. They are new awards. They indicate that the majority of them are continuing projects. I don't know how that breaks out between which ones would be new and which ones would be continuing. In other words, it may be a second or third year project. They didn't break it out.



Mr. VOLKMER. I would like to have brought that up with them, because I quite agree with you. I hate to use the word, but it isn't very thoughtful on their part if they are going to award especially new programs, discretionary programs that are completely new. I am not talking about refunding. I am talking about new, just starting up something new.

Mr. THOMAS. They say they have got 1,217 active projects now and they are going to award another 400 by September 30.

Mr. GELTMAN. That is on page 3 of the Department's statement.

Mr. THOMAS. They indicated to us that those were publicly announced programs. In other words, they had announced they were going to award projects and they didn't feel they could stop them. If they expected us to reprogram action money, we expected them to reprogram action money for administrative purposes.

Mr. VOLKMER. Thank you very much. I think we can do something about that. Go ahead.

Mr. THOMAS. Another major concern we have is the administration of the juvenile justice program. The juvenile justice program is a very critical program and a program that apparently will be continued, fortunately. We are very concerned about the administrative cost for administering that program. Largely, that has been borne by LEAA dollars.

In other words, our agency in South Carolina administers that program largely with the administrative dollars we have gotten from LEAA. LEAA money is not going to be there. The juvenile justice program allows to use up to 7½ percent of the money for administrative purposes. That is insufficient to administer that program in most States.

Now we make a suggestion, and made a suggestion in the testimony, that that be increased. The administration made a suggestion that they are thinking about authorizing the Governor to put that program in some other agency. Well, that doesn't have anything to do with the amount of money we need. It is fine to give the Governor the authority to select the State agency to administer the juvenile justice program. The Governor in my State thinks that would be fine. He would leave it where it is.

The Governor should have that authority. Why the administration wants to come in and start developing a State delivery system over again at this point I don't know. They went through that process 6 years ago, and basically it was decided it should be with this program. The administration's recommendation does not respond to the need for administrative dollars to administer the juvenile justice program. We have suggested that the 7½ percent be increased to a 15-percent ceiling for administrative purposes on the juvenile justice program.

We have taken a look at and reviewed the title III amendment to the Senate's Department of Justice reauthorization bill. We know title III is not included in the House's Department of Justice reauthorization bill. We would like to strongly support that you provide statutory authorization for reprogramming action funds for administration, and prohibiting the Department of Justice from reprogramming funds out of LEAA. The Department's programming of funds out of LEAA doesn't make any sense to us. The representatives of the Department sit right here and tell you the States don't

have enough money to administer the program, and they have taken the money and shifted it over to some other Department of Justice agency. We would strongly support that Senate prohibition provision. We strongly support the suspension of the maintenance of effort provision in fiscal year 1981 as far as juvenile money is concerned. As far as the categorical program that would be set up is concerned, our position has been and always has been that we support a formula program, an allocation of funds to State and local government through formula assistance. We have not supported a categorical program. The Senate's part on emergency program is just one more categorical program of grantsmanship. Fortunately, if that program is there, the way it is written it would be of assistance just to State and local governments, which is a good provision, but we would hope that if funds are going to be made available to State and local governments, that they be made available through a formula program.

We made a number of additional recommendations in the statement which are largely administrative recommendations that we feel you could implement as a part of either the Department of Justice reauthorization bill by amendments or the juvenile justice reauthorization bill by amendments, recommendations which could give us some relief during the next couple of years from some administrative requirements and will give us some flexibility on handling those programs.

Those are the high points of what I wanted to tell you. I would like to end just as I began my statement by saying it is just beyond me, and this is the only chance I have had to tell a congressional committee this year so I am going to tell you, that Congress and the administration have decided that they are going to phase out the only, and I think relatively modest, effort to assist State and local governments in crime control and justice system improvement.

The only way I have been able to accept that is by assuring myself that in the next session of Congress you will take it all up again and come back and do something about it.

I will assure you of this, though, that the efforts to deal with crime and its efforts to deal with justice are going on. They are going on strongly in every State, and in many local governments. With or without Federal assistance, they are going to have to go on. I think there is a role the Federal Government has got to play and I think it is much more substantial than is in the House State-Justice fiscal year 1981 appropriation bill. I would be glad to answer any questions you have.

Mr. VOLKMER. What is your position on the National Institute of Justice and the Bureau of Justice Statistics?

Mr. THOMAS. We very strongly feel that the Federal role for research, the Federal role for justice statistics is appropriate. We feel those should be continued, but we feel they should be strong agencies. We feel there should be a strong research effort. We feel there should be a strong statistical effort. We feel that that statistical effort, particularly, should be well coordinated with the State statistical analysis centers which are operated in just about every State, and we would hope that funding that is available to the Bureau of Justice Statistics is adequate not only for that agency



but also to provide support at the State level where the statistics and the data originate.

Mr. VOLKMER. You take a position in your statement that you are indifferent to the Kennedy-Baucus amendment.

Mr. THOMAS. Only to the categorical portion, to that categorical discretionary grant portion. I guess what you are saying is that it detracts from the Bureau of Justice statistics and the National Institute of Justice. What position do we take?

Mr. VOLKMER. Right. How can you explain your saying you support the program, but yet you are indifferent to that amendment, which I think would detract from the program?

Mr. THOMAS. I would agree with you.

Mr. VOLKMER. I have no further questions. Thank you very much. I appreciate your testimony, especially bringing out your position on the new discretionary grants. I appreciate that very much.

Mr. THOMAS. Thank you.

Mr. VOLKMER. Our next witness is Mr. John Lagomarcino, who is currently general counsel and legislative director of the National Governors' Association. Previous to his present position, he was staff director for criminal justice and public protection of the National Governors' Association.

Mr. Lagomarcino, it is a pleasure to have you before the subcommittee. As your prepared statement will become a part of the record without objection, you may proceed in your own way. You need not read the statement. We are running out of time.

**TESTIMONY OF JOHN LAGOMARCINO, GENERAL COUNSEL, NATIONAL GOVERNORS' ASSOCIATION, ACCOMPANIED BY NOLAN E. JONES, STAFF DIRECTOR, COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC PROTECTION**

Mr. LAGOMARCINO. Thank you, Mr. Chairman.

[The statement follows:]

**STATEMENT OF JOHN P. LAGOMARCINO ON BEHALF OF GOVERNOR JAMES B. HUNT, JR., AND THE NATIONAL GOVERNORS' ASSOCIATION**

My name is John Lagomarcino and I am General Counsel and Legislative Director for the National Governors' Association. I appear today on behalf of NGA's Committee on Criminal Justice and Public Protection and its Chairman, Governor James B. Hunt, Jr. of North Carolina.

NGA has been a consistent and strong supporter of the LEAA program. This program, created by the Crime Control Act of 1968, has brought about significant programmatic improvements in state and local criminal and juvenile justice systems. It has helped foster systematic institutionalization of planning and management of criminal and juvenile justice services. Moreover, the program has promoted a spirit of cooperation between the various criminal justice disciplines.

LEAA funds have helped to develop new and innovative programs for dealing with crime, many of which were subsequently adopted by state and local governments in their fight against crime. Some outstanding examples of successful LEAA funded programs are community based correctional facilities, which have helped reduce overcrowding in our jails and prison facilities and provide a better reintegration of offenders into their communities; career criminal programs which have helped prosecutors identify chronic criminal repeaters; and programs that protect witnesses and make them feel more at ease as they testify in criminal proceedings.

The problem of crime, which gave impetus to the creation of LEAA, remains a major concern of the average citizen. We recognize that handling crime is primarily a state and local concern. But when it occupies such a prominent and apparently permanent place in the national consciousness, Congress and the Administration

must assume some responsibility for helping to manage the problem. The LEAA program, through the block grant formula, provided a way for Congress and the Administration to address the problem because it gave states the flexibility necessary to develop, with local governments, the kind of programs required to deal with the problems in individual states. This is a good example of how the federal government can work effectively with the states in dealing with major national problems.

However, we are faced with the reality that Congress and the Administration may phase out the LEAA block grant program through the budget and appropriations process. This comes shortly after an extensive and careful Congressional review and reshaping of the program which led to the Justice System Improvement Act, signed into law by the President on December 27, 1979. The President then recommended that the program receive \$571 million in operating funds for Fiscal Year 1981, an increase over the previous year, and expressed his confidence in the program in his January State of the Union message.

The situation changed in late March, however, when the President issued his revised budget statement. He recommended that the LEAA block grant program be eliminated. The House and Senate Budget Committee in subsequent action supported the President, and the appropriations committees apparently are in the process of taking the same action.

NGA's response to these actions was well summarized by Governor Hunt when he said: "Congress is on the brink of totally eliminating the LEAA program. This is the only federal money that goes to help the states fight crime. I support a balanced federal budget, and I believe the LEAA budget should take its fair share of cuts. But I believe that totally cutting out LEAA would kill the heart and soul of a valuable program to fight crime in the country."

NGA has never altered its support for a strong LEAA program. We have testified on several occasions about the success of this program and we are encouraged that there may be hope for a future for the program, despite its current travails, because of the existence of the three year authorization.

Nevertheless, we must face the fact that the program, as we know it, is about to be phased-down by Congress and the Administration. We must live with that reality. We believe that if the LEAA block grant program is to be phased-down, however, two important principles must govern these actions:

(a) The phase-down must be properly planned, managed, and administered. State governments will need adequate funds to perform the necessary stewardship functions over at least \$1 billion in federal funds still in the pipeline—funds largely committed to programs by state governments. The standard practice is to commit these funds for a 3-year award period. No one, least of all the Governors, wants to see federal dollars wasted. We are concerned that proper monitoring and accounting of these funds continue until the money is expended in accordance with the grant agreement. However, we are very concerned that adequate resources will not be available to carry out these tasks. Adequate funds should be available to allow for the three years usually necessary before a project is absorbed by state or local governments. We also have serious doubts that the Department of Justice fully comprehends what it is asking of state government during the phase-down period. We have discussed this issue with the Department, but it appears to us that they simply do not understand or appreciate the administrative responsibility caused by this problem.

Their principal response to date is to indicate that states could reprogram funds designed for program use and use them instead for administration purposes.

This does not adequately address the problem for many states. Some states do not have dollars to reprogram because they already have committed their funds to programs. Reprogramming action dollars already committed to programs may not be legally possible, and is certainly politically unwise. The states, then, will be put in the position of reneging on good-faith commitments because of action taken by the federal government. Section 301 of Title III of S. 2377, the Department of Justice Authorization Act for 1981, which has passed the Senate, contains a provision that allows states to use up to 15 percent of unexpended funds for administrative costs, such as managing funds in the pipeline. It also suspends the maintenance of effort requirement and prohibits the Department of Justice from reprogramming funds out of LEAA to another department, agency, or organization. Unfortunately, the LEAA program has been steadily stripped of funds needed to help in the phase-down process. Although this provision is helpful, it still refers to funds that may already be committed to specific programs and, if not committed, may not be adequate to perform the task that is needed.



We believe that the Department of Justice must do a good deal more to ensure an orderly phase-out process that would serve the mutual goals of federal, state, and local governments.

(b) The Phase-out process should permit state and local units of government sufficient time to assume the costs of institutionalizing successful projects. This has been a central theme of the LEAA program, and many states have adopted innovative programs which began with federal dollars. The present phase-out process has hit so suddenly, however, that many Governors have not had the opportunity to secure sufficient state support to assume the cost of many worthwhile LEAA programs.

NGA is encouraging states to assume the cost of planning and coordinating criminal justice services. We have conducted workshops in several states involving Governors, and state and local officials, in an attempt to discuss the benefits of managing criminal justice as a system. Our Association recently published a booklet titled: "Criminal Justice: A Governor's Guide" which provides Governors with options for institutionalizing the process of coordinating criminal and juvenile justice services in state government. Governor Hunt states in the introduction of this Guide: "Development of criminal justice policy and the coordination of criminal justice service may be among the more difficult tasks that we face, but the potential payoffs in improved services and coordinated action appear well worth the effort. Our multimillion dollar expenditures in criminal justice need to be planned and coordinated in increasingly rational ways, and Governors are in the best position to assure that this will happen."

However, a precipitous and poorly planned phase-down of LEAA assistance will seriously undermine this process.

Finally, Section 302 of Title III of S. 2377, which creates a national discretionary grant program, causes us problems. Our concern is that this simply would replace the current formula-distribution plan with a potentially inequitable, inadequate categorical program. We prefer a program based on an equitable and rational formula that provides a fair share of funds for all states.

Thank you Mr. Chairman for giving NGA the opportunity to express our views on this subject.

Mr. LAGOMARCINO. I appreciate the time constraints. Since the statement is in the record—

Mr. VOLKMER. You are accompanied by—

Mr. LAGOMARCINO. Nolan Jones, who is currently our staff director for the Committee on Criminal Justice and Public Protection. I am sorry I didn't note that.

Mr. VOLKMER. That is all right.

Mr. LAGOMARCINO. Let me reiterate at the outset our strong support for the many programs Mr. Thomas noted in his statement. I don't think we need to go into detail on that. The Governors' Association has long been a supporter of LEAA, and we very much regret the phaseout of this program.

Again, because we only have a very few minutes and the National Association of Counties is still to be heard from, let me just move to the portion of my statement that I think is central to our discussion this morning: So long as we recognize that we must face reality, and that there will be a phaseout, how is it to be done, and how can it be done most professionally and in such a fashion to assure that the money is well spent and not wasted.

It must be properly planned. It must be properly managed and administered, done in an orderly and rational fashion. Simply put, this requires adequate funding at the State level to do the job right.

States will have the principal responsibility for managing the grant money in the pipeline, and as we have heard on numerous occasions this morning, it is around \$1 billion. It may exceed \$1 billion. Normally, program grants are for a 3-year period, so that what we are faced with here is a management and an auditing

responsibility that will stretch beyond fiscal year 1981 and well into fiscal year 1982.

The \$1 billion-plus that is in the pipeline is, for all intents and purposes, committed to programs. That money is obligated either to specific programs or to be passed through to local governments, so that there is very little, if any, flexibility in that \$1 billion pipeline amount.

Adequate resources nonetheless must be available to monitor and administer these funds. As I noted, the Governors of this country are as concerned about proper administration of this program and are opposed to wasting Federal dollars as anybody. As I said, we will have the principal responsibility to carry out these administering obligations.

Frankly, we doubt that the Department of Justice—and my feeling on this is strengthened by the testimony we heard this morning—we doubt that they fully comprehend how big a job this is. It is going to be a tremendous burden on State and local government. The department's response of reprogramming dollars for administrative purposes, such as monitoring, reporting and auditing, is inadequate in our judgment.

Again, I think without burdening the record, Mr. Chairman, Mr. Thomas' statement makes it as clear as it is possible to state that the money simply isn't there. The survey of the National Criminal Justice Association indicates that there is going to be a considerable shortfall, as he said. The difference is the amount of money that the department is presently planning to make available, or thinks will be necessary, and the actual needs.

There is a statement in Mr. Michel's testimony that they do not intend that action program dollars be reprogrammed for administrative purposes. Mr. Dogin, if I was listening carefully, said that there would be action program reprogramming. Again, this is the kind of inconsistency that puts the States in a very awkward position. It is going to be very difficult, not only legally in some cases, but it certainly will be politically unwise to reprogram action dollars.

The kind of example Mr. Thomas gave the committee, that when the choice confronts them whether the money should go to a line officer, for example, or an administrative person, it is pretty easy to see where their preference lies. That money would be put in an action program, to the greatest extent possible.

In short, it looks to us as though the Department of Justice and the administration is dumping on the States the responsibility of phasing out a program, and taking the heat, if you will, both politically and administratively, for a decision that they made for budgetary purposes.

Section 301 of the authorization action, which you mentioned previously, Mr. Chairman, would be helpful in this regard in that it does allow reprogramming, and that it bars the kind of money switching from LEAA into other Justice Department functions that we have heard described already this morning. But we are afraid it is deficient for the same basic reasons as the deficiencies in the Department of Justice letter authorizing reprogramming pipeline money, in that those funds may already in fact have been committed, and that the dollars simply are not there.



The effect of this is to penalize the States with the most effective programs, those that have been most efficient and prompt, if you will, in moving moneys into action programs. Those States aren't going to have reversionary funds, and they are not going to have the backlog of money to reprogram.

It may force the States, in fact, into taking some of those very difficult decisions of closing programs or shortening the duration of programs that may prove to be very meritorious. The States, then, and local governments as well with pass-through moneys, are going to be put in the position, as I said, of taking the heat, of being on the front line and hearing from people who are disgruntled and dissatisfied with those decisions. But the State and local governments may not have any choice in this matter.

If the Federal Government makes the decision that the money isn't available, to the greatest extent possible State and local governments will try to pick up the costs. But they are not going to be able to do it across the board, especially in view of the fact that this decision was made precipitously. We planned on a 3-year appropriation at the beginning of the year, based on the President's budget recommendations, but unfortunately he pulled the plug on it 3 months later.

Another point that needs to be reemphasized is one that Mr. Thomas made: States need sufficient time to assume the costs of institutionalizing these successful projects. At the present time it does not look as though the States will have adequate time to do that. Instead, if the Department of Justice is only talking about fiscal year 1981, that is clearly insufficient time, and the States will not be able to assume and institutionalize the programs to the degree that they would like.

Again, because of our time constraints, Mr. Chairman, I don't think it is necessary to go into any other main points in my testimony. In summary, it is pretty much a backstop of what Mr. Thomas said. The response of the Department of Justice in our judgment has been wholly inadequate. It is going to lead to some very severe trials for State and local governments very shortly down the road, if the Congress doesn't meet the financial needs that we face.

Mr. VOLKMER. As I understand it, the Senate has added language over there that would authorize statutorily the reprogramming of action funds; is that your understanding?

Mr. LAGOMARCINO. That is correct, as I said, but it puts us in that awkward position, then, of having to take money away from front line operations, if you will, the kind of programs that the LEAA statute is designed to encourage. It would be unfortunate if we were forced to do that. The only way we can meet the administrative burden that we face is to pull the money away from the kinds of programs Mr. McClory described in his opening remarks, for example.

Mr. VOLKMER. Sometimes some of us have to make those hard decisions, and I am saying that in my estimation the States will probably have to, especially those States—let me first ask you this question: Do you have any idea about how many States will continue a State agency for coordination of anticrime or law enforce-

ment, or whatever you want to call it in the States, how many of those will continue to have their own?

Mr. LAGOMARCINO. Mr. Jones is probably better able to respond to that. The National Governors' Association has made a major push in that direction, urging States and trying to assist States to set up the kind of agencies you have described, this would institutionalize the criminal justice planning and management process. I don't know what the number is.

Mr. JONES. I don't have an exact number but I would say over half can be expected to continue some part of the process, in some particular agencies, and they vary from State to State as to where they would be. Some States have placed it in the State office of management and budget, and so it is in different places performing different functions, as Mr. Thomas pointed out.

Mr. VOLKMER. Isn't there an effort that could be made by your association and Mr. Lagomarcino's association and others involved with State government to advise them or try to put an impetus behind it so they would do so?

Mr. JONES. Yes; we are doing just that, sir. This past year we performed several workshops. We have a lot of Governors who were interested in that and we will be pushing that over the coming year. We have published even a guide for Governors that discusses the process of institutionalizing the planning and coordinating of the criminal justice process, but what has happened as noted in the testimony, this thing has hit us so fast that we must gear up and move faster in the coming year.

Mr. VOLKMER. Of course, each State has its own planning council, its own State council.

Mr. JONES. Yes.

Mr. VOLKMER. And I think it would be wise for the Governor to advise those that they ought to meet and they ought to evaluate. I think this is one of the things that should be brought to them. I think it is clear to me, from hearing the testimony and seeing what is going on in the Congress, that in all probability the only funds that they are going to have, if they don't have reversion funds, et cetera, is to reprogram, and they are going to have to make some hard options.

They are going to have options. You have programs that were just authorized and started this year. You have got those they can look at. They could look at those that have gone on 2 years and are of a questionable nature, as to whether or not they should be continued, or whether local governments would continue them. They have got a lot of options, I feel.

Mr. LAGOMARCINO. They may have options. They are very unpleasant options and they run counter to the purposes of the act. That is what is particularly distressing to us; the only way to do it is to cut off the very programs this program is designed to assist.

Mr. VOLKMER. Some of them.

Mr. LAGOMARCINO. Some of them. Well, for nearly 30 States, I think it is close to 30 States that are really going to be strapped by October 1; those States may not have any choice but to cut off practically all of those programs. The cutback is going to come—



Mr. VOLKMER. If they cut back all their programs, that is going to leave a lot more to be reprogramed for the rest of the States then, isn't it? We have got all this money out here in the pipeline.

Let's say 30 States decide we are going to cut them all off right now, we are finished with them, there is going to be a lot more money left for the rest of the States.

Mr. LAGOMARCINO. What we are talking about here, I guess, is a matter of philosophy as to whether the program is meritorious on its face or not. We think it is, and we think it would be unfortunate if that were the only way to phase down this program. That is the unfortunate and, in some cases I think, tragic situation that the States are faced with, as Mr. McClory pointed out. The administration has dumped this entirely in our laps, for budgetary reasons as far as we can tell, flying directly in the face of congressional reauthorization of the program, and then they toss it to us and say: All right, you take the heat and you settle it.

That is what we are faced with. We don't want to have to do it that way. We may be forced to do it that way, as you know, Mr. Chairman.

Mr. VOLKMER. What possibilities do you see? The alternative is for the Congress to appropriate around \$170 million just for State administration; is that correct?

Mr. LAGOMARCINO. That is one option. Another would be to take a hard look at the reprogramming within the Department of Justice that has been going on, and that Mr. Michel described this morning. Another possibility is the one mentioned by Mr. Thomas. If the Department of Justice expects us to stop funding new programs, and to start the phaseback immediately, why do they carry ahead with 400-plus brandnew programs at the end of the current fiscal year?

Mr. VOLKMER. I agree with that part, the new programs. That gives some, undoubtedly.

Mr. LAGOMARCINO. Those are some of the other options I think need to be explored as well.

Mr. VOLKMER. I agree with that, that option, but the first option I think is very impractical, going to the Congress at this time about the 17 additional.

Mr. LAGOMARCINO. The third option was the 400 new programs.

Mr. VOLKMER. Right.

Mr. LAGOMARCINO. The second one was to look at the Department of Justice's own budget and how they are moving money within their own Department.

Mr. VOLKMER. We would like to stop that, the reprogramming for the FBI, DEA, or anything else.

Mr. LAGOMARCINO. Then we are put in the position—

Mr. VOLKMER. But that in itself doesn't help you. That just means there is less LEAA action funds or administrative funds at the Federal level or anything else going your way.

Mr. LAGOMARCINO. The Department took all of the money for DEA and FBI and these other worthy purposes, and they are worthy purposes, from LEAA. That is another problem we have. We then are put in opposition to those other programs. They took it all out of LEAA. That was hardly a sharing of the burden within the Department. The burden fell on one place, and that was LEAA.

Mr. VOLKMER. I have no further questions. Does staff have any questions?

Mr. GREGORY. Just to clarify a couple of points regarding the Senate Justice authorization bill. As Mr. Volkmer indicated, it is not very likely that there are going to be other appropriations to pick up the slack on this.

My question is, When the House goes to conference with the Senate on this authorization bill, what is your specific recommendation on going with or not going with this permission to use 15 percent reverberation funds for this purpose?

Mr. LAGOMARCINO. We support that.

Mr. GREGORY. Yes or no?

Mr. LAGOMARCINO. Yes; we do.

Mr. GREGORY. What about the so-called Kennedy-Baucus amendment, which takes away some \$30 million from research and statistics and puts it into a discretionary fund? It is not a question of whether you prefer to have that in block grants; you can't within the rules of the conference. You can't change that. You take it or leave it. Up or down, how do you go on that?

Mr. LAGOMARCINO. Well, we don't feel very strongly about it. It doesn't help us. It doesn't help us with this situation. It is not meeting the problems that have been described here this morning. I hesitate to give you an up or down answer.

Mr. GREGORY. Do you find the support for the statistical centers useful? In other words, if you are choosing between your chances of a discretionary grant program and what you get out of a national research program and the statistical support, where do you come out?

Mr. VOLKMER. If you are not able to make a recommendation, just say so.

Mr. LAGOMARCINO. That puts us between the rock and the hard place. I don't think I would want to make a recommendation. We have been supportive of the research function, and still are, and the statistical function, and we remain in support of that. Being put in the position of having to choose between that and the discretionary fund, however, is not a choice I would like to make, and I doubt very seriously if the Governors would want to make a choice in that regard.

Mr. VOLKMER. We in Congress will make that choice.

Mr. LAGOMARCINO. Yes, sir, you will.

Mr. VOLKMER. We don't hesitate. We do those things. Thank you very much. I appreciate your coming here, Mr. Lagomarcino.

Mr. LAGOMARCINO. Thank you.

Mr. VOLKMER. Now we have Mr. John O'Sullivan, director of the Hennepin County Criminal Justice Coordinating Council for the past 8 years. Following the institutionalization of the CJCC in 1977, he has held a concurrent appointment as supervisor of the Hennepin County Criminal Justice Planning Unit. Prior to working for Hennepin County, Mr. O'Sullivan held the positions of assistant director, then director, of a regional planning unit in Minnesota. Hennepin County is in Minneapolis or St. Paul, which one?

Mr. O'SULLIVAN. Minneapolis.

Mr. VOLKMER. Mr. O'Sullivan was a founding member of the National Association of Criminal Justice Planners. He has served



three terms on its executive committee and is now in his second term as vice chairman of the association. He has served on the National Association of Counties Criminal Justice Steering Committee for 5 years. This year Mr. O'Sullivan has been appointed vice chairman of the Criminal Justice Planning Subcommittee. Thank you very much, Mr. O'Sullivan. You have a statement that has been submitted to the committee.

Mr. O'SULLIVAN. Yes, sir.

Mr. VOLKMER. That will be made part of the record. Because of time constraints, we would appreciate it if you would just summarize your statement. Hit the main points that we are interested in. I think we are all interested basically in administration, and things like that, where the money is going to come from.

[The information follows:]

STATEMENT OF JOHN O'SULLIVAN, DIRECTOR, HENNEPIN COUNTY, MINN., CRIMINAL JUSTICE COORDINATING COUNCIL, VICE-CHAIR, NATIONAL ASSOCIATION OF CRIMINAL JUSTICE PLANNERS, AND VICE-CHAIR, NACO SUBCOMMITTEE ON CRIMINAL JUSTICE PLANNING, ON BEHALF OF THE NATIONAL ASSOCIATION OF COUNTIES

Mr. Chairman and members of the committee, I am John O'Sullivan, director of the Hennepin County, Minnesota, Criminal Justice Coordinating Council. I also serve as Vice-Chair of both the National Association of Criminal Justice Planners and the National Association of Counties' Subcommittee on Criminal Justice Planning. I appear here today to present the National Association of Counties' views on the Law Enforcement Assistance Administration's phase-out plan.

NACO has been a staunch supporter of LEAA, during the reauthorization process, and more recently, during the appropriations process. LEAA has provided necessary assistance to counties, by funding innovative programs which our financially strapped counties could not afford to experiment with. Now many of these programs have been picked up by county governments after having been shown to improve the efficiency of the criminal justice system and reduce costs.

Among the programs that have been successful at the county level are victim-witness programs, career criminal programs, programs to reduce jail overcrowding, PROMIS—a computer-based information system for prosecutors, special prosecutorial units to combat crime and jury management programs.

A thread that runs through these programs shows LEAA's most important contribution to the criminal justice system: increased cooperation among police, prosecutors, courts and corrections. Any change in one area of the system affects the others. LEAA through its support of system coordination, has encouraged the once fragmented components to consider these impacts when developing programs and policies. It has also fostered this closer cooperation by funding programs that cross the functional lines between police, prosecutors, courts and corrections. Thus, system overloads, duplication of effort and, therefore, costs have been reduced.

It should not be surprising, then, that NACO supports LEAA, the sole agency providing federal assistance to the criminal justice system. And our dismay at the recent course of events should be understandable.

During a period of about six months, Congress passed the Justice System Improvement Act which reauthorized LEAA for four years; President Carter signed it into law and, in his first budget message, proposed \$571 million for LEAA in fiscal 1981. At this point we were confident that both Congress and the President were committed to giving the reorganized LEAA the opportunity to work. In March, we learned how far off the mark this expectation was. President Carter, in his second budget message, proposed that no new money be appropriated for state and local assistance under LEAA and that the agency be phased out over three years. And the same Congress, that only a few months before, had voted to reauthorize the program for four years, now supported budget and appropriations measures that would kill LEAA.

<sup>1</sup> The National Association of Counties is the only national organization representing county government in the United States. Through its membership, suburban and rural counties join together to build effective, responsive county governments. The goals of the organization are: To improve county government; to serve as the national spokesman for county governments; to act as a liaison between the nation's counties and other levels of government; and to achieve public understanding of the role of counties in the federal system.

There were a few Congressmen who did try to save the agency, with whom we have worked closely during these months. Representative Gudger and Representative McClory have led a difficult fight and NACO commends them for their efforts.

The developments I just mentioned have brought us to the specific topic of these hearings; the plan for phasing out the LEAA program. Even though Congress is not appropriating money for the agency, there will be LEAA funds and projects at the state and local levels for two to three more years. Therefore, LEAA has developed a phase-out plan. Three considerations must form the basis for such a plan: First, it must assure that, as long as federal money is available, it is being spent for purposes stated in the Justice System Improvement Act; second, it must maintain the present role of state and local governments in the program; and third, it must reflect the fact that, as LEAA funding is phased out, local governments, both counties and cities, will be called upon to pick up by far the greatest percentage of the financial slack.

The National Association of Counties believes that LEAA's phase-out plan deals with these considerations as well as can be expected. The guidelines, set forth in Administrator Homer Broome's July 10th letter and in the subsequent notice (LEAA N4100.1) issued July 11th, require a significant and appropriate role for local criminal justice planning units. NACO gives its full support to the guidelines, because of the following specific requirements:

- That states need to consult closely with local governments;
- That they adhere to statutory pass-through ratios for action funds;
- That active subgrants not be terminated solely for the purpose of providing administrative funds;
- That administrative expenditures in FY 1981 may not exceed the amount provided for in the FY 1980 plan;

- That the state's request for the reprogramming of action funds for administrative purposes must be approved by the state criminal justice council; and

- That states must pass through administrative funds to local units performing necessary programmatic grants, and financial management functions.

The range of local planning unit involvement in programmatic and financial management varies from those with no role to some that function as mini-state planning agencies (SPAs). We expect local units, which now have any of these administrative responsibilities, to receive funds. This will enable them to fulfill various accountability requirements for the projects that will be in operation in the next few years.

Local units with the highest level of administrative responsibilities develop and execute subgrant contracts; monitor and administer projects both programmatic and financially; and perform audits of the subgrantees.

In Hennepin County, we will have 17 projects still operating in fiscal year 1981. My office which has greater than average involvement in administrative functions is responsible for drawing down funds from the SPA for block grant projects and, for discretionary grants, drawing down funds from LEAA's regional disbursing office in Chicago. We distribute funds to subgrantees, authorize expenditures, and submit quarterly financial reports to LEAA's Washington office, moreover, at a minimum, we annually conduct, and prepare reports on on-site monitoring of each project.

In order to assure continued accountability at the subgrant level, local planning units that presently perform the types of functions my office is responsible for, must be assured continued funding. A further reason for supporting local involvement during the phase-out period is that local governments spend far more for criminal justice than the other two levels of Government.

In 1978, local governments made 59.4 percent of the total criminal justice expenditures in the nation. States were responsible for 27.7 percent. Many counties are likely to assume additional costs for successful projects for which LEAA funds are no longer available. These and other counties will need to use the phase-out period to develop more cooperative relationships with their states and also to explore the possibility of state funds replacing LEAA dollars. A smooth transition period with significant local input and involvement is imperative, if alternate methods for supporting innovative criminal justice programs are to be found.

As I said earlier, NACO believes that LEAA's guidelines for the phase-out plan go as far as they can to preserve the local role and to assure that federal mandates are carried out. In developing procedures for phasing out a federal agency, LEAA officials are covering new ground. Homer Broome and his staff deserve a lot of credit for doing a difficult job well.

Thank you, Mr. Chairman, for giving me the opportunity to present NACO's views on LEAA's phase-out plan. I will be happy to answer any questions.



TESTIMONY OF JOHN O'SULLIVAN, DIRECTOR, CRIMINAL JUSTICE COORDINATING COUNCIL, HENNEPIN, MINN., AND VICE CHAIRMAN, NATIONAL ASSOCIATION OF COUNTIES, SUBCOMMITTEE ON CRIMINAL JUSTICE PLANNING, ACCOMPANIED BY JON WEINTRAUB, ASSOCIATE DIRECTOR AND LEGISLATIVE COORDINATOR

Mr. O'SULLIVAN. Thank you for entering our written comments into the record. I will only highlight those, given the time considerations.

I am accompanied by Mr. Jon Weintraub, associate director.

As the previous speaker and the speaker for Governors' Conference indicated, NACO has historically, as I think you well know, supported the continuance of the LEAA program. We do disagree with the seeming phasedown of the program, but nonetheless wish to indicate that in that process county government throughout the country is prepared to discharge its responsibilities.

The National Association of Counties believes that LEAA's phaseout plan equitably recognizes the various levels of responsibility in the program. I think it is interesting to note that across the country an average figure for expenditure of local revenue dollars for criminal justice purposes tends to be in the area of 50 to 60 percent on the part of local governments, so there is a substantial responsibility for the delivery of justice services by county government in this country.

The guidelines set forth in Administrator Broome's recent letter and the subsequent notice that came out we think fully recognizes a significant and appropriate role for local government and local criminal justice planning agencies. NACO gives its full support to these guidelines, because, in particular, of the following specific requirements:

One, States need to consult closely with local governments to develop a responsible way of closing down the programs in our respective jurisdictions.

Two, that in so doing, the statutory pass-through ratios for these action funds be maintained.

Three, that active subgrants may not be terminated solely for the purpose of generating administrative funds.

As a brief aside, we certainly appreciate the committee's interest in this closeout process, and in particular would invite your oversight of this process in the three areas that I just mentioned. We think they are very important.

Also I would like to note that I believe, as Mr. Broome and Mr. Dogin said earlier this morning, that the administrative expenditures in fiscal 1981 should be capped at the 1980 level. I believe that is in recognition of the point that the Chair is making. There is a reasonable correlation between the need for fewer staff and the program winding down.

Another point is that the States request for reprogramming of these action funds that are due August 29 must be reviewed and approved by the State justice councils on which local units of government and community agencies throughout the State have representation.

Another point is that States must pass-through administrative funds to local units of government who have responsibilities for performing various programmatic and financial management functions relative to the grant-in-aid program.

I would like to dwell on that for just a couple of moments, if I may, because I think, having been involved in the program for about 12 years, that the local government involvement in the program is perhaps one of the least understood.

The range of local planning unit involvement in the program and financial management aspects of the LEAA program varies quite substantially, from in some jurisdictions little more than an advisory function with really not much to do in the actual financial management aspects of it, up to, on the other end of the spectrum, a rather substantial involvement. In effect, there are local offices throughout the country that operate as mini-State planning agencies, probably best known to the committee as the block grant concept within a State.

We would expect, of course, that local units which now have these rather substantial administrative responsibilities will receive funding in accordance with those responsibilities to assist them in fulfilling the various accountability requirements in closing out the program.

By way of example, local units with the highest level of administrative responsibility that I referred to a moment ago, execute subgrant contracts. In effect, we receive a block of funding from the State, and then execute individual project contracts; monitor and administer projects, both programmatically and financially; and even in some instances perform the audit function at that local level.

In my particular jurisdiction we are anticipating now maintaining approximately 17 programs going into fiscal 1981. My office, which I think across the country has perhaps a greater level of involvement than most, is responsible for drawing down the funding from the State for block-grant projects and, in the instance of four or five discretionary grants that we have, drawing down funds from the Federal regional disbursing office in Chicago. We then, of course, distribute that funding to the grantees and authorize expenditures.

I am the financial officer and sign off on every penny spent in any grant, and submit quarterly and financial program reports, both to the SPA and, on those discretionary grants, to Washington.

Moreover, at a minimum we annually conduct onsite monitoring visits and prepare reports on all projects. Those incidentally are directed to the local elected officials responsible for that project, so that they have available to them information to assist them in making decisions when it comes time to consider institutionalizing those projects.

As I said earlier, NACO believes that LEAA's guidelines for the phaseout plan go as far as they can to preserve the local government role, and to assure that Federal mandates are responsibly carried out. In developing procedures for phasing out of the Federal agency, it should be noted that LEAA officials are covering new ground. Again, I think that was the point raised by Mr. Broome earlier this morning.



We would like to recognize the participation that has been afforded NACO and the other local government groups in these past several months. Mr. Broome and his staff have bent over backward to involve all the varied interests, and they certainly deserve credit for a job well done.

Similarly, we would like to recognize, of course, the support of Representatives Gudger and McClory for their hard work and support for LEAA these past several months.

I would like to pick up on one final point, Mr. Chairman, before answering any questions the committee may have, and that is a point made by the last speaker on the subject of institutionalizing the planning function at the State and local levels. I recall several years ago assisting NACO in the development of a publication, in effect a cookbook, providing information, advice, and recommendations to county governments throughout the country as to how they might proceed in institutionalizing local planning offices.

I might add that our office was institutionalized almost 4 years ago now, and with a budget of approximately \$400,000 for supporting the kinds of activities we are involved in, I would like to add that only \$31,000 of that in this fiscal year are LEAA-administrative dollars. The rest is action and local revenue.

Mr. Chairman, I would be glad to answer any questions the committee may have, or amplify on some of the comments I have already made.

Mr. VOLKMER. You have heard the testimony from Mr. Thomas and Mr. Lagomarcino as to the State problems in administration—where do we get the money? You have my comments, where I feel their alternatives lie. How do you feel about those alternatives? I think the basic alternatives are if we can stop the discretionary funding at the national level, any new discretionary funding, and also the State councils are going to have to go through the process of reprogramming.

Mr. O'SULLIVAN. Yes, sir. Mr. Chairman, a couple of points on that. First of all, I was not aware of the fact that LEAA may be making any new discretionary grants.

Mr. VOLKMER. I wasn't either until this morning. It looks like they are.

Mr. O'SULLIVAN. In the event that is the case, I guess I, too, would be concerned about that. I would like to point out, however, that the discretionary program is a categorical grant-in-aid program to State and local units of government. We happen to be a beneficiary of four discretionary grants at the moment in our jurisdiction.

Mr. VOLKMER. I won't argue that, but the point is if they are brand new, and they are supposed to be 3-year or possibly 4-year programs, to me it just doesn't make a great deal of sense, when we are looking at a phasedown, at the same time starting something going here when everything else is going this way.

Mr. O'SULLIVAN. Again, to the extent that they are making new ones, I would agree that that would not seem to be a judicious use of scarce resources at the moment.

Mr. VOLKMER. Instead of just using the ones that are ongoing.

Mr. O'SULLIVAN. Right.

Mr. VOLKMER. And the good ones, using those.

Mr. O'SULLIVAN. Right.

Mr. VOLKMER. Because, personally, with the mood of the Congress at the present time, to go in and say, well, we are going to need \$17 million additional money for administrative costs on the State level to audit and bring down the LEAA funds wouldn't be very popular at this time, I am afraid.

Mr. O'SULLIVAN. Yes.

Mr. VOLKMER. You understand, when they set out here \$1 billion in the pipeline, and you want \$17 million. I am afraid most of them will say you take some of that \$1 billion and you use that, and personally I feel that way. Some of us feel up here even with Federal programs that perhaps some of them can do with a little bit less and still make it.

Maybe everybody can look at some of these discretionary programs, the programs funding block grants and all of them, and say: Is this one really the one, or we just started this one, it has hardly gotten off the ground. Why don't we just chop it off. Sure, we would like to keep it, it looks like a real good one, but sometimes somebody has to make those hard decisions.

I think that is the story that should go back.

Mr. O'SULLIVAN. I would like to add, I guess, a final point, and that is support for a point made by several of the previous speakers. I would hope that the Department of Justice would not, in the near future, be permitted to again reprogram.

Mr. VOLKMER. Take money out. I agree with that, that this is no place to take that money away.

Mr. O'SULLIVAN. There are certainly competing interests for it, and the purposes to which that money was reprogramed are definitely needed, but there were other ways I think that adequate funding may have been secured for that.

Mr. VOLKMER. Does staff have any questions?

Mr. GREGORY. No, Mr. Chairman.

Mr. VOLKMER. Thank you very much, Mr. O'Sullivan. I appreciate your coming forward and discussing this with us.

That will conclude the hearings for today.

[Whereupon, at 12:20 p.m., the subcommittee adjourned.]



APPENDIX

OFFICE OF THE ATTORNEY GENERAL,  
Washington, D.C. Mar. 3, 1980.

Hon. JAMES T. MCINTYRE, Jr.,  
Director, Office of Management and Budget,  
Washington, D.C.

DEAR MR. MCINTYRE: In your memorandum of February 29, 1980, you requested me to recommend program cuts resulting in 1981 outlay reductions of at least \$163 million. The total reduction target was specified as \$27 million applicable to operating expenses and \$136 million in other reductions which are principally grant programs.

In the area of operating expenses, I have recommended reductions in virtually all Department organizations. Examples include a reduction of \$3 million in the Federal Bureau of Investigation for planned vehicle and equipment purchases and \$4.5 million in the Bureau of Prisons made possible by an acceleration of the closing of the McNeil Island Penitentiary. Another large reduction recommended is \$14.5 million dollars in general pricing level adjustment included in our 1981 budget for inflationary increase in non-personnel expenses. It is possible, however, that I may later determine that some operating programs cannot withstand the entire reduction in this category. If this occurs, I will offset any restoration through a corresponding personnel reduction in the front office staffs of all principal Department officials, including my own office.

On turning to the "other reductions" category, you leave me with no other real choice than to recommend a phased termination of the Law Enforcement Assistance Administration (LEAA). In order for me to achieve a \$136 million reduction in 1981 outlays, it will be necessary to seek a rescission of \$102 million in 1980 LEAA, National Institute of Justice (NIJ) and Bureau of Justice Statistics (BJS) budget authority and to recommend a 1981 budget amendment that would eliminate all new budget authority for LEAA's major formula and discretionary grant programs. The only major programs remaining in LEAA for 1981 would be the Juvenile Justice program, the Public Safety Officer's Benefits program, and a reduced LEAA Staffing level. There would continue, of course, to be outlays in 1981 and future years for formula and discretionary grants that are obligated but not yet expended. We would also continue to operate a small NIJ and BJS.

As I stated in my transmittal memorandum to you conveying the Department's initial 1981 request, one arrives at a point in LEAA funding levels where any further reductions threaten the life of the entire program. Without a meaningful funding level, the LEAA program can provide neither the guidance nor the assistance it was established to provide. The program then becomes merely a subsidy to existing state and local programs, a form of subsidy that is expensive to administer and too complex to qualify as revenue sharing.

I have reached the above recommendation after carefully reviewing the projected 1981 outlays for all other Department organizations. While I have identified some options that would result in greater reductions for other DOJ elements, these options would still require substantial reductions in LEAA; program cuts that I believe bring us below the level of program viability.

It is also important to note that the Department will not be able to absorb the costs of implementing programs authorized by the new Dispute Resolution Act. The act authorizes an appropriation of up to \$11 million in 1981 and the Department is currently preparing a 1981 amendment for this purpose. This should not result in a major problem, since there would only be \$2-\$3 million in 1981 outlays for this program.

You also requested recommendations for actions that would reduce budget outlays in 1980. The above proposal for LEAA will have a 1980 outlay reduction impact of \$15.4 million. In good conscience, I cannot recommend further reductions in 1980. The Department's current funding level is such that I am already concerned that our priority programs in white-collar and organized crime, political corruption and major drug trafficking could be impaired. I have already received several requests for 1980 supplementals which total approximately \$60 million.

I and other principal Department officials will be available to discuss my recommendations in more detail.

Sincerely,

BENJAMIN R. CIVILETTI.

Enclosure.

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[Attachment 1]

U.S. DEPARTMENT OF JUSTICE,  
OFFICE OF JUSTICE ASSISTANCE, RESEARCH, AND STATISTICS,  
Washington, D.C., June 12, 1980.

DEAR STATE CRIMINAL JUSTICE COUNCIL DIRECTOR: On May 23, 1980, the Deputy Attorney General was presented a Contingency Plan addressing the impact of the fiscal year 1981 budget proposals on the Justice System Improvement Act (JSIA) program. The Plan was prepared at the Deputy's request on the assumption that fiscal year 1981 appropriations will not deviate substantially from the President's budget.

The key premise underlying the Plan is the need to phase-out the criminal justice assistance programs in an orderly and responsible way. The Plan reflects our firm belief that there must continue to be effective stewardship for the sizeable sums of public monies still "in the pipeline" and the literally thousands of grants and subgrants that are active or awaiting closeout.

Phase-out duties fall heavily on the States, which have principal responsibility for managing the formula grant monies. The Contingency Plan recognizes the pivotal role of the States in meeting the stewardship and accountability requirements for the formula program, and argues forcefully for the retention of the State capacity to carry out these residual administrative responsibilities.

The Deputy Attorney General is committed that phase-out activities shall be conducted responsibly and agrees with the philosophy and approach outlined in the Contingency Plan. Of particular concern to you, the Deputy concurs with the recommendation that immediate steps be taken to provide sufficient administrative monies to the States to support phase-out activities in fiscal year 1981.

We are extremely pleased with this positive response and are moving to implement the decision as quickly as possible. We have obtained an opinion from the Department's Office of Legal Counsel (copy enclosed) which concludes that the Law Enforcement Assistance Administration (LEAA) may modify its grant agreements with the States to permit the use of unexpended action funds for administrative purposes. We have also consulted with officials of the Office of Management and Budget (OMB). They support administrative funding for the States in fiscal year 1981, provided that such funding is obtained by reprogramming existing monies. While we must, of course, notify the appropriate Congressional committees of our intent to reprogram action funds, we anticipate a favorable response, given the backing of OMB and the Department and the exigencies of the situation.

In short, we are confident that there will be Federal support for State CJC operations in fiscal year 1981. Administrative funds will be obtained by reprogramming formula action monies which are still available to the States for expenditure. We hope that this action will allay uncertainties among our staff and provide for increased stability and continuity.

Many questions must still be resolved. These include the amount of funds to be made available and the terms and criteria for their receipt and use. As called for in the Contingency Plan, LEAA staff are now preparing detailed guidance for the States on these and related issues, and will consult closely with the States during this process. LEAA anticipates providing each of you such guidance by the latter part of this month, and asking for a plan modification to be submitted about 6 weeks thereafter.

In closing, we want to thank you for your patience and support during this difficult period. Never have your advice and counsel been more needed and more appreciated. While the future of the program remains uncertain, it is prudent to plan for those actions necessary to responsibly phase-out. Doing so is a significant challenge, but one we can meet through continued cooperative efforts.

Sincerely,

HENRY S. DOGIN,

Director,

Office of Justice Assistance, Research and Statistics.

HOMER F. BROOME, JR.,

Administrator,

Law Enforcement Assistance Administration.

Enclosure

DEPARTMENT OF JUSTICE,  
Washington, D.C.

Memorandum for: Hon. Charles B. Renfrew, Deputy Attorney General.  
Re: Use of LEAA program grant funds for administrative purposes.

This responds to your request for our opinion on the question whether the States may be permitted to use a portion of certain unexpended Federal grant funds in their possession for purposes other than those for which they were originally intended. We conclude that they may.

The funds in question have been awarded to the States over the past several years pursuant to agreements with the Law Enforcement Assistance Administration under Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. § 3701 et seq. (hereafter "Crime Control Act"). Under the terms of these agreements, certain sums have been awarded to the States for administrative or planning purposes under Part B of the Crime Control Act, and certain sums for programmatic purposes under Parts C and E of that Act. By the end of the present fiscal year funds awarded under Part B for administrative purposes will have been entirely obligated by the States; however, there will remain to be administered and expended over the next two years some \$600 million in programmatic funds awarded under Parts C and E.<sup>2</sup> The practical necessity of devoting some portion of these funds to administration has arisen because of Congress' tentative decision to appropriate no new monies for any formula grant awards by LEAA for fiscal year 1981. The question is whether LEAA's agreements with the States can now be modified to permit States to use funds originally awarded for programmatic purposes to supplement their exhausted administrative funds.

The statutory provisions authorizing LEAA to make grants under Parts B, C and E of the Crime Control Act set no relevant limits on the amount of money which LEAA can lawfully allocate to each Part.<sup>3</sup> In theory, LEAA could, consistent with its authorizing act, enter into agreements with States under which grant funds could be used either for administration and planning or for programmatic purposes. There is, therefore, no obstacle in the authorizing statute to using some programmatic funds for administrative purposes.<sup>4</sup>

Nor do LEAA's appropriation statutes constrain it in this regard. LEAA's is a lump sum appropriation, and as such can be used for any purpose consistent with the purposes of the authorizing statute. See e.g., *Newport News Shipbuilding and Drydock Co.*, 55 Comp. Gen. 812, 819-21 (1976). An agency's representation to Congress as to how it proposes to allocate appropriated funds is legally binding on the agency only to the extent that its proposed allocation finds its way into the language of the appropriation statute itself. Nothing in the language of LEAA's appropriations acts for the past three years suggests that funds awarded under Part B for

<sup>1</sup> Funds were awarded by LEAA to the States for fiscal year 1980 in accordance with categories established by the Justice System Improvement Act of 1979, Pub. L. 96-157, 93 Stat. 1167 (Hereafter 1979 Act). However, this Act was not passed by Congress until after the beginning of the 1980 fiscal year, so that awards which had already been made for fiscal year 1980 were made under authority of the Crime Control Act. Transition provisions in the 1979 Act intended to facilitate the shift to a new award system provided authority for LEAA to award funds already appropriated "in accordance with the provisions of the prior Act." H.R. Rep. No. 655, 96th Cong. 1st Sess. 80 (1979) (conf. rep.). See Part M of the 1979 Act, §§ 1301(d), (f) and (h).

<sup>2</sup> Under § 520 of the Crime Control Act, 42 U.S.C. § 3768, funds appropriated under Title I remain available for obligation until expended. Under the terms of LEAA's agreements with the States, funds not obligated by the States by the end of the third year after their appropriation, revert to LEAA.

<sup>3</sup> Section 205 of the Act provides for a minimum sum to be awarded every State under Part B, with "the remainder of such funds available" allocated among the States in accordance with a formula based on population. Section 520(a) provides that the sum allocated by LEAA to Part E will be no less than 20 percent of the amount allocated to Part C. Other than these two provisions, however, there is nothing in this authorizing statute which obligated LEAA to allocate appropriated funds among Parts B, C and E in any particular manner.

<sup>4</sup> The 1979 Act does set a ceiling on funds to be allocated for administrative purposes, see § 401 (c) (1). However, since none of the money in question was appropriated under authority of that Act, see note 1 supra, this ceiling would pose no obstacle to modifying agreements entered into under authority of the Crime Control Act.



administrative expenses could not be increased by agreement between LEAA and a particular State, or that obligated funds originally earmarked for programmatic purposes could not in the same manner be shifted to administration if necessary. In sum, we see no bar either in the authorizing statute or the appropriations acts to LEAA's entering into a modification of its grant agreements whereby the States will be permitted to use funds previously designated for programmatic purposes to accomplish necessary administrative tasks.

Section 8 of the Department of Justice Appropriation Authorization Act for Fiscal Year 1980, Pub. L. 96-132, 93 Stat. 140, 146, contains a provision requiring each organizational component of the Department of Justice to give 15 days notice to specified congressional committees of any decision to "reprogram" funds in excess of a certain amount. In the case of LEAA, this amount is \$500,000. Under the terms of the statute, notification must be given whenever funds are shifted within an agency from one "program" to another, as that term is defined in the Department of Justice's submission to Congress in support of its authorization request. The notification requirement would apply, therefore, when LEAA shifts funds from one line item in its authorization submission to another, even though LEAA's appropriation itself is in a lump sum.<sup>3</sup> While the present situation could perhaps be distinguished from the more typical agency "reprogramming" action, some public action by LEAA will be necessary in any event to permit the States to accomplish the desired shift of programmatic funds. We therefore think that the appropriate congressional committees should be notified of LEAA's intention to take this course of action.

LARRY L. SIMMS,  
Deputy Assistant Attorney General,  
Office of Legal Counsel.

U.S. DEPARTMENT OF JUSTICE,  
OFFICE OF THE DEPUTY ATTORNEY GENERAL,  
Washington, D.C. June 16, 1980.

Hon. PETER W. RODINO, Jr.,  
House of Representatives,  
Washington, D.C.

DEAR CHAIRMAN RODINO: For your information, I am sending you a copy of recent correspondence between two members of the Committee on the Judiciary, Congressmen McClory and Gudger, and the Department of Justice concerning recent developments with the Office of Justice Assistance, Research, and Statistics and the Law Enforcement Assistance Administration.

I know that you are interested in these developments, and we want to keep you fully informed about what the Administration and Department of Justice have done and why.

Sincerely,

CHARLES B. RENFREW,  
Deputy Attorney General.

Enclosures.

U.S. DEPARTMENT OF JUSTICE,  
OFFICE OF THE DEPUTY ATTORNEY GENERAL,  
Washington, D.C. June 16, 1980.

Hon. ROBERT MCCLORY,  
House of Representatives,  
Washington, D.C.

DEAR CONGRESSMAN MCCLORY: Attorney General Civiletti has asked me to respond to your letter of May 7th expressing concern about certain actions which have been proposed and taken with regard to the Law Enforcement Assistance Administration.

By way of introduction, both the Attorney General and I regret the necessity for the drastic reduction of LEAA funding which was proposed in the Administration's revised budget request and which has been approved by the Budget Conference Committee and by the House Appropriations Committee. The Department of Justice had high expectations about what LEAA and the Office of Justice Assistance, Research, and Statistics could accomplish in their reorganized form after the enact-

<sup>3</sup> This notification requirement is discussed in the committee reports on the Justice Department's appropriation statute for 1980. See S. Rep. No. 251, 96th Cong., 1st Sess. 8 (1979); H.R. Rep. No. 247, 96th Cong., 1st Sess. 6 (1979).

ment of the Justice System Improvement Act, to which you made such an important contribution.

In the course of the Administration's formulation of its revised budget proposal, the Attorney General and I made sure that all the participants in that process understood the success of many of LEAA's programs and its promise for the future. Nevertheless, it is clear that substantial sacrifices must be made in order to meet the compelling goal of balancing the federal budget, and one of those sacrifices must involve LEAA and the state and local governments which receive its grants.

We are committed to implementing the President's decision. In carrying out that task in as professional and responsible a manner as possible, we will do everything that we can to ensure that the remaining LEAA programs are effectively carried out and that LEAA has the manpower resources it requires to do that job. In addition, the Department will continue to assist state and local law enforcement activities, not only through the remaining programs of OJARS, but also through the continuing efforts of other departmental organizations.

With this background, I want to address some of the specific budgetary decisions which you discussed in your letter.

1. *Critical costs of investigations.*—The Department of Justice has experienced a substantial and uncontrollable increase in the cost of a number of critical investigative functions, which require additional funding this year. The largest and most immediate of these needs involves the cost of essential transportation in criminal investigations. Because these investigations simply cannot be conducted by telephone and letter, cutting this kind of transportation means cutting criminal investigations themselves. If you would like, we will provide you with documentation of the seriousness of this problem.

As part of the policy of fiscal restraint, the Office of Management and Budget determined that no additional budget authority could be considered for supplemental needs of the Department of Justice, and it was therefore necessary to seek existing funds from within the Department to cover these increased costs. After a careful review, the Attorney General decided that these supplemental needs should be funded from unobligated prior-year LEAA funds and reverted funds from the Law Enforcement Education Program (LEEP).

2. *LEEP transfers.*—LEEP was to be transferred to the Department of Education at the time of its formal opening. That Department did not request LEEP funds for fiscal year 1981, and under the President's revised budget request, the Department of Education planned to rescind part of the reverted LEEP funds as a means of reducing fiscal year 1981 outlays. For these reasons, the Department of Justice drew upon reverted funds from LEEP as a source for funding critical and immediate needs of our law enforcement bureaus. I want to emphasize that those students currently receiving LEEP funds for the 1979-1980 academic year will not be affected by this reprogramming.

3. *Political conventions.*—In keeping with a precedent established in 1972, LEAA agreed to provide funding for security at the national political conventions this year in Detroit and New York. In 1976, LEAA received explicit congressional approval to reprogram up to \$5.2 million in reversionary funds to assist the enforcement agencies in the host cities. In 1980, Detroit and New York will require substantial additional police resources to permit the orderly functioning of the conventions and to provide maximum safety for convention participants, visitors, and the residents of these cities. The Department's request to reprogram \$7 million for this purpose has been under consideration by the Judiciary and Appropriation Committees.

4. *Pay cost increases.*—LEAA will use approximately \$2 million in reverted funds to finance only its own fiscal year 1980 pay cost increase. None of these funds will be used for pay cost increases of other organizations within the Department. In prior years, the Appropriations Committees have directed LEAA to use reverted funds for its own pay increase requirements.

5. *Employee transfers.*—You questioned the transfer of LEAA employees to other organizations within the Department. The reduced funding for LEAA proposed by the President and approved by the Budget Conference Committee and the House Appropriations Committee would result in reducing the number of LEAA employees. In order to meet what we believe is a significant commitment to the employees who have served LEAA and the Department effectively and loyally, the Attorney General has decided to fill vacancies in the Department with qualified LEAA employees where possible. These steps are necessary now in order to ensure that to the maximum extent possible, all LEAA employees whose positions must be phased out will have an opportunity to remain in government service without any interruption.

I hope that this letter satisfactorily addresses the concerns which you raised in your letter. I share your disappointment about these reductions in the activities of



LEAA and your concern about their consequences for state and local governments and for the employees of LEAA. Unfortunately, the overall fiscal restraints on the federal budget require these difficult and painful decisions. We will continue to do whatever we can within the Department's budgetary constraints to make these adjustments as effectively and responsibly as possible.

Sincerely yours,

CHARLES B. RENFREW,  
Deputy Attorney General

CONGRESS OF THE UNITED STATES,  
COMMITTEE ON THE JUDICIARY,  
Washington, D.C., May 7, 1980.

Hon. BENJAMIN R. CIVILETTI,  
Attorney General, U.S. Department of Justice,  
Washington, D.C.

DEAR MR. CIVILETTI: On March 6, 1980, when you appeared before the Committee on the Judiciary of the House of Representatives, several Members of the Committee, including the Chairman and ourselves, voiced great concern about the future of the Law Enforcement Assistance Administration (LEAA). That concern has been augmented by recent Administration actions.

A concerted effort is apparently underway to completely undermine LEAA. This effort began with the Task Force commissioned by former Attorney General Griffin Bell and climaxed with the revised Budget request submitted by the Administration in April, which virtually eliminates the entire grant program.

Several recent Administration proposals which have been brought to our attention are the latest in this series of unprecedented attempts to destroy a valuable federal program. First, the Department has transmitted a request for supplemental appropriations for Fiscal Year 1980, which would, possibly contrary to law, transfer \$13.4 million from LEAA to the Drug Enforcement Administration, the FBI, and the INS for increased gas costs and other expenses. Second, through reprogramming, an additional \$7 million is proposed to be transferred from the Law Enforcement Education Program (LEEP) to the Technical Assistance Program to provide security for the national political conventions this summer. The Department also plans to transfer an additional \$6 million from LEEP "to meet other critical needs of the Department" and \$2 million to fund cost-of-living pay increases for Department employees, although no official notice of these planned reprogramings has been received. Apparently, LEAA is not being treated as the sole federal program to counter a very serious problem, but as a sort of "slush fund" into which the Department can conveniently dip to finance its unrelated needs. Finally, as Congressman Romano Mazzoli, our colleague on the Judiciary Committee, pointed out in a recent letter to you and in remarks in the April 29, 1980 Congressional Record, employees are also being transferred from LEAA to other divisions of the Department of Justice. Thus, it appears that LEAA is not only a "slush fund", but a manpower pool as well. This treatment is regrettable.

In 1979, the Congress passed, and President Carter signed, the Justice System Improvement Act of 1979 (P.L. 96-157), which reauthorized and revitalized the LEAA for an additional four years, reflecting the high national priority accorded to the war on crime. Since, as you announced on April 30, 1980, crime soared in 1979, we would think that the actions of your Department would reflect that the assistance is needed more urgently than ever.

We, who managed the reauthorization in the House of Representatives, strongly object to this attack on LEAA. It runs contrary to the intent of Congress and the President's support for LEAA as reflected in the Justice System Improvement Act of 1979. We urge you to take whatever action is necessary to stop the dismantling of this most worthy agency and to remedy whatever financial and psychological damage has occurred.

Your prompt response to this inquiry would be appreciated.

Sincerely,

LAMAR GUDGER,  
ROBERT MCCLORY.

EXECUTIVE OFFICE OF THE PRESIDENT,  
OFFICE OF MANAGEMENT AND BUDGET,  
Washington, D.C., June 17, 1980.

Hon. PETER W. RODINO, Jr.,  
Chairman, Committee on the Judiciary,  
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for letting me know your concerns about eliminating grant programs in the Law Enforcement Assistance Administration.

As you know, a number of the functions originally performed by LEAA have been reorganized within the Department of Justice. The budget cuts we have proposed in LEAA programs deal mainly with grants to State and local governments. The Justice Department will continue to train local law enforcement officials, conduct research, collect national statistics and fund field tests of projects to improve State and local criminal justice systems.

In making the difficult decisions required to balance the budget, we believed that it was proper to eliminate Federal support for functions which are basically State and local government responsibilities, and limit our support to areas where the Federal Government is in the best position to make an effective contribution. Fighting crime, improving the court systems and conditions of jails and prisons, and improving police techniques are several examples of local government responsibilities. The Federal Government can, however, provide effective leadership through the conduct of research in various fields such as criminal behavior, enforcement and adjudication. It would also be useful to demonstrate the results of this research—and accordingly, we will consider providing for a small demonstration program through increased funds for the National Institute of Justice in fiscal years 1982 through 1985. Those projects that prove to be successful could then be assumed by State and local governments on a more permanent basis.

I appreciate your interest in this area, and would be pleased to provide you with any further information that might be useful.

Sincerely,

JAMES T. MCINTYRE, Jr.,  
Director.

U.S. DEPARTMENT OF JUSTICE,  
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION,  
Washington, D.C., July 10, 1980.

DEAR CRIMINAL JUSTICE COUNCIL DIRECTORS: Based upon the President's revised Fiscal Year 1981 budget request and Congressional action to date, it appears unlikely that criminal justice formula grant funds will be made available in Fiscal Year 1981. Given the substantial amount of funds still active in thousands of operating sub-grants, it is necessary to undertake planning efforts to provide for the continued administration of ongoing activities in compliance with federal grant-in-aid requirements. To facilitate this process, the Department of Justice, Office of Legal Counsel, has issued a legal opinion which enables the Law Enforcement Assistance Administration (LEAA) to permit the use of previously awarded formula grant action funds for administrative purposes. A letter discussing the matter, along with a copy of the cited legal opinion, has been sent to your office.

This letter sets forth several important additional actions which must be completed to assure that stewardship and accountability responsibilities are discharged and that all funds are fully and constructively utilized. First, by August 29, 1980, we must receive a reprogramming request from your office which details the process to be employed to administer the LEAA formula grant program in Fiscal Year 1981. The following should be considered with respect to the reprogramming of block grant action funds for administrative purposes:

Only those programmatic, grants management, and financial management functions and activities necessary for the proper administration of federal funds consistent with statutory and guideline requirements can be supported. Proposed administrative functions and activities must be specifically identified in the reprogramming request and their relationship to compliance with federal grant-in-aid requirements must be described.

It is anticipated that the formula grant program of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, will continue and that the reauthorization bill will be signed into law this fall. For those states participating in the OJJDP formula grant program, provisions must be made for compliance with the administrative requirements of the program. To this end CJsCs also may reprogram unobligated Fiscal Years 1978, 1979 and 1980 Crime Control Act block grant funds



necessary to supplement funds available for planning and administration under the JJDP Act. Additional guidance from the Office of Juvenile Justice and Delinquency Prevention will be published in the Federal Register within the next two weeks on issues relating to the implementation of this act.

All current guidelines remain in effect.

The Contingency Plan presented to the Deputy Attorney General recognizes that local governments play an important role in the LEAA formula grant program. Therefore, states need to consult closely with local governments and criminal justice planning bodies in preparing any reprogramming request. States also must assure that local entities receive adequate funding where such local entities exercise programmatic, grants management, and financial management functions necessary for the proper administration of federal funds consistent with statutory and guideline requirements. The reprogramming request submitted by the state to LEAA must indicate which localities are to be supported, the amount of funds allocated, and the activities to be performed.

The total amount of block/formula grant funds proposed for support of the CJC administrative structure at the state and local levels in Fiscal Year 1981 cannot exceed the amount of formula grant funds made available in Fiscal Year 1980 for administrative purposes.

Policies and procedures for the reprogramming of formula grant action funds for administrative purposes beyond Fiscal Year 1981 to administer Fiscal Years 1979 and 1980 awards for the remainder of their obligation and expenditure periods will be addressed in subsequent LEAA issuances.

Your reprogramming request must contain: (1) information detailing the functions and activities to be supported in Fiscal Year 1981; (2) the milestone dates established for these activities; (3) the absolute minimum number of personnel and amount of funds necessary to support block and categorical grant program administration activities (the latter if applicable); and, (4) sources of the necessary funds. This information also must be provided with reference to criminal justice block grant funds proposed for reprogramming to supplement funds made available under the JJDP Act for juvenile justice formula grant planning and administration. The reprogramming request specifically must identify the sums of money to be transferred from action to administrative purposes. The request for the reprogramming of action funds for administrative purposes must be approved by the CJC Supervisory Board.

Upon receipt of your reprogramming request, LEAA will initiate a thorough analysis and issue the necessary adjustment approvals. The use of action funds for administrative purposes by a State is contingent upon LEAA's approval of the CJC's submission.

In preparing the request to reprogram action funds for administrative purposes in Fiscal Year 1981, the following points should be kept in mind.

Administrative costs may be reprogrammed from unobligated Fiscal Year 1978, Fiscal Year 1979, and Fiscal Year 1980 action funds.

Any unobligated Fiscal Years 1979 and 1980 administrative funds should be used for operating costs during Fiscal Year 1981 before any reprogrammed block grant action funds are utilized. The Fiscal Year 1979 Part B award has previously been extended to September 30, 1980; in order to facilitate transition to the new legislation. Shortly thereafter, supplemental awards were made to enhance local governments' participation under the new legislation. Upon your request for the reprogramming of funds, LEAA will extend the Fiscal Year 1979 Part B award to September 30, 1981, and will permit any remaining funds under the Fiscal Year 1979 transition supplement to be used for administrative costs in Fiscal Year 1981.

If requested, LEAA will extend the Fiscal Year 1978 awards to September 30, 1981. If an extension request is made, it is expected that administrative costs will be paid first out of available Fiscal Year 1978 funds. Should any funds remain after the projection for administrative costs, consideration will be given to extending the Fiscal Year 1978 grants for action projects.

All formula funds requested for reprogramming for administrative purposes in Fiscal Year 1981 must be obligated by September 30, 1981 and expended by December 31, 1981. Subsequent LEAA issuances will address reprogramming requests for Fiscal Year 1982 administrative uses through September 30, 1982 (obligations) and December 31, 1982 (expenditures).

LEAA will utilize Fiscal Year 1977 and prior years formula grant funds available for reversion to insure the equitable distribution of funds necessary to meet the minimum level resource requirements for program administration in Fiscal Year 1981 as identified in the CJC's reprogramming requests due to LEAA by August 29, 1980.

Funds made available to state and local units of government which have not been utilized may be used for state and local administrative purposes. Funds reverted from state agencies and local units of government may also be used for state and local administrative purposes.

Active subgrants should not be terminated solely for the purpose of providing administrative funds.

Existing matching ratios, applicable to action programs for a particular year, will remain in effect.

The decisions required during this transition period are difficult to make. The issues are complex and the precedents few. LEAA is committed to a policy of full and positive consultation with all affected parties to insure that the substantial contributions and benefits of the program are retained and institutionalized within the criminal justice system. Your continued cooperation is appreciated.

Sincerely,

HOMER F. BROOME, Jr.,  
Administrator.

[Law Enforcement Assistance Administration Notice 4100.1, July 11, 1980]

#### REPROGRAMMING OF ACTION FUNDS FOR ADMINISTRATIVE PURPOSES

1. *Purpose.*—This notice provides information, regarding the reprogramming of unobligated action funds to be used in the continuing administration of the LEAA program.

2. *Scope.*—This notice applies to all offices in LEAA, all Criminal Justice Councils, all Local and Regional Planning Units and is of interest to OJARS, BJS and NIJ.

3. *Background.*—Based upon the President's revised Fiscal Year 1981 budget request and Congressional action to date, it appears unlikely that criminal justice formula grant funds will be made available in Fiscal Year 1981. Given the substantial amount of funds still active in thousands of operating subgrants; it is necessary to undertake planning efforts to provide for the continued administration of ongoing activities in compliance with federal grant-in-aid requirements. To facilitate this process, the Department of Justice, Office of Legal Counsel, has issued an opinion which enables LEAA to permit the use of previously awarded unobligated formula grant action funds for administrative purposes.

#### 4. *Action.*—

(a) By August 29, 1980, LEAA must receive from each CJC, a reprogramming request which details the process to be employed in administering the LEAA formula grant program in Fiscal Year 1981. Policies and procedures for reprogramming formula grant action funds for administrative purposes beyond Fiscal Year 1981 will be addressed in subsequent LEAA issuances. Reprogrammed funds from Fiscal Year 1978, Fiscal Year 1979 and Fiscal Year 1980 action funds can be expended only for those programmatic, grants management, and financial management functions and activities necessary for the proper administration of federal funds, consistent with statutory and guideline requirements. Proposed administrative functions and activities must be specifically identified in the reprogramming request and their relationship to compliance with federal grant-in-aid requirements must be described.

(b) Specifically, the reprogramming request must contain:  
(1) Information detailing the administrative functions and activities to be supported in Fiscal Year 1981;

(2) The milestone dates established for these activities;

(3) The absolute minimum number of personnel and amount of funds necessary to support formula and categorical grant program administration activities (the latter if applicable); and

(4) Sources of the necessary funds.

(c) States must assure that local entities receive adequate funding where such local entities exercise programmatic, grants management, and financial management functions necessary for the proper administration of federal funds consistent with statutory and guideline requirements. The reprogramming request submitted by the State to LEAA must indicate which localities are to be supported, the amount of funds allocated and the activities to be performed.

(d) Upon receipt of your reprogramming request, LEAA will initiate a thorough analysis and issue the necessary adjustment approvals. The use of action funds for administrative purposes by a State is contingent upon LEAA's approval of the CJC's submission.

5. *Additional considerations.*—In formulating the reprogramming request, the following points should be kept in mind:



(a) For those States participating in the OJJDP formula grant program, provisions must be made for compliance with the administrative requirements of the program. To this end, CJC's also may reprogram unobligated fiscal year 1978, fiscal year 1979 and fiscal year 1980 Crime Control Act block grant funds necessary to supplement funds available for planning and administration under the JJDP Act. Information required in Section 4 a through d must also be furnished for these reprogrammed funds. Additional guidance on issues relating to the implementation of this act will be published by the Office of Juvenile Justice and Delinquency Prevention in the Federal Register within the next two weeks.

(b) All current guidelines and statutory requirements remain in effect, including the variable pass-through ratios for each year.

(c) The total amount of block/formula grant funds proposed for support of the CJC administrative structure at the State and local levels in fiscal year 1981 cannot exceed the amount of formula grant funds made available in fiscal year 1980 for administrative purposes.

(d) Any unobligated fiscal year 1979 and fiscal year 1980 administrative funds should be used for operating costs during fiscal year 1981, before any block grant action funds are reprogrammed. The fiscal year 1979 Part B award has previously been extended to September 30, 1980, in order to facilitate transition to the new legislation. Shortly thereafter, supplemental awards were made to enhance local governments' participation under the new legislation. Upon approval of your request for reprogramming of funds, LEAA will extend the fiscal year 1979 Part B award to September 30, 1981, and will permit any remaining funds under the fiscal year 1979 transition supplement to be used for administrative costs in fiscal year 1981.

(e) If requested, LEAA will extend the fiscal year 1978 formula grant award to September 30, 1981. If an extension request is made, it is expected that administrative costs will be paid first out of available fiscal year 1978 funds. Should any funds remain after the projection for administrative costs, consideration will be given to extending the fiscal year 1979 grant for action projects.

(f) All formula funds requested for reprogramming for administrative purposes in fiscal year 1981 must be obligated by September 30, 1981 and expended by December 31, 1981. Subsequent LEAA issuances will address reprogramming requests for fiscal year 1982 administrative uses through September 30, 1982 (obligations) and December 31, 1982 (expenditures).

(g) LEAA will utilize fiscal year 1977 and prior years formula grant funds available for reversion to insure the equitable distribution of funds necessary to meet the minimum level resource requirements for program administration in fiscal year 1981, as identified in the CJC's reprogramming requests due to LEAA by August 29, 1980.

(h) Active subgrants should not be terminated solely for the purpose of providing administrative funds.

(i) Existing matching ratios, applicable to action programs for a particular year will remain in effect.

(j) The request for the reprogramming of action funds for administrative purposes must be approved by the CJC Supervisory Board.

6. *Contact.*—For further information contact the OCJP program analyst assigned to your State.

HOMER F. BROOME, Jr.,  
Administrator.

U.S. DEPARTMENT OF JUSTICE,  
OFFICE OF JUSTICE ASSISTANCE, RESEARCH, AND STATISTICS,  
Washington, D.C., February 14, 1980.

Hon. PETER W. RODINO, Jr.,  
House of Representatives,  
Washington, D.C.

DEAR CHAIRMAN RODINO: I know you are interested in the implementation of the Justice System Improvement Act. I have prepared a reorganization proposal and have enclosed a copy with this letter.

There are a number of steps that must be completed before this proposal is final, and I would be pleased to discuss the proposal with you.

Sincerely,

HENRY S. DOGIN,  
Acting Director,  
Office of Justice Assistance, Research and Statistics.

Enclosure.

OFFICE OF JUSTICE ASSISTANCE, RESEARCH AND STATISTICS REORGANIZATION  
PROPOSAL

BRIEFING SUMMARY

In December of 1979, the Transition Task Force issued a report recommending reorganization of functions previously performed by the Law Enforcement Assistance Administration in order to implement the Justice System Improvement Act. After careful consideration of the report, I have decided to make substantial modifications in the direction and scope of the recommendations.

The Task Force report was distributed to all offices in the National Institute of Justice, the Bureau of Justice Statistics, LEAA and the Office of Justice Assistance, Research and Statistics. It was also distributed to AFSCME Local 2830, public interest groups, the Department of Justice, the Office of Management and Budget, the National Institute of Law Enforcement and Criminal Justice Advisory Board, and other interested parties for review and comment.

Forty-seven (47) written comments were received. Most commentators objected to the recommendations in the report. A number of particularly compelling comments were directed to the strong role and large size of the Office of Justice Assistance, Research and Statistics which was recommended in the report. Other comments were directed to the recommendation to close area audit offices. Some commentators were concerned about the assignment of the Equal Employment Opportunity office to the proposed Office of Financial and Administrative Services, and still others were also concerned about the consolidation of the Office of Public Information and the Office of Congressional Liaison.

The Task Force was commissioned to make frank recommendations. They did an excellent job under very difficult time constraints. I take responsibility for the issuance of their report. However, the recommendations propose a structure which I feel cannot be supported in view of the changes made by the Congress in the President's original proposal to establish an Office of Justice Assistance, Research and Statistics.

Although the report can be read as consistent with the legislation, the Task Force's recommendations could allow the Office of Justice Assistance, Research and Statistics to act as an umbrella agency, exercising policy direction and control over the National Institute of Justice, the Bureau of Justice Statistics, and LEAA. This is clearly not what Congress intended.

After reviewing the comments and considering the legislation and its supporting history, I have determined that a new approach needs to be taken. This report outlines the proposed approach that I will recommend to the Attorney General.

Upon receiving the Attorney General's approval and after any necessary changes, the proposal will be forwarded to OMB for review in light of the existing resources and statutory mandates of LEAA, NIJ, BJS and OJARS. The proposal will also be sent to the Congress for comment.

In taking the new approach, I followed four basic principles:

1. The statute requires that the independence and integrity of the research, statistical and financial assistance functions must be guaranteed in the new organizational configuration.

2. LEAA, NIJ, and BJS must have the resources necessary to award, administer, and review grants and contracts and to appoint personnel as specified in the Justice System Improvement Act.

3. OJARS will coordinate the activities of the other units, develop national priority programs with LEAA and provide limited staff support for those services which, if replicated in each unit, would cause duplication and inefficiency.

4. OJARS coordinative role will provide for resolving inconsistencies among the policies and programs of the NIJ, BJS, and LEAA and insuring that all three units work together effectively where their functions overlap.

HIGHLIGHTS OF THE PROPOSED REORGANIZATIONS

The Justice System Improvement Act of 1979 (JSIA) creates four organizational units: the Law Enforcement Assistance Administration (LEAA); the National Institute of Justice (NIJ); the Bureau of Justice Statistics (BJS); and the Office of Justice Assistance, Research and Statistics (OJARS). The JSIA details the specific functions which are assigned to each organizational unit. The functions of LEAA include state and local financial and technical assistance, juvenile justice activities, community anti-crime programs, and education and training efforts. NIJ's functions encompass



research, evaluation, and program development responsibilities. The new BJS consolidates statistical functions. OJARS has the main responsibility for coordinating the activities of and providing direct staff support to the other three units. Coordination in this context means resolving differences between them and ensuring that all three units work together effectively where their functions overlap.

#### *Office of Justice Assistance, Research and Statistics*

The most significant departure from the former organizational configuration of the LEAA occurs with the creation of the new Office of Justice Assistance, Research and Statistics (OJARS). Under the JSIA this new office is authorized to directly provide staff support to and coordinate the activities of the National Institute of Justice, the Bureau of Justice Statistics and the Law Enforcement Assistance Administration. The new OJARS represents, therefore, a restructuring of and a significantly reduced replacement for the former staff offices of the LEAA. Under the reorganization proposal, staff at the OJARS level are cut in half (when compared to the January 1980 personnel strength for similar services provided by the staff offices of the former LEAA) and major staff functions in the areas of audit, program review, personnel, general counsel, public information, grant and contract administration, planning and congressional relations are decentralized to the new NIJ, BJS and LEAA.

Every former LEAA staff office except the Office of General Counsel, the Office of Civil Rights Compliance, and the Office of Equal Employment Opportunity experiences a reduction in staff and a decentralization of functions. In undertaking this decentralization one long range goal was always kept in mind, the creation of three independent bureaus which were essentially self-contained, yet coordinated. Working with the low personnel ceilings imposed upon the former LEAA, every effort was made to achieve this goal. The extent of the decentralization for each office is determined by: (1) the criticality of the function for self-contained operation at the NIJ, BJS and LEAA levels; (2) the availability of resources at the NIJ, BJS and LEAA levels, among existing personnel on board at the time of reorganization to perform such functions; (3) the practicality of transferring existing personnel from former LEAA staff offices to the NIJ, BJS and the new LEAA, to perform those functions for the new units, in other words, "Does the present staffing of those functions allow for a three-way division of the function while still giving each unit sufficient qualified personnel to adequately perform the function?"; and (4) the difficulty of OJARS exercising a coordination role if the function were decentralized.

Furthermore, it is proposed that the program review and audit activities previously performed by the Office of Audit and Investigation (OAI) for the entire LEAA program be decentralized to each of the three units under the new organizational configuration. This means that LEAA, NIJ and BJS will each have their own audit and program review staffs. Since the great majority of grant activity will be a function of the new LEAA, and since the great majority of auditors and program reviewers in the field will be providing services to LEAA, it is proposed that the present area office field structure be retained and be converted into LEAA area offices performing audit and program review activities for that organizational unit.

Exhibit I depicts the proposed organizational structure and functions for OJARS. The major reorganization actions and relevant transfers of personnel which must be undertaken in order to implement the proposed reorganization are summarized in the next section of this report entitled, "Major Personnel Shifts."

#### *Law Enforcement Assistance Administration*

The JSIA reauthorizes the Law Enforcement Assistance Administration (LEAA) and provides for significant changes in its function and scope in order to streamline and improve the Federal program of financial and technical assistance. Chief among these changes are:

- A simplified formula grant program that cuts red tape, increases the role of local governments, and targets monies to effective programs;
- A new national priority grant program to encourage the adoption of programs that have been shown to be effective through research and development;
- A greatly strengthened mandate to review, assess, and report on program performance; and
- A renewed emphasis on community and citizen participation.

LEAA's principal role is to manage efficiently the following programs within the JSIA:

- Criminal justice formula grants (Part D);
- National priority and discretionary grants (Parts E and F, respectively);
- Training and manpower development (Part G);
- Community Anti-Crime programs (Part A);

Juvenile justice programs (Juvenile Justice and Delinquency Prevention Act of 1974, as amended);

- Public Safety Officers' Benefits (Part L); and
- Technical assistance (Part A).

In view of Departmental and Presidential priorities placing a heavy emphasis on juvenile justice and community anti-crime, staff devoted to both of these programmatic areas should be significantly increased when LEAA is reorganized. OJARS will assist in identifying alternatives for remedying the chronic understaffing in these areas.

#### *National Institute of Justice*

The National Institute of Justice (NIJ) is authorized to carry out basic research, applied research, demonstration and dissemination activities in order to advance knowledge about crime and delinquency and to improve and strengthen law enforcement and the criminal and juvenile justice systems. In addition to research and development, NIJ carries out the following related functions that fulfill legislatively assigned objectives:

- Evaluation of criminal justice programs;
- Identification of programs and projects of proven effectiveness;
- Design and field testing of model programs based on promising research findings and advanced criminal justice practices;
- Training workshops for criminal justice practitioners in research and evaluation findings, and efforts to assist the research community through fellowships and special seminars; and
- Operation of an international clearinghouse for criminal justice information—the National Criminal Justice Reference Service.

The NIJ will be headed by a Director appointed by the President and will have a Presidentially-appointed advisory board which, together with its expanded authority over grants and contracts, guarantees the integrity and continuity of the research effort.

The organizational structure of the former National Institute of Law Enforcement and Criminal Justice (NILECJ) will remain intact until such time as the new Director of the NIJ is appointed. In order to guarantee the independence of the research function as well as to make the new NIJ a basically self-contained organizational unit, significant staff functions previously performed by LEAA staff offices for the NILECJ will now be decentralized to the NIJ. To accomplish this there will be created within the NIJ specific staff support units which will perform the following services for the NIJ: planning; budget preparation; management; grants/contracts financial review; grants/contracts administration; personnel management; administrative support; audit and program review; advisory board support; congressional relations; and public information.

#### *BUREAU OF JUSTICE STATISTICS*

The Bureau of Justice Statistics (BJS) is authorized by the JSIA to carry out the following functions:

- Compile, collate, analyze, publish and disseminate national statistics about all aspects of crime, civil and criminal justice, civil disputes, and criminal offenders.
- Assure the quality of the justice statistical components of all federal justice information systems and, through (the) state(s) statistics bureaus, of state information systems.

- Establish national definitions and standards for justice statistics.
- Support state and local governments in the development of justice statistical information systems.

Develop and maintain compatible components in state and federal offender-based transaction systems in order that useful national data may be produced.

The BJS is therefore mandated certain functions directly transferable from the former NCJISS, but it is also assigned responsibility and authority for new activities related to federal-level justice statistics management. Initially the BJS will be established by transferring the two broad functions of NCJISS into the BJS. The Statistics Division of NCJISS as well as the Systems Development Division will be transferred intact into the BJS. Certain systems programs and management responsibility for this program area are slated for transfer to LEAA in FY 81 and it is recommended that planning for this occur during FY 80 and that the formal transfer of the function be accomplished by an amendment to the FY 81 Budget. The final organizational configuration of the BJS must await appointment of the BJS Director. In order to guarantee the independence and integrity of the statistical function, several significant staff functions previously performed by centralized LEAA staff offices for the former NCJISS will now be decentralized to the BJS.



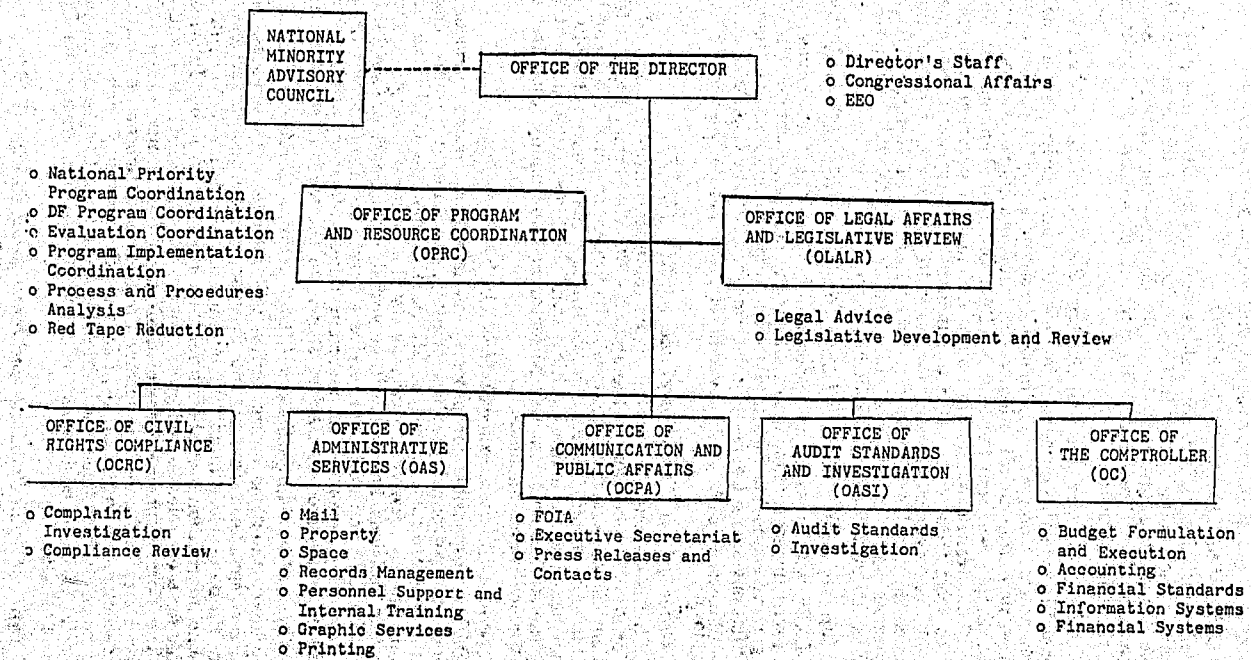
Specifically, it is proposed that there be created new staffs which will perform the following functions for the BJS: planning; management; budget preparation; grants/contracts financial review; grants/contracts administration; personnel management; administrative support; audit and program review; support to the BJS Advisory Board; congressional relations; and public information.



Exhibit I

PROPOSED

OFFICE OF JUSTICE ASSISTANCE, RESEARCH AND STATISTICS (OJARS)



February 12, 1980



## PERSONNEL SHIFTS

## A. Office of Justice Assistance, research, and statistics (OJARS)

## 1. Office of the Director (OD)—(8PFT)

This Office includes the Director and his staff and an Office of Equal Employment Opportunity which is the former LEAA OEEO. The Director's staff will include and Executive Assistant, a Special Assistant for Congressional Affairs, a Secretary, and an Office Aide. The Director and his staff are personnel from the former LEAA Office of the Administrator.

## 2. Office of Program and Resource Coordination (OPRC)—(12 PFT)

Responsibilities of this office will include national priority program coordination, discretionary grant program coordination, coordination of evaluation activities, program implementation coordination, process and procedures analysis and red tape reduction. Employees from the former LEAA Office of Planning and Management (OPM) will be transferred to this unit. A mid-level program analysis officer is transferred from OPM to the BJS to supplement the program planning expertise existent in that organization and to raise it to the existing levels of the planning staffs which are in LEAA and the National Institute of Justice (NIJ). In addition, the Correspondence Control Desk which existed in OPM will be transferred to the Office of Communications and Public Affairs in OJARS.

## 3. Office of Legal Affairs and Legislative Review (OLALR)—(12PFT)

The OLALR will be primarily responsible for providing legal advice and developing and reviewing legislation which affects the new organization. The OLALR will provide general counsel to OJARS, BJS, NIJ and LEAA. Personnel from the former LEAA Office of General Counsel will be transferred to the OJARS OLALR.

NOTE.—All personnel shifts are expressed in permanent full-time positions (PFT's on board as of Jan. 12, 1980)

## 4. Office of Civil Rights Compliance (OCRC)—(17 PFT)

The OCRC is responsible for civil rights complaint investigation and compliance review for all of the bureaus in the organization. The former LEAA Office of Civil Rights Compliance is retained intact with its present staffing level as an identifiable civil rights staff within OJARS. The OCRA has been given authority to hire two additional personnel to address critical staff shortages. Alternate methods for increasing the staff complement will be researched and highly prioritized in order to address the civil rights mandate.

## 5. Office of Administrative Services (OAS)—(31 PFT)

The OAS is responsible for property management, record management, space utilization, mail personnel, graphics, printing, and internal training. The personnel function is decentralized, in part, to LEAA, BJS, and NIJ. OAS retains the classification and employee services functions for the entire organization. Authority for classification decisions, however, will be vested in the heads of OJARS, LEAA, BJS and NIJ. The NIJ and BJS each receive a person from the former LEAA, OOS to handle day-to-day personnel management issues. Members of the former LEAA, OOS will be transferred to OAS as shown on the support schedule that follows.

## 6. Office of Communications and Public Affairs (OCPA)—(9 PFT)

The primary functions of this office will include press releases, photography support, correspondence control, and Freedom of Information services. The FOIA function will be provided to all four bureaus. LEAA, BJS, and NIJ will be provided with public information specialists from the former LEAA Public Information Office to provide for press releases and press contacts. [LEAA (2 PFT), BJS and NIJ (1 PFT each).] The Correspondence Control Staff from the former LEAA OPM will be transferred into this unit. The former Congressional Liaison Office (CLO) is completely decentralized to the LEAA, BJS and NIJ, providing each unit with staff to perform congressional liaison activities for each unit. Congressional liaison functions for OJARS will be handled by a special assistant within the Office of the Director of OJARS.

## 7. Office of Audit Standards and Investigation (OASI)—(7 PFT)

The OJARS OASI reports to the Director of OJARS and is responsible for internal and external investigations involving OJARS as well as developing and coordinating audit standards among the LEAA, BJS and NIJ audit units and performing audits of OJARS' grantees and contractors. This unit will consist of an Audit Standards Division (2 PFT), an Investigation Division (3 PFT), and an Office of the Director (2 PFT). The major portion of the former OAI is being transferred to the reorganized LEAA. Portions of the former OAI are being transferred into audit staffs and

program review staffs for BJS and NIJ. Area offices will basically remain intact under LEAA. (Certain individual personnel transfers will be necessary to staff segments of the new units in OJARS, BJS and NIJ which will be centrally located in Washington, D.C. (Major shifts are presented in support schedules that follow.)

## 8. Office of the Comptroller (OC)—(56 PFT)

The OC is responsible for providing centralized budget formulation and execution, accounting services, information systems, small purchases and financial standards for each entity within the new organization. It will also provide grant and contract administration for OJARS. The OJARS OC staff will be derived from the former Office of the Comptroller in LEAA. Former Comptroller personnel will also be transferred to LEAA, BJS, and NIJ to provide these entities with grant and contract making and control capabilities. (See support schedule for a summary of the major shifts.)

Personnel.—Total OJARS—152 PFT

## B. Law Enforcement Assistance Administration (LEAA)

The LEAA will include the current staffs of the Deputy Administrator, OCJP, OCACP, OJJDP and OCJET. Personnel to be transferred in will come from the former OAI, OC, OOS, CLO, and PIO. The LEEP function and personnel are scheduled to be transferred to the Department of Education in April 1980. The LEAA will be reorganized subsequent to this proposed reorganization of OJARS.

PFT from DAA, OCJP, OCACP, OJJDP, OCJET ..... 180  
PFT from former LEAA staff offices ..... 119

Total PFT ..... 299

## C. Bureau of Justice Statistics (BJS)

The BJS will include the current staff of the LEAA NCJISS and support personnel from the former LEAA OPM, OAI, OC, OOS, CLO and PIO. A reorganization of the BJS will occur subsequent to the selection of a Presidential appointee.

PFT from NCJISS ..... 26  
PFT from former LEAA Staff Offices ..... 15

Total PFT ..... 41

## D. National Institute of Justice (NIJ)

The NIJ will be comprised of the current staff of NILECJ and support personnel from the former LEAA staff offices of OAI, OC, OOS, OGC, CLO, and PIO. Restructuring of the office will take place subsequent to the selection of a Presidential appointee.

PFT from NILECJ ..... 65  
PFT from LEAA Staff Offices ..... 23

Total PFT ..... 88

## Office of Justice Assistance, Research &amp; Statistics:

Office of the Director ..... 8  
Office of Program and Resource Coordination ..... 12  
Office of Legal Affairs and Legislative Review ..... 12  
Office of Civil Rights Compliance ..... 17  
Office of Audit Standards and Investigation ..... 7  
Office of the Comptroller ..... 56  
Office of Communications and Public Affairs ..... 9  
Office of Administrative Services ..... 31

Subtotal ..... 152  
Law Enforcement Assistance Administration ..... 299  
Bureau of Justice Statistics ..... 41  
National Institute of Justice ..... 88

Total ..... 580

NOTE.—PFT numbers will change based on attrition; however, the principles of the reorganization will remain the same.



## SCHEDULE OF MAJOR PERSONNEL SHIFTS

## I. FORMER LEAA OFFICE OF ADMINISTRATOR

Position	PFT	PFT distribution		
		OJARS, OD	LEAA, OA	
Administrator.....	1	1		
Deputy Administrator for Policy Development.....	1			1
Secretaries.....	2	1		1
Special assistants.....	4	2		2
Office aide.....	1	1		
Total.....	9	5		4

## II. FORMER LEAA OFFICE OF PLANNING AND MANAGEMENT

Position/Unit	PFT	PFT distribution		
		OJARS	OCRA	BJS
Office of Assistant Administrator.....	3	3		
Correspondence control.....	3		3	
Policy Planning Division.....	5	4		1
Management Division.....	5	5		
Total.....	16	12	3	1

## III. FORMER LEAA PUBLIC INFORMATION OFFICE

Position	PFT	PFT distribution			
		OJARS	LEAA	BJS	NIJ
Public information officer/specialist.....	6	3	1	1	1
Staff assistant.....	1	1			
Clerk typists.....	2	1	1		
Total.....	9	5	2	1	1

## IV. FORMER LEAA CONGRESSIONAL LIAISON OFFICE

Position	PFT	PFT distribution		
		LEAA	BJS	NIJ
Congressional liaison/officer/analyst/specialist.....	5	3	1	1
Clerk typist.....	2	2		
Total.....	7	5	1	1

## V. FORMER LEAA OFFICE OF AUDIT AND INVESTIGATION

Unit	PFT	PFT distribution			
		OJARS	LEAA	BJS	NIJ
Office of Assistant Administrator and Management Review and Analysis Division.....	9	4	5		
Investigation.....	1	1			
Central Audit Operations Division.....	5				5
Area offices.....	79	2	67	6	4

## V. FORMER LEAA OFFICE OF AUDIT AND INVESTIGATION—Continued

Unit	PFT	PFT distribution			
		OJARS	LEAA	BJS	NIJ
Total.....	94	7	72	6	9

## VI. FORMER LEAA OFFICE OF THE COMPTROLLER

Unit	PFT	PFT distribution			
		OJARS, OC	LEAA, PSS	BJS, PSS	NIJ, P
Office of the Comptroller.....	5	5			
Policy Development and Training Division.....	5				
Information Systems Division.....	16	15	1		
Budget.....	5	5			
Public safety officers benefits.....	5		5		
Accounting.....	28	18	10		
Grants/Contracts Management Division.....					
Contracts.....	8		4	1	3
Control desk.....	3	3			
Area desks and staff.....	26	5	15	3	3
Total.....	101	56	35	4	6

\* LEEP.

## VII. FORMER LEAA OFFICE OF OPERATIONS SUPPORT

Unit	PFT	PFT distribution			
		OJARS	LEAA	BJS	NIJ
Office of Assistant Administrator.....	3	3			
Records management staff.....	2	2			
Administrative Services Division.....	16	16			
Personnel and training.....	17	7	5	1	4
Audio Visual Communications Division.....	7	4		1	2
Total.....	45	32	5	2	6

\* 1 to OCPA.

**Reassignment of employees.**—The proposed organizational structure has been reviewed by the OJARS Personnel Office. Position descriptions have been reviewed, and it is anticipated that with a very few exceptions the reorganization can be accomplished by voluntary transfer or by reassignment of employees from one position to another.

The reorganization will not cause anyone to be involuntarily separated or reduced in grade. In the very few instances where a reassignment cannot accomplish the transfer, discussions will be held with the individual employee affected and with the Union if the employee is a member of the bargaining unit in an effort to assure an appropriate placement to at least the same grade as the employee currently holds.

## ADDITIONAL PERSONNEL REQUIRED FOR IMPLEMENTATION

In order to decentralize former LEAA staff offices to the extent contained in this reorganization proposal, to transfer the functions performed by these offices to each of the three new units as detailed in this proposal, and to adequately staff the transferred functions, additional permanent full-time positions (PFT's) will be needed by NIJ, BJS and LEAA. Due to the low personnel ceilings assigned to LEAA in Fiscal Year 1979 and 1980 and the high attrition are experienced during these years, certain functions centralized in LEAA staff offices are staffed at low levels. If they were decentralized and present personnel were distributed among all four units, no one of the units would have sufficient personnel or sufficient areas of specialty to adequately perform the decentralized functions. Therefore, additional positions will be needed in order to operate in a decentralized mode.



It is estimated that an additional 84 positions will be necessary in order to adequately perform the functions which will be decentralized as well as to remedy the chronic understaffing problem in Juvenile Justice. The total 84 positions that should be requested would breakdown as follows.

*Additional PFT's required*

Organization:	
(1) LEAA .....	16
(2) BJS .....	12
(3) NIJ .....	6
(4) OJJDP .....	50
Total .....	84

No additional positions would be required for OJARS. The 34 additional positions for LEAA, BJS and NIJ would be needed specifically to further implement the new functions decentralized to these organizations. The 50 positions required for OJJDP would be all programmatic personnel in order to relieve the chronic understaffing in this area. However, this number could be reduced if LEAA, as part of its reorganization, were to transfer existing resources into OJJDP in an effort to address the critical staff shortages. An explanation of each of these requirements is presented below.

*Thirty-three additional required positions for LEAA, NIJ and BJS*

As pointed out above, if the present personnel, budget and contract functions are decentralized to LEAA, NIJ and BJS, additional specialists in these areas will be needed in order to adequately staff these functions at the agency level. Additional positions will also be needed in order to adjust the total personnel mix in each of these three organizations so as to obtain a reasonable professional to clerical ratio. A reasonable estimate as to how the additional positions required would break down is presented below.

*LEAA additional positions*

Type of position:	PFT's
Budget analysts (LEAA, OJJDP) .....	2
Personnel management specialists (LEAA, OJJDP) .....	2
Program analysts (LEAA, OJJDP) .....	4
Management analysts (LEAA, OJJDP) .....	4
EEO specialist .....	1
Clerical .....	3
LEAA subtotal .....	16

*BJS additional positions*

Type of position:	PFT's
Budget analyst .....	1
Personnel management specialist .....	1
Social science analysts .....	7
Clerical .....	2
EEO specialist .....	1
BJS subtotal .....	12

*NIJ additional positions*

Type of position:	PFT's
Budget analyst .....	1
Personnel management specialist .....	1
Contract specialist .....	1
Clerical .....	2
EEO specialist .....	1
NIJ subtotal .....	6

*Fifty additional juvenile justice program specialists required for the Office of Juvenile Justice and Delinquency Prevention*

Since its establishment, OJJDP has experienced chronic understaffing, which has created numerous problems including an inability to effectively coordinate Federal efforts, fund flow problems, an insufficient number of action programs, insufficient time devoted to long-range program planning, short time frames for public responses to program plans, inadequate involvement of key interest groups, lack of assistance to the states in achieving compliance, inability to establish a comprehensive training and information clearinghouse program, delay in accomplishing standards implementation, an inability to engage in effective program development work, inadequate monitoring of existing projects, delays in closing out inactive projects, and an inability to publish reports resulting from sponsored projects. These problems have been further intensified by the recent increase in the juvenile justice program funding level in Fiscal Year 1980, a funding level proposed to continue into Fiscal Year 1981.

With 50 additional staff a broader range of program initiatives could be developed and funded, a much larger number of states could be brought into compliance with the Act, more effective coordination of youth programming and more aggressive leadership in the formulation of national youth policy could be accomplished, badly needed training and information support functions could be implemented which would improve delinquency-related programming, and guidance could be given to the field in delinquency prevention and treatment—resulting in a general improvement in the administration of juvenile justice.

In general, the additional requested staff would enable OJJDP to take advantage of the opportunity noted by Attorney General Civiletti: "This is a time of special opportunity which we must seize in the face of an ever-expanding need for attention to juvenile justice problems."