

URBAN CRIME POLICY

HEARING
BEFORE THE
SUBCOMMITTEE ON
ECONOMIC GROWTH AND STABILIZATION
OF THE
JOINT ECONOMIC COMMITTEE
CONGRESS OF THE UNITED STATES
NINETY-FIFTH CONGRESS
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MAY 17, 1978
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URBAN CRIME POLICY

WEDNESDAY, MAY 17, 1978

CONGRESS OF THE UNITED STATES,
SUBCOMMITTEE ON ECONOMIC GROWTH
AND STABILIZATION OF THE
JOINT ECONOMIC COMMITTEE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 6226, Dirksen Senate Office Building, Hon. Lloyd Bentsen (chairman of the subcommittee) presiding.

Present: Senators Bentsen, Javits, and Hatch, and Representative Brown of Ohio.

Also present: Louis C. Krauthoff II, assistant director; Jack Albertine, Katie MacArthur, Deborah Norelli Matz, and George R. Tyler, professional staff members; Mark Borchelt, administrative assistant; Charles H. Bradford, Stephen J. Entin, and Mark R. Policinski, minority professional staff members.

OPENING STATEMENT OF SENATOR BENTSEN, CHAIRMAN

Senator BENTSEN. This hearing will come to order.

I would like to welcome you to this second day of hearings on urban policy.

In March we considered the problem of structural unemployment. Certainly every sensitive and concerned human being is appalled at the staggering rate of unemployment among youths in our inner cities. I think we pay a long-term price if we have young people who are told that society has no productive role for them to fill. I know of no more denigrating thing than for a young person to be told, there is no contribution you can make in this society. You can't have people living in an icebox or put them away on a shelf for 3 or 4 years.

Such unemployment breeds despair and frustration, crime, and urban decay. It is a shameful waste of human resources in an era of human rights. It is a situation that cannot be allowed to continue.

Today we will consider a second urban issue: Crime. We have with us a number of people with important and innovative ideas.

Lynn Curtis has written extensively on urban crime, and has a firm grasp of the interrelationships and complexities surrounding this issue. Lou Harris will examine public attitudes about urban crime, and what that may imply about future urban policy.

We have two experienced and respected prosecutors, District Attorney Robert Morgenthau of New York, and Prosecuting Attorney George Smith of Columbus, Ohio. They have special expertise in urban justice, and have been particularly active in efforts to prosecute repeat offenders.

Unfortunately, Prof. Sam Dash of Georgetown Law Center cannot be with us today, due to illness. However, we are pleased to hear of a meeting of police officials here in Washington. They are considering a number of issues related to urban crime. Chief Caron of Kansas City has been very active in this effort, and I would certainly be pleased if we could hear from him before the morning is out.

I believe we are seeing growing support for a serious crime component in our future urban strategy. There is increasing recognition that urban life will not fully prosper until it is safe. Crime is a roadblock in the path to urban prosperity. I would draw particular attention to the material cited by Mr. Curtis, which suggests that the crime problem has been a major factor in the decision of a number of businesses and industries to leave cities.

I believe this evidence is accurate. Crime drives families, individuals, and businesses from our cities. It poses an intolerable cost on those who remain. It forces the elderly to live with fear, the young to live with violence. And it is the poor who suffer the most.

I was talking to Pearl Bailey not long ago and she said, it ought to be where a little old lady can walk down the street swinging her purse again.

Ever since people first organized into political society, the protection of life and liberty has been a foremost concern. Our cities will grow again, our urban renaissance will begin in earnest, when we make them attractive places to live. This is a national concern: Urban industrial cities of the North, smaller cities in the West and Southwest, all have a common concern about public safety.

I would hope today we will transcend narrow viewpoints. This issue is not ideological, or political, or regional.

Yet we must not overpromise. What's needed is sound and reasoned commitment, not strident rhetoric, and not Draconian cures that may be worse than the disease.

Fifty years ago, Felix Frankfurter and Roscoe Pound wrote an analysis of crime in Cleveland. They concluded that a small number of criminals commit a relatively large number of crimes. They said that a system that allows this "is nothing short of an inducement to professional crime."

How right they were. If Justice Frankfurter were alive to testify today, perhaps he would wonder why it took so long to learn the lesson.

Yet he would have to note that in recent years progress has been made. We have learned and improved. Innovative ideas have come to the fore.

One major effort is the career criminal programs, run with LEAA assistance. These programs employ experienced prosecutors and investigators on cases involving repeatedly violent offenders. I notice that Mr. Smith points out that these prosecutions could prevent some 100,000 crimes from being committed, considering the rate at which repeat offenders repeat their offenses. I am also encouraged that in 17 of the 22 cities employing career criminal programs, there was a 12.3-percent drop in the robbery rate in the FBI crime statistics for the first 3 months of this year.

These are not mere numbers. This is violence not committed, people who are not hurt, communities that are not ravaged.

We can, and we should, devote the resources needed to close the revolving door of revolving-door justice. This will take increased criminal court capacity. It will take sentencing reforms to see that both the certainty and fairness of punishment is increased. It will take training programs to see that first offenders do not become career offenders.

We must also realize that if we desire to incarcerate people, we need places to put them that meet standards of human dignity and enhance, rather than retard, the possibilities for rehabilitation. We need sentencing alternatives to prison, for those who should not be there in the first place.

I am preparing legislation to help localities in this effort. We must make justice an integral, not secondary, aspect of urban policy. I was pleased to note that the President's Law Day speech included a concrete commitment to improve our system of justice. I have urged him to make such a commitment, and I look forward to enacting such a plan.

I believe the evidence for the need of an urban crime initiative is compelling. It should be a balance between the needs of law enforcement and the requirements of civil liberties. It should be acceptable to a broad segment of our public who share a commonality of concern.

Throughout our history, America's cities have served as centers of creativity and commerce, as a haven of hope to multitudes around the world. We need not be chauvinistic to believe that here in America we have a standard to live up to, a standard of equal justice and general welfare that must command our respect and equally important, our resources.

Our first witness will be Lynn Curtis, who serves as an urban adviser to Secretary Harris at Housing and Urban Development. He will be testifying as an experienced and knowledgeable professional, in a personal capacity. I would hope that the witnesses could remain after their statements, so we could engage in a dialog and encourage a discussion of the interrelationships between issues.

Mr. Curtis, we are pleased to have you. Please come forward.
[Slight pause.]

Senator BENTSEN. Apparently, Mr. Curtis is on the way. We will start with Chief of Police Norman Caron.

STATEMENT OF NORMAN CARON, CHIEF OF POLICE, KANSAS CITY, MO.

Mr. CARON. For the purposes of the record, I am the chief of police of Kansas City, Mo. I am here today attending a meeting of the chiefs of the 30 cities participating in the integrated criminal apprehension program, or ICAP as it is commonly known, a major initiative of the Law Enforcement Assistance Administration.

ICAP is a comprehensive program. It provides a method for integrating and directing police field activities based on crime analysis and structured planning. It is geared toward focusing police resources on crime and career criminals, then focusing prosecutors' resources on these individuals, insuring that they are taken out of circulation. It takes two forms. We have the community involvement program, Senator, that focuses in on crime prevention and community involve-

ment on one level; and if you will use that term, it is a soft program that does attempt to reverse the flight from the inner cities that results when there is too much crime.

The hard program we have is where we do focus in on the criminal. We analyze crime data for patterns and trends. When we apprehend these career criminals, we deal closely with the prosecutor's office and the courts to eliminate the possibility of plea bargaining, and insure short, vigorous prosecution and ultimately incarceration. We believe that it is important to get them out of circulation so that they no longer can prey on the community. We feel that the ICAP program, which is funded through LEAA, is one of the more successful programs that has come out in many, many years. We are totally supportive of it.

Senator BENTSEN. Did you have a prepared statement, also?

Mr. CARON. No.

Senator BENTSEN. Do your numbers show that a very substantial number of the major crimes are committed by a relatively few in number?

Mr. CARON. Yes. As we began to develop and analyze crime data, it became apparent that we had the career professional, holdup men and burglars raising havoc with our communities. And these are the ones doing the most harm.

We just had a triple homicide that was a result of a holdup. When we apprehended the man, he had two prior convictions. He was out on parole for a third offense and had a long history of serious criminal activity.

I think you will find the same story throughout the country. Every city has this same type of people who are very active criminals. We recognize that there are those who belong in a program for first offenders, for example, the young teenager who may break into a service station. He can be put into the first offender program. The one that is really causing problems is the career criminal.

The ICAP program is focusing in on the urban crime problem. I am convinced that it is the beginning of the solution.

Senator BENTSEN. Can you give us more detail on the implementation of it?

Mr. CARON. We have been into ICAP in Kansas City for 2½ to 3 years. What we have done in one patrol division in our city is to begin to identify some of the high crime areas. We have begun to prioritize calls. We have found, for example, that many of our calls for service are the type of calls that can be handled over the phone. So we are beginning to harbor our resources and focus in on areas where there is a high incident of crime and to focus in on the people who we feel are guilty of these crimes.

Once we have apprehended them, we can take them to the prosecutor. We have alerted the prosecutor's office who does work with us and who is involved in our program. There is an agreement by the prosecutor that there will be no plea bargaining on this subject, that when the defense attorney appears, rather than plea bargaining, the prosecutor will commit him to a trial by jury and seek a maximum punishment for this particular culprit. This in keeping with concepts inherent in LEAA's career criminal program, which I'm sure you're familiar with, Senator.

ICAP has worked very well. We have had a very high rate of crime reduction in every category in Kansas City. We have had reduction of 15 to 18 percent. We like to think it is attributable to this program.

Senator BENTSEN. Is that because of incarceration or punishment or what?

Mr. CARON. Yes; the career criminals are being tried and convicted and committed to State institutions and taken out of circulation.

Senator BENTSEN. They understand that this kind of program is underway?

Mr. CARON. Yes.

Senator BENTSEN. Do you think that has been a deterrent?

Mr. CARON. Yes, I do. I genuinely believe that once they recognize that they can no longer go through life plea bargaining or walking out and going back to their criminal activities that they will find another location or they will find another means of getting by.

Senator BENTSEN. Do you think that the repeaters, the hardened criminals, the man that does it time and time again, gives some thought of the possibility of punishment and the certainty of punishment, or the lack of punishment, or the fact that he can stay out on bail, that the punishment will be light?

Mr. CARON. I don't think there is any question. For example, out of every 100 arrested for a crime, perhaps 4 will end up in the penitentiary. So the odds are in their favor. They are very candid about talking about it. It really has no relationship to hardship. It is just a means of having an easy life without too much effort. Many are supporting a drug habit. They have just chosen this career as a means of their livelihood. They are very successful.

Senator BENTSEN. What have you heard them say that leads you to believe that?

Mr. CARON. There is a very strange dialog between police and the criminal. We have had a recent STING operation in Kansas City that has been extremely successful where we have videotaped conversations.

Senator BENTSEN. What is a STING operation?

Mr. CARON. STING or antifencing operations are undercover operations, funded by LEAA, in which the police act as fences in order to penetrate the stolen property distribution system. Under the guise of fences, a buyer and seller of stolen property, we had interesting contacts with many career criminals, Senator. Our operation was very successful, both in terms of arrests and information.

We had these thieves on videotape and camera. They were very candid in their conversations with the police fence—how they were getting the money to go out and buy a new car, or buy their girlfriends more clothes, or support a drug habit. The STING operation focused primarily on the career criminal. In the many indictments we obtained, many were career criminals, had many arrests and were coming back on many occasions. We have had several of those people that appeared before this STING operation to sell their stolen property.

Senator BENTSEN. What have you done by way of improving the arrest procedures of the police?

Mr. CARON. We have improved our patrol tactics. We have begun to recognize through crime analysis that crime occurs at certain times of the day and night. We have modified our patrol. We have put officers in unmarked vehicles. We have solicited the cooperation of the communities through cooperative interaction programs which have

proven successful. Most importantly, we have focused in, as I said earlier, on the more serious types of crime and criminals.

Senator BENTSEN. Chief, we are pleased to have you.

Mr. CARON. Thank you.

Senator BENTSEN. Thank you very much.

Mr. Curtis, you may proceed.

STATEMENT OF LYNN A. CURTIS, URBAN POLICY ADVISER TO THE SECRETARY, HOUSING AND URBAN DEVELOPMENT

Mr. CURTIS. I appreciate the opportunity to appear before the subcommittee today.

At the outset, I would like to make clear that I am submitting this testimony as a private citizen and professional in the field and not in the capacity of Urban Policy Adviser to Patricia Roberts Harris, Secretary of Housing and Urban Development.

The prepared statement that I have submitted is quite long. Consequently, I would like to very briefly summarize just 10 points. Ten always seems to be a good number. Then I will be happy to respond to any questions that you and the subcommittee may have.

First: As we all know, reported major crime has risen dramatically over the last two decades in the United States.

Second: Fear of crime is the No. 1 concern of American citizens. It is an even greater concern among most people than unemployment or inflation. The polls I have used to support this are by Mr. Gallup. I hope Mr. Harris doesn't mind, but his surveys have generally borne out the same truth.

Third: A large part of crime is committed by repeaters, not by one-time offenders. Generally, the less serious the crime, the greater the chance that an offender will repeat. Thus, a higher proportion of burglary than homicide involves repeaters.

Senator BENTSEN. Let me have that again. Would you repeat that again?

Mr. CURTIS. Generally, the less serious the crime, the greater the chance that an offender will repeat. For example, burglary more often involves a repeater than homicide.

Fourth: Crime and fear of crime leads to neighborhood deterioration and abandonment. It is conventionally held that the physical deterioration of residential neighborhoods, disinvestment, housing abandonment, blockbusting, and the like, encourage crime. But the causal pattern works the other way, as well. Crime leads to deterioration. This means that an anticrime policy also is a residential rehabilitation policy that can reverse population out-movement and the loss of urban tax bases.

For business out movement, as for residential out-movement, the misperception is that crime is only a secondary cause, or perhaps the straw that breaks the camel's back. Popular belief holds that the main causes of industrial flight are high taxes, poor municipal services, and difficulties in recruiting and keeping a skilled labor force. But, again, the reality is that crime appears to be as important as the other interrelated causes, according to available evidence.

Fifth: In my estimation, the underlying explanations of crime are economic and social. When lack of opportunity, poverty, dilapidated housing, high unemployment, poor education, overpopulation, and

broken homes are combined, an interrelated matrix of powerful criminogenic forces is produced.

Sixth: Poverty defined as relative deprivation then has not necessarily declined over the period when urban crime has risen. That is, the relative income of blacks compared to whites has remained the same over recent years—despite absolute advances in income by both groups.

Seventh: The most fashionable current school of thought on anti-crime policy is based on deterrence. The idea is to make the criminal justice system more efficient and to “harden targets.” Yet much of the evidence on the effectiveness of deterrence is either based on untested assumptions or involves generalizations made from limited statistics.

The net impact of this philosophy is to provide intellectual rationalization for the continued Vietnamization of the criminal justice system—more men, more equipment, more incursions, swift and sure punishment to deter a nonwhite enemy whose psychology the white power brokers of this Nation presume to understand. This overall tone is not warranted by the facts at hand, nor the canons of scientific inference, nor, perhaps most important, by the realities of ghetto, street, and gang life. There are no assurances that a strategy of deterrence will be more successful than a strategy that also addresses some of the causes of the crime.

Eighth: There appears to be a considerable consensus over doing something about the small group of repeaters which I have described as associated with so much crime. The safety of the population, especially the minority poor whose victimization rates are the highest, demands swift and sure handling of repeaters by the criminal justice system. This is why I embrace your interest in the career criminals program of LEAA. But, even here, many questions remain unanswered and costs have not been compared to benefits. To keep repeaters off the street is not necessarily to deter others from committing crime. I have gone into this in more detail in my prepared statement.

Ninth: My own broad based criminal policy for the future has two components. We must protect the population through more efficient administration of justice, but it also is necessary to reduce inequities and rehabilitate our cities.

My prepared statement examines some specific ways to implement these two components—for example, in public housing, where so much crime occurs. Simultaneously, I also believe that a jobs program, is cost-effective as an anticrime program. There is a relationship between more unemployment and more crime. Targeting is a principal theme of of the Carter administration's urban policy. If labor market supply demand can be linked on a broad enough scale, in a creative enough way, to help the most desperate people in the critical places, then an impact can be made on crime.

Tenth and finally: My balance of both criminal justice and social reform components has been supported by national public opinion polls—which I have documented in my prepared statement. That concludes the statement I wish to make at this point.

[The prepared statement of Mr. Curtis follows:]

PREPARED STATEMENT OF LYNN A. CURTIS
Urban Redevelopment and Crime Prevention

BIOGRAPHICAL SKETCH

Lynn A. Curtis is Urban Policy Advisor to Patricia Roberts Harris, Secretary of Housing and Urban Development.

He formerly was Research Associate at the Bureau of Social Science Research, Inc., in Washington, D.C. where he directed two investigations funded by the National Institute of Mental Health—the Exploratory Project on Sexual Assault Outcomes and the National Alternative Inner City Futures Project.

Dr. Curtis' books include *Crimes of Violence* (Task Force Report on Individual Acts of Violence, National Commission on the Causes and Prevention of Violence G.P.O., 1970, co-author), *Criminal Violence: National Patterns and Behavior* (D.C. Heath—Lexington Books, 1974), *Violence, Race and Culture* (D.C. Heath—Lexington Books, 1975) and *The Future of the Inner City* (Forthcoming, 1979).

He received the A.B. from Harvard University in 1965, the M.Sc. from the University of London in 1967 and the Ph.D. from the University of Pennsylvania in 1972.

INTRODUCTION

I appreciate the opportunity to appear before the Subcommittee today. At the outset, I would like to make clear that I am submitting this testimony as a private citizen and professional in the field—and not in the capacity of Urban Policy Advisor to Patricia Roberts Harris, Secretary of Housing and Urban Development.

My testimony will lay out some of the salient facts of crime in America, briefly review the kinds of explanations I find helpful, and consider the implications for future policy which logically may follow.

By "crime" I will mean the seven offenses judged most serious by the F.B.I.—criminal homicide, aggravated assault, forcible rape, robbery, burglary, auto theft and larceny. At times, it will help to be specific about the crime or crimes I am talking about.

FACTS

For the purposes of the Subcommittee as I understand them, and to anchor the explanatory and policy statements I wish to make, the following realities should be kept in mind:

Reported major crime has risen dramatically over the last two decades in the United States—It is primarily a phenomenon of large cities, is disproportionately committed by young minority males, and is disproportionately concentrated in ghetto-slum, inner city, and barrio neighborhoods.¹

Fear of crime is the number one concern of American citizens—In 1976, a Gallup Poll found that the issue about which Americans were most concerned was "crime in this country." It was ranked higher than even a concern with inflation or unemployment. Similarly, the residents of other assisted housing have indicated that personal security at home is their number one concern. It has moved ahead of food, clothing, employment, and health.²

A large part of crime is committed by repeaters, not by one-time offenders—When all offenders are compared, the number of hard-core repeaters is small relative to the number of one-time offenders. Yet the former group has a much higher rate of violence and inflicts considerably more serious injury. Generally, the less serious the crime, the greater the chance that an offender will repeat. Thus, a higher porportion of burglary than homicide involves repeaters.³

Crime and fear of crime leads to neighborhood deterioration and abandonment—The three preceding points are widely known. But the present one, while equally important, is less understood, and so deserves some discussion here.

It is conventionally held that the physical deterioration of residential neighborhoods, disinvestment, housing abandonment, block busting, and the like encourage crime. But the casual pattern works the other way as well: crime leads to deterioration. This means that an anti-crime policy also is a residential rehabilitation policy that can reverse population outmovement and losses of urban tax bases. There is considerable supporting evidence. For example:

¹ F.B.I. (1977), Mulvihill and Tumin with Curtis (1969), U.S. Department of Justice (1978).

² U.S. Department of Justice (1978).

³ Mulvihill and Tumin with Curtis (1969) and Wolfgang, Figlio and Sellin (1972).

New York City's population loss of 442,000 since 1970 has been attributed to crime, among several leading factors. The murdering of 8 doctors in Brooklyn over the last 6 years is driving away both young physicians and older practitioners, according to a recent report;⁴

The failure of Atlanta's Model Cities program has been related to increased crime and a consequent large outmovement of residents;⁵

The explosive population growth in the Sunbelt states has been associated with lower crime, lower taxes, better climates and lower costs of living compared to the Snowbelt;⁶ and

The rush of people to California has slowed, according to analysts, because of high crime, high unemployment, low housing construction, urban sprawl and environmental pollution.⁷

For business outmovement, as for residential outmovement, the misperception is that crime is only a secondary cause, or perhaps the straw that breaks the camel's back. Popular belief holds that the main causes of industrial flight are high taxes, poor municipal services, and difficulties in recruiting and keeping a skilled labor force. But, again, the reality is that crime appears to be as important as the other interrelated causes, according to available evidence. For example:

The 1978 report on "Large Corporations and Urban Employment" by Congressman Reuss' Subcommittee on the City concluded that crime was a major reason for relocation. "Many respondents expressed concern for personal safety of employees and the higher costs for additional plant security measures." The senior vice president of Procter & Gamble cited "terrorism" in the cities as a reason for moving out;⁸

A report concluded that many major supermarkets left Washington, D.C. inner-city neighborhoods for the suburbs in 1977 and earlier years because of crime, shifts in shopping habits, increased reliance on the automobile, and changing economics of the business;⁹

In 1976, a national study by the Conference Board cited crime as one of the five most crucial factors behind manufacturing relocation away from central cities;¹⁰ and

Interviews during 1975 with over 1000 chief manufacturing executives in Chicago found that fear for personal safety and security considerations were among the primary considerations behind investment and relocation decisions.¹¹

Not only does crime result in residential and business outmovement, but the population and manufacturing departures feed on one another in further accelerating abandonment and encouraging deterioration.

EXPLANATIONS ¹²

Although I am perhaps bordering perilously close to oversimplification, I believe that the myriad ways in which these and other facts have been interpreted can be reduced to biological, psychological, economic and sociological explanations in an attempt to understand urban crime.

Biological and psychological explanations

Is there something in an individual's biological and genetic makeup that can explain his criminal and violent behavior? Although there are differences among age, sex, and racial groups in the tendency to violent behavior, there is no evidence to link these variations to genetic or biological differences.

Man has the *capacity* for aggression, but evidence that he is *innately* aggressive has not been persuasive. Whatever the capabilities of an individual—whether he is intelligent or feeble-minded, suffers brain damage or chromosomal abnormalities—the likelihood that she or he will turn to either criminal or non-criminal behavior depends not so much on these characteristics as upon the environment and the kinds of social interaction experienced.

⁴ The New York Times (1977).

⁵ The Washington Post (1978).

⁶ Time Magazine (1976).

⁷ U.S. News and World Report (1975).

⁸ Subcommittee on the City (1978) and Reinhold (1978).

⁹ Hoover and Vernon (1976).

¹⁰ The Washington Post (1978).

¹¹ Economic Development Commission of Chicago (1977).

¹² Unless noted otherwise, this section is based on Curtin (1975), Curtin (1977), *Congressional Record* (1977), Mulvihill and Tumin with Curtis (1969), National Commission on the Causes and Prevention of Violence (1969), and Wolfgang (1969).

Biological and psychological factors can be said to account by themselves for a relatively small proportion of criminal violent behavior. One must, accordingly, more carefully consider the external influences that help create personalities with different capacities for violence and different abilities for diverting aggression into socially acceptable channels.

Economic and social explanations

When lack of opportunity, poverty, dilapidated housing, high unemployment, poor education, over-population, and broken homes are combined, an inter-related matrix of powerful criminogenic forces is produced.

Mix in the great emphasis on achievement in our (male-oriented) culture, especially as measured in material terms. There is pressure to desire goods and services, to feel successful if one obtains them, and to feel unsuccessful if one does not. The network of mass communications spreads a culture of consumer desires over a vast audience. Happiness, we are endlessly reminded, is obtaining and having things.

Most Americans operate on the premise that, in the race to material success, all men have an equal chance at the starting line and that anyone who falls behind has only himself to blame. Yet not all are at the front of the pack, especially not those who started far behind in the first place. And the race has different rules for different participants.

There are many different ways of coping with the frustration of failure. Some take solace in the fact that others are even further behind. Some withdraw entirely from the race: alcohol, drugs, mental illness and suicide are avenues of escape. In the inner city, where the chances of success are less, many adopt illegal means in the effort to achieve their goals of securing more money and higher status among their peers.

To be a young, poor male; to be undereducated and without means of escape from an oppressive urban environment; to want what the society claims is available (but mostly to others); to see around oneself illegitimate and often violent methods being used to achieve material success; and to observe others using these means with impunity—all this is to be burdened with an enormous set of influences that pull many toward crime and delinquency.

To also be a black, Mexican-American or Puerto Rican and subject to discrimination adds a critical underlying element to the web of causation. The racism we see today is more subtle than in the past, but it remains powerful, pervasive. Institutional racism is perhaps best seen in selective job hiring, firing and promotion and in real estate practices that assure segregated, overcrowded and overpriced housing.

One noted observer, writing on life in the ill-fated Pruitt-Igo public housing project of St. Louis, summarized the relationship between white racism and minority violence this way:¹³

“White cupidity creates structural conditions highly inimical to social adaption to which nonwhite minorities adapt social and personal responses which serve to sustain the individual in his punishing world but which also generate aggressiveness toward the self and others which results in suffering directly inflicted by non-white minorities on themselves and on others.”

Believing they have no stake in the system, some young ghetto men see little to gain by playing according to society's rules and little to lose by not.

The step to acquisitive violence is not great, for in an effort to obtain material goods and services beyond those available by legitimate means, lower-class persons without work skills and education resort to crimes for which force or threat of force has a functional utility. This is especially so for robbery, the principal street crime. At the street level and given the alternatives, even a robbery involving high risk may make sense—even though it may be “irrational” in Rand Corporation cost-benefit terms.

Just as theft is one of the more viable available ways of achieving masculine success, however transitory, so physical toughness is one means of traditional masculine expression that is less blocked to minority youths by the white male dominated mainstream society than other expressions. One black scholar has written:¹⁴

“Being a man means more than being a male biologically speaking. It means being able to take care of one's family, being looked up to as a man among men, and being respected by one's children and spouse, because he is head of the household. Few black men, because of their economic disenfranchisement in the country,

¹³ Rainwater (1970). I have slightly modified Rainwater's paradigm.

¹⁴ Vontress (1971).

have been able to assume [such a] masculine role. This fact helps to explain why so many black men exaggerate the most obvious, external signs of masculinity."

Street corner toughness and the perception of a wide range of situations justifying violent responses: these behaviors and attitudes help explain the kinds of motives most frequently recorded in homicides and assaults in the inner city or barrio. An altercation with overtones threatening a young man's masculinity, a misunderstanding between husband and wife, competition for a sexual partner, the need to get hold of a few dollars—these "trivial" events can readily elicit a violent response in an environment which allows easy access to weapons by some who may accept violence as a norm.

If the poor, young minority male is conditioned in the ways of violence by his immediate environment, he also is under the influence of many forces from the mainstream American culture. The frequency of violent themes in the media tends to foster permissive attitudes toward violence. Much the same can be said about guns in American society. The highest gun-to-population ratio in the world, the glorification of guns in our culture, and the television and movie displays of guns by heroes surely contribute to the scope and extent of urban violence.

Taking all the foregoing into account, perhaps we should marvel that there is not more crime and violence in the cities of our nation.

"Improved conditions" and relative deprivation

If the conditions of life for inner-city populations are responsible for the sharp difference in reports of crime rates between these populations and other groups in our society, there remains a puzzling paradox to be considered: Why have reported urban violent crime rates increased substantially during the past two decades when the conditions that are supposed to cause violent crime have not worsened—have indeed, generally improved?

One important answer to this question is that conditions have *not* really improved for the minority youth disproportionately associated with violence and street crime.

Figures from the Bureau of Labor Statistics and the National Urban League show that the level of unemployment for black teenagers has increased over the period when the crime committed by so many of them has also increased. In the absence of programs that better address their needs, these youths can be regarded as part of a secondary labor class, with little chance of escaping perpetual joblessness or gaining more than low-paying jobs that lack security or chances of advancement. In 1976, government-estimated unemployment for black teenagers was 40 percent; the National Urban League estimate was over 60 percent.

I'm certain that this Subcommittee is well aware of the relationship between unemployment and crime as brought out by Representative Conyers' recent hearings for his Subcommittee on Crime of the House Judiciary Committee. Among others, Professor Harvey Brenner of Johns Hopkins described how his recent national study for the Joint Economic Committee found that increases in the unemployment rate appear systematically to precede increases in the rate of criminal aggression.¹⁵

The importance of unemployment aside, any discussion of "improved conditions" for minorities over the years when reported violent crime rates have risen should distinguish between absolute improvements and improvements relative to whites.

For example, the absolute level of black income has indeed risen over the last two decades. But there has been no change in the large gap between black and white incomes—the relative standing of blacks on the income ladder compared to whites. Thus, U.S. Census figures show that, whereas black income rose from 58 percent of white income in 1964 to 61 percent in 1969, it fell back to 58 percent by 1974. Although the percentage of persons below the poverty line has dropped since 1959, it has dropped more for poor whites than poor nonwhites. Nonwhites, who compose about 12 percent of the population, made up 28 percent of the poor in 1959 but percent in 1972. During this time, inflation reduced the real incomes of black ghetto dwellers proportionately more than white suburbanites.

All of this is important if, as many believe, poverty is perceived not only absolutely, but also in terms of relative deprivation. Does a poor black youth in Harlem rejoice in periodic increases of the minimum wage (for deadend jobs) and think how much better off he is than his brother in Soweto? Or does he also compare his experience to the rich older white man on Park Avenue?

Poverty defined as relative deprivation, then, has not necessarily declined over the period when urban crime has risen.

¹⁵ Brenner (1976).

POLICY

No explanations cover more than a part of the complex phenomenon called crime. I have chosen those perspectives which, in my view, account for more of the behavioral variations than other perspectives among the populations which are disproportionately associated with criminal homicide, assault, rape, robbery, burglary, auto theft and larceny during this particular stage of our history.¹⁶

What policy implications follow? I believe that deterrence policies must be critically received; that, with significant qualifications, special programs against repeaters need to be expanded; and that the overall government strategy should balance more efficiency in the administration of justice with more social equality and a better integration of crime prevention and urban redevelopment.

Deterrence

Perhaps the most popular current school of thought on urban anti-crime policy is based on deterrence. Those who argue for deterrence as the major strategy against crime make the critical assumption that offenders act "rationally," and so will reconsider potential crime if its costs are raised sufficiently. One conservative criminologist asserts that, "If the expected cost of crime goes up without a corresponding increase in the expected benefits, then the would-be criminal—unless he or she is among that small fraction of criminals who are utterly irrational—engages in less crime."¹⁷

Yet, at least for homicide, assault, rape and robbery, carefully planned and calculated crime probably is the exception rather than the rule. The least planned violent crimes are homicide and assault, followed by rape and then robbery. Even in robbery, however, there are public misconceptions about the degree of cost-benefit calculation prior to the crime. Almost all studies of robbery distinguish between more and less sophisticated kinds of robbers. The sophisticated professionals act more rationally, plan carefully, usually rob institutions or persons who obviously have money, tend to be older, and carry firearms as a threat—but rarely use them. The less sophisticated and unprofessional robbers (who appear to be in the majority among robbers) act in much less planned and more often ostensibly random ways, not uncommonly rob persons who do not have money but will fight back, usually are younger, and tend not to carry weapons—but use physical force and inflict injury more often.¹⁸

A continuum of "rational" to "irrational" behavior, especially as measured by a remote white intellectual calculus, does not really capture the events, precipitants, motives, perceptions and decisions underlying a great deal of homicide, assault, rape and robbery by poor young minority males. This way of thinking has only limited relevance to real-world street values and ghetto life experiences. A random, poorly planned, violent street ripoff that is illogical to a conservative criminologist may not be felt as much of a risk to a heroin addict or to someone who feels that he has little to lose and the acceptance of gang co-members to gain.

To be sure, there are studies by economists that show a statistically significant but weak negative association between certainty and severity of punishment on the one hand and violent and property crime rates on the other. To a limited but statistically significant degree, more punishment is associated with less crime and less punishment with more crime. Yet, as my colleague Alfred Blumstein has warned, this situation does not necessarily prove that punishment deters crime. An equally plausible inference is that crime deters punishment. That is, the findings can be interpreted as saying that more crime overwhelms the police, the courts, and the prisons, making it less likely that criminals will be caught and mailed.¹⁹

The National Council on Crime and Delinquency has reviewed research on the deterrent effects of criminal penalties. For every report indicating some deterrent effect, there were at least two that did not. This observation is not to argue that the criminal justice system is totally ineffective on certain offenders in certain crimes and situations. Any doubter need only observe the increase in crime during police strikes and slowdowns. The point is that, from what is known, we cannot confidently predict that more severe and more certain punishment will make much of a difference on violent crime rates.²⁰

¹⁶ Considerably more needs to be said about the behavioral dynamics that encompass each of these seven acts. For example, my brief remarks have not been able to detail the processes of forcible rape. This is done in Curtis (1974) and Curtis (1975).

¹⁷ Willson (1972).

¹⁸ Curtis (1975).

¹⁹ Curtis (1977).

²⁰ Curtis (1977).

More generally, much of the work on deterrence is either based on untested assumptions or invalid generalizations made from limited statistics.

The net impact of this philosophy is to provide intellectual rationalization for the continued Vietnamization of the criminal justice system—more men, more equipment, more incursions, swift and sure punishment to deter a nonwhite enemy whose psychology the white power brokers of this nation presume to understand. This overall tone is not warranted by the facts at hand, nor the canons of scientific inference, nor—perhaps most important—by the realities of ghetto street and gang life.

The age structure of the population

Those who argue for deterrence as the major anti-crime strategy also often point out that part of the dramatic increase in reported crime since the 1950's is due to an extraordinarily high proportion of the population being in high-crime years over these decades.

This is true. The highest crime years are roughly ages 14 to 24. In 1950, the ratio of persons 24 and over to persons 14-24 was 3 to 1. By 1970, the ratio had fallen to 2 to 1—as post-World War II babies grew through their youth. One estimate is that perhaps 12 percent of the increase in arrests for violent crimes between 1950 and 1965 was due to the greater proportion of those aged 10-24 in 1965, compared to 1950.²¹

The age 14 to 24 bulge is now receding, as these individuals become adults. But another expansion will take place in the 1990's, when the children produced by the post-World War II cohort become teenagers.

The deterrence advocates believe that, during times with an age 14 to 24 bulge, there is little that policy makers can do but hold the line and take a law and order posture.

The trouble with this line of reasoning is that it often leaves out other important demographic variables besides age—variables which do allow for policy intervention. Race and class are the obvious examples. If, as I have argued above, the disproportionate involvement of minorities in crime is related to race and income inequalities, then the government can work to make opportunity more equal.

Repeaters

There does appear to be considerable consensus over doing something about the small group of repeaters which I have described as associated with so much crime. The safety of the population—especially the minority poor whose victimization rates are the highest—demands swift and sure handling of repeaters by the criminal justice system.

Even here, however, no one has worked out a comprehensive policy, many questions remain unanswered, and costs have not been systematically compared to benefits.

Do we keep these repeaters, a large proportion of whom are in their teens, locked up at least until after the age of 24, when their crime rates begin to lower—or do we perhaps follow the recommendation of one conservative criminologist and continue detention of certain offenders *after* completion of their prison terms?²² Might the removal of repeat offenders from the community merely create a vacuum, which successive new waves of repeaters will fill? Might such a policy simply shift criminal activity to other fields, less identified with repeaters?

Even with swifter handling of repeaters, some judges have hesitated to imprison them because it is well known that prisons are the best schools for crime, non-rehabilitative, under-financed and overcrowded. Nationwide, the average prison population stands at about 110 percent to 115 percent of capacity. It is 175 percent in some southern prisons. A judge in Alabama recently interpreted such conditions as cruel and unusual punishment in violation of prisoner's Eighth Amendment rights.²³

Are we prepared to significantly expand prison capacity? One estimate is that, if 2 in 10 convicted offenders were sent to prison instead of the present rate of 1 in 10, up to \$5 billion would be needed immediately to improve current conditions and to insure the housing, feeding and care of the new group. If crime rates continue to rise and if reforms that logically interface with prison expansion are carried out (such as expansion of court and prosecutor staffs and facilities), the cost of criminal justice reform is estimated at up to \$15 billion. (Presently, the federal criminal justice agency, the Law Enforcement Assistance Administration, has an appropria-

²¹ Mulvihill and Tumbin with Curtis.

²² Van den Haag (1975).

²³ Chelmsky (1976).

tion of \$700 to \$800 million and, because of block grants, most of this money is outside of its control.)²⁴

Such a course would also carry opportunity costs:²⁵

What is it likely to mean to our society to embark upon a course of prison building? How likely is it that, once these prisons are built, we will be able to maintain enough empty cell space to guarantee a continued incarceration (deterrent) option to judges? How likely is it, on the contrary, that once these empty cells exist, they will tend to be filled, in response to, say, an increasingly punitive philosophy or to some bureaucratic incentive to fill voids and justify appropriations? What alternative investment expenditures will we need to forego in order to create a meaningful criminal justice deterrent, and what will this do to both short-term and long-term national priorities?

Research is underway on some of these issues, and there are a growing number of programs against career criminals in cities throughout the nation. But there still are no assurances that the time and money needed to develop a strategy of deterrence and incapacitation alone will be less than nor the success greater than a policy that simultaneously addresses some of our major social ills and some of the determinants of crime.

Criminal justice efficiency and social equality

Even the 1967 Crime Commission, chaired by Nichols Katzenbach and focused on the criminal justice system, concluded that:²⁶

"Warring on poverty, inadequate housing and unemployment is warring on crime. A civil rights law is a law against crime. Money for schools is money against crime. Medical, psychiatric, and family-counseling services are services against crime. More broadly and most importantly, every effort to improve life in America's inner cities is an effort against crime."

I believe that this balance between criminal justice and social reform is the wisest and, in the long run, the most cost-effective course.

The spirit of the Kerner Commission on urban disorders, the Douglas Commission on urban problems, and the Kaiser Commission on urban housing needs to be renewed. Let us acknowledge that there are significant defects in the operating institutions of American society; that these defects place an unfair burden on the backs of the minority poor; that minority young people are not adequately incorporated into adult society; that the inequities need to be redressed; that changes are not likely to occur overnight; but that immediate and significant movement can be initiated after the recent years of government inaction.

Let us be careful in our expectations and evaluate success in sensible ways. Crime cannot be "eliminated" in our complex society, but the rate of crime can be reduced. One realistic goal might be to lower through economic and social reforms nonwhite crime rates to levels more comparable to the crime rates of whites.

Some examples of specific policy for the future

This is not the time nor place to lay out a point-by-point anti-crime program—though mine would range from firearms control²⁷ and more creative services

²⁴ Chellmsky (1976).

²⁵ Chellmsky (1976).

²⁶ National Commission on the Causes and Prevention of Violence (1969).

²⁷ My own work (Curtis 1974) has generated a number of arguments for firearms control.

One argument is based on the conclusions, that homicide and assault are similar, except for final outcome, and that firearms are more frequent in killings but knives in attacks. The fatality rate for firearms attacks is approximately five times as high as for knives. Thus, "a rough approximation would suggest that the use of knives instead of guns might cause four-fifths, or 80 percent fewer fatalities." Effective handgun control would not reduce the motivation or desire to kill, but it could necessitate the use of less efficient and more deadly weapons. Thus, relatively fewer homicides and more aggravated assaults might be expected to occur.

A second argument is that guns predominate as the weapon used in armed robbery. There is every reason to believe that the gun is often essential for the armed robber and that, without it, many would be unable to produce the threat of force needed to carry out such a crime. In addition, the fatality rate for armed robberies involving firearms is approximately four times as great as for armed robberies involving other weapons.

Third, consider the common practice of keeping firearms in the home for purposes of self-defense. There is an assumption here that a great deal of violence is by strangers intruding into the home and that firearms are an efficient defense. Yet criminal homicide, while often occurring at home, is not preoccupied with strangers. Aggravated assault has proportionately more strangers, but it also occurs outside more often. Even for the relatively few homicides and assaults where strangers penetrate a home, existing evidence indicates that the element of surprise substantially limits the effectiveness of personal defense. Robbery occurs between strangers most of the time, yet it rarely happens in the home; even when it does, the element of surprise exists. Burglary has a much higher incidence rate than the four major violent crimes, is the most common type of intrusion by a stranger, and causes the greatest property loss. Yet burglary rarely threatens the homeowner's life.

Not only do the facts show the limits of firearms as protective devices, but they also suggest that guns are often hazardous in the home. In the heat of an altercation, family quarrel, or jealous rage, guns stored for protection against strangers can be used on friends and loved ones. Nor does the shooting need to be criminal; a substantial number of the 23,000 annual firearms accidents in the country occur in the home.

for victims to expanded use of community development corporations and a national neighborhoods policy that also embraces the objectives of the civil rights movement. Yet, given what is known, there probably is no more cost-effective means of crime reduction in the long run than the provision of jobs integrated into careers.

A guaranteed jobs program sensitive to the structural urban unemployment of minority youth surely is a more effective and humane response to periodic bulges in the age 14-24 cohort than law and order holding actions.

There are scale economics to be had if jobs for minority youths can be linked to the physical and social development of the inner city that nourishes so much crime. "Targeting" is a principal theme of the Carter Administration's urban policy. If labor market supply and demand can be linked on a broad enough scale, in a creative enough way, to help the most desperate people in the critical places, then an impact can be made on crime.

This returns me to the necessity of integrating urban development policy and crime prevention policy. With its emphasis on a criminal justice system response to the problem of crime, the federal government may not have recognized the theme as much as is possible.

Public housing, where so much crime occurs, may be one good place to begin integrating crime prevention, urban redevelopment, social reform and criminal justice initiatives. There is some reason to believe that all of the following elements may be useful to achieve success in reducing crime at any one public housing site:

Physical design and hardware improvements. (E.g., lobby access control; closed circuit t.v. monitors; better apartment locks; better lighting; and expansion of private space in which each tenant has a stake.)

More tenant leadership, organization and participation. (E.g., tenant councils; tenant screening; resident community service organizers; escorts for women, children and the elderly; block watch teams; and volunteer foot patrols.)

Service Improvements. (E.g., child care; drug counseling; family counseling; child, wife and sexual abuse counseling; other crime victim counseling; crime insurance; and recreational and cultural programs.)

Increased employment for tenants. (E.g., as resident security guards; installers of security hardware; paraprofessionals in tenant services and organizational improvements; crime insurance agents; and maintenance workers.)

Improved management and maintenance. (E.g., through general upkeep and landscaping to improve the project's appearance and make it less institutional; property stencilling and registration to deter fencing; an arson control program; and a security director.)

Improved support from the local criminal justice system. (E.g., through more patrols; team policing; a tenant-police relations program; and neighborhood housing dispute courts.)

Similarly, to address the relationship between crime and business outmovement, I believe that an anti-crime and insurance component might be added to new incentives to retain or bring manufacturing and industry back to the central city.

A final note, on public opinion

And what does the public believe?

A 1977 Gallup Poll showed urban Americans to be most concerned with crime and, secondly, with housing and slums. There is a connection in the minds of the citizens.²⁸ When they were asked in another recent poll what to do about crime, the two most frequently mentioned responses were "cleaning up social and economic conditions in our slums and ghettos," on the one hand, and criminal justice strategies, on the other.²⁹

In probably the most comprehensive Gallup Poll on what the public thinks the federal government ought to be doing, the authors concluded:³⁰

"The priorities * * * tend to negate the notion that the public has turned its back on the * * * social programs instituted first with the New Deal and continued through the Great Society * * * The public indicated substantial willingness to spend tax money to alleviate * * * many of the domestic problems facing the country."

It is not unwise for Members of Congress to listen to the people. Protect the population through more efficient administration of justice, but reduce inequities and rehabilitate our cities through crime prevention as well as physical construction.

²⁸ McBride (1977).

²⁹ Watts and Free (1974).

³⁰ Watts and Free (1976).

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Senator BENTSEN. I am sorry I don't have a summary of your statement. I could have followed it better.

Can you elaborate on the material you have about business leaving cities and where crime has its influence in that regard?

Mr. CURTIS. As I said, traditionally it has been thought that the reasons for business departures are economic—having to do with profit calculations, tax bases, and the like.

But now we have some new evidence—for example, from the conference board in New York City, from Chicago, and from Congressman Reuss' Subcommittee on the City. In these studies, there is more documentation on a number of interrelated factors that are responsible for business out-movement. The factors are not only economic, but social, as well. And one of those social factors seems to be crime and fear of crime. Businessmen talk of plant security and the need to hire a great many more guards.

The vice president of Procter & Gamble suggested in Congressman Reuss' survey that one reason why his company moved out was "terrorism in the city". I think that Congressman Reuss has done a good job of documenting such reasons. He wrote to the Fortune 500 and to lot of other industrial and manufacturing firms in the Nation. His subcommittee received specific responses to the question of why a firm chooses either to remain in or leave the city.

Overall, there is not enough hard, scientific, quantitative, statistical evidence on the exact reasons for business out-movement. But what seems to be emerging from the available studies is that crime is one of several important components.

Senator BENTSEN. Mr. Curtis, I certainly agree with you on that part about there is some correlation between employment and crime. I believe that, particularly for young people, not to have anything to do and roaming the streets rather than being productively employed and going home tired, ready for sleep, if those jobs were there instead of the high, almost unconscionable rate that we have, particularly among minority youth, that that would combat that problem. But I must say that I can't agree with you at all when you make the point that we can't confidently predict that more severe and more certain punishment will make much of a difference on violent crime rates.

I just don't believe when you are talking about repeater criminals that the idea that you will hold out there an \$8,000 job for a \$20,000 burglary, that there are more inducements for him not to repeat than the certainty of punishment and that you throw him in jail and take him to of circulation. That one I find rather difficult to accept.

Mr. CURTIS. I don't want to in any way criticize the need for the career criminal program. I think that targeting on repeaters is important. I think it can go far in the direction of controlling crime. The point I was trying to make is that such criminal justice reform needs to be balanced by social and economic reform. And, one has to be very sensitive to the kinds of crimes one is talking about when discussing deterrent strategies. Crimes like burglary are more susceptible to deterrent strategies than crimes like homicide or rape.

If you might permit me, I would like to quote from my testimony:

Those who argue for deterrence as the major strategy against crime make the critical assumption that offenders act "rationally" and so will reconsider potential crime if its costs are raised sufficiently. One conservative criminologist asserts that, "If the expected cost of crime goes up without a corresponding increase in the expected benefits, then the would-be criminal, unless he or she is among the small fraction of criminals who are utterly irrational, engages in less crime."

That is a classic assumption. In my testimony, I respond in the following way:

Yet, at least for homicide, assault, rape and robbery, carefully planned and calculated crime probably is the exception rather than the rule. The least planned violent crimes are homicide and assault, followed by rape and then robbery. Even in robbery, however, there are public misconceptions about the degree of cost-benefit calculation prior to the crime.

Almost all studies of robbery distinguish between more and less sophisticated kinds of robbers. The sophisticated professionals act more rationally, plan carefully, usually rob institutions or persons who obviously have money, tend to be older, and carry firearms as a threat—but rarely use them.

The less sophisticated and unprofessional robbers, who appear to be in the majority among robbers, act in much less planned and more often ostensibly random ways, not uncommonly rob persons who do not have money but will fight back, usually are younger, and tend not to carry weapons—but use physical force and inflict injury more often.

I think that one must be cautious about labeling behavior as "rational" versus "irrational."

Senator BENTSEN. I can see a crime of passion done by one who is not a repeater. I think there is credence to that, but I really believe that when you are talking about the repeater, who is the most sophisticated, that more thought is given to the question of the certainty of punishment.

The chief was talking about his being in on conversations where the offenders think that they can escape it. That factors into the decision. Those are often repeaters that do most of the crime. I just strongly believe that the certainty of punishment is a strong deterrent.

We have several witnesses here, and I would like to ask, if you can, that you stay and we can have an exchange of views later.

Mr. Harris, we would very much like to hear your views on public opinion and how that affects criminal policy.

STATEMENT OF LOUIS HARRIS, PRESIDENT, LOUIS HARRIS & ASSOCIATES, NEW YORK, N.Y.

Mr. HARRIS. Mr. Chairman, as I understand it, you asked me here this morning to testify about some recent attitude studies our firm has conducted on the subject of public concerns about crime, particularly as they relate to the cities. We recently had the privilege of conducting a massive survey of close to 8,000 adults nationally for the Department of Housing and Urban Development on attitudes

and behavior patterns as they relate to cities, suburbs, and small towns and rural areas. In addition, just within the past month we have completed another study for ABC news and for the Harris survey on the general area of crime among a cross-section of 1,493 adults. I am largely drawing upon both studies for my report here today.

There is no doubt that a pervasive concern about crime seriously besets people in this country today, most of all those who live in the Nation's cities. Nationwide, we found in our HUD study that when asked to name the most serious problems facing their communities where they live, right at the top of the list, volunteered by 40 percent nationwide was crime. In the cities, an even higher 45 percent singled out crime as their top community problem.

The crime issue in the cities came into even sharper focus in the HUD study when we asked people to rate on a four-part scale a whole host of specifics about the environment in which they live. While 81 percent of city dwellers rate their housing and apartments positively; the way they are accepted by others in their neighborhood, 74 percent positive; the neighborhood itself, 78 percent positive; the city as a place to live, 71 percent positive; available recreation and entertainment, 66 percent positive, and the beauty and attractiveness of where they live, 60 percent positive, in stark contrast, only 45 percent of city residents were able to say they could give a positive rating to the personal safety they enjoy. This last number on personal safety for the cities of 44 percent contrasts with 71 percent of respondents nationwide who rate their safety in a positive way.

When we asked about the severity of specific problems people face, again we asked directly about crime. In the suburbs, 20 percent feel the problem of crime is severe and 15 percent share that feeling in the small towns and rural areas. But in the cities, 72 percent of city dwellers say their crime problem is severe.

By any measure, a major cross which the cities have to bear today is a reputation among their own residents and among others that they are being inundated with crime. Indeed, when asked to choose between cities, suburbs, and small towns and rural areas on which one has the "most crime," 91 percent nationwide singled out the cities, compared with only 1 percent who picked the suburbs and 1 percent the small towns and rural places.

As our HUD study pointed up, crime is one of the major threshold problems perceived about cities, along with, I might add, Mr. Chairman, serious problems in raising children, mainly due to the poor condition of the public schools, and the fact that cities are viewed as the place where racial tensions are highest.

Now, Mr. Chairman, if this were all I had to report to this committee this morning on either the subject of crime or the subject of cities, then the outlook on both subjects could be bleak indeed. But it is not. In the HUD study, because this was the first such survey of this magnitude to be undertaken, all of our results do not have the benefit-of-trend lines. This is not the case with our data concerning public attitudes toward crime.

Since 1967, we have regularly surveyed public perceptions of crime where people live. As you know, much of crime is real in the sense that it is now regularly measured by law enforcement agencies across the country, and central crime statistics are compiled by the FBI and the Department of Justice here in Washington.

However, much of the problem on crime is also psychological, as it is perceived, as it is felt by people. For, in a day when terrorism and violence sadly appear to be on the increase throughout the world, part of the tragic baggage which whole populations now carry with them in their daily lives is the worry that each individual, no matter what his station, is not immune from their effects. Since 1967, we have lived with this pall of fear over our individual lives.

Yet, in our latest survey undertaken for ABC television news and for the Harris survey, for once I am pleased to report some heartening news about the state of mind of the American people on the subject of crime and personal safety on the streets. Since 1967, we have asked people if they felt the crime rate in their own home area was increasing, decreasing, or remaining the same compared with the previous year. Back in 1967, nearly half, 46 percent nationwide reported the rate was increasing, only 4 percent decreasing, and 43 percent remaining the same. By 1970, only 3 years later, a much higher 62 percent reported their local crime rate increasing. By 1975, the number who felt crime was increasing in their home area jumped again to 70 percent, with only 3 percent who said it was decreasing and 24 percent remaining the same.

Now just last month, we asked the same question again, but this time there was a sharp drop in the number who feel crime is increasing where they live. Nationwide, it has dropped from 70 percent to 46 percent, with 7 percent who say it is decreasing, and 42 percent remaining the same.

Simply put, this means that apprehension in America over crime for the first time in a decade appears to be on the decline. It means, in turn, that the worry over crime has apparently begun to recede some, perhaps a reflection of the drop in all violent crimes except rape which have been reported by the FBI.

There are some sharp differences, however, by different types of communities and by different regions of the country which ought to be noted. First, the place where residents report the lowest increase in crime is rural America, where no more than 39 percent say it has increased over a year ago. Next are the suburbs, with 42 percent reporting an increase. Then come the cities with 51 percent of whose residents tell us crime is still increasing there. However, the biggest surprise to me, by far the biggest increase is not reported from the cities, but by small towns, where 59 percent of the people say crime is on the rise. In other words, small towns now appear to be growing more worried about crime than any other part of the country.

On a regional basis, the lowest increase is reported in the East, with 39 percent who say it has increased, followed by the Midwest at 40 percent. Then there is a big jump up to 54 percent in the South who say crime is on the rise there, with the West highest at 56 percent who report crime increasing.

Thus, if this perceived trend were to continue, it would not be long before small towns in the South and in the West were the places where people are most apprehensive about crime.

We also have asked a parallel question dealing with personal uneasiness on the streets where people live. We asked this question beginning in 1966: "Compared to a year ago, do you personally feel more uneasy on the streets, less uneasy, or not much different?" Back 12 years ago,

we found just under half the population, 49 percent who said they felt more uneasy personally on their home streets. By 1968, it had risen to 53 percent, then to 55 percent in 1969, where it remained for 1971 and through 1975.

But just last month, we asked the same question again, and this time we found nationwide only 40 percent who say they feel more uneasy personally on their streets compared with a year ago. This is a sharp drop from the high of 55 percent which existed for so long a period. So, once again, it is fair to conclude that the public feels less anxious, certainly not at ease but less worried about safety on the streets in this country than it has felt in over a decade.

Again, there are some sharp differences by different places where people live. Again, rural residents are lowest in reporting unease on their streets, with 36 percent saying they feel that way, followed by suburban dwellers at 38 percent and city residents at 41 percent. But, the highest degree of apprehension is felt by residents of small towns, 46 percent of whom feel personally uneasy on the streets. On a regional basis, in the East, no more than 33 percent feel this sense of unease on their streets, followed by 36 percent in the Midwest, a higher 43 percent in the West, and the South highest at 46 percent.

Thus, once again, in terms of the perceived and felt trend about personal unease on the streets, residents of small towns in the South and the West are beginning to harbor worries about this more intensively. Or put another way, in a time when the trend appears for the first time to be toward lowered fears and anxieties about crime and personal safety, the small towns in the South and Midwest appear to be growing candidates for where such worries are likely to be harbored the most.

Now, I am sure that someone on the committee will ask how can these latest results which are drawn from a comparable cross-section to the HUD study be reconciled with the earlier HUD results I reported. I do not have a problem on that, Mr. Chairman. It is still undoubtedly the case that cities are where people feel crime is still the central problem, that cities are viewed as having the most severe crime problems.

But, there is also no doubt that general apprehension about crime appears to be abating across the country, and in the years ahead, it is entirely conceivable, if these trends continue, that small towns will inherit many of the apprehensions that have beset the cities for over a decade now.

It took close to 15 years for the cities to build a reputation for being the havens of crime, and it undoubtedly will take some further time, even if the crime rate for cities is declining in fact, for the cities to outgrow that reputation. But, these latest results in many ways are the most significant, for they are sensitive indicators that in the future crime may be every bit as much as or more a problem in the small towns of the South and West as any parts of this country—at least in the perception of the people who live there.

Perhaps of equal significance are some other results we obtained from this latest survey. We have regularly asked people if they feel that our system of law enforcement works to really discourage people from committing crimes or if it doesn't discourage crime. Back in 1967, 56 percent reported that the law enforcement system did not discourage crime, rising to 67 percent in 1970, to 69 percent in 1973;

to 67 percent in 1975, and finally to an even higher 73 percent just last month, who feel law enforcement does not stop crime.

Comparably, back in 1967, 49 percent felt that the courts were too lenient in dealing with criminals, then this number rose to 64 percent in 1970, to 69 percent in 1975, and finally to 77 percent just last month in 1978. It is evident, Mr. Chairman, that the American people feel that the system of justice is simply not working well to discourage crime and that judges tend to be too lenient with offenders.

However, there has been a bit of a comeback for the estimate the public has about law enforcement officials at the local and State levels from the low we recorded for them in 1977. Back in 1967, there was not much doubt, by 64-30 percent, a majority gave local law enforcement officials a positive rating. This dropped to 58-39 percent positive in 1973, then to 57-40 percent in 1975, then to a low of 52-46 percent last year. In the latest survey, this rating of local law enforcement officials, which most people view as the local police has increased marginally to 55-42 percent, a bit higher, but still the second lowest rating we have recorded for law enforcement officials at the local level.

The same trend is evident for State law enforcement officials, who had a high of 63-30 percent positive in 1970, then fell to 51-40 percent positive in 1973, then to 47-42 percent positive last year, but back up to 51-37 percent this year.

Senator BENTSEN. If they are not careful, they will rate as low as Congressmen.

Mr. HARRIS. Congressmen consistently rate a good deal lower than that. [Laughter.]

Senator BENTSEN. That is the point I was making.

Mr. HARRIS. We cannot report the same kind of comeback for law enforcement officials at the Federal level. They were viewed positively by 60-30 percent in 1970, then fell to 47-42 percent negative when Watergate descended on the country in 1973, came back slightly to a 44-44 percent standoff in 1975, but then fell again in 1977 to 49-39 percent negative, and still are 43-37 percent negative today.

Now when analyzed by size of place, people in the cities uniformly have the lowest estimate of law enforcement officials at the local, State, and Federal levels. However, it is significant that the 49 percent of city dwellers who give their local police a positive rating is much higher than the 39-36 percent negative rating given to Federal law enforcement officials by rural residents who generally are the highest on Federal officials. It is also true that law enforcement officials at all levels receive negative ratings from blacks nationwide.

But at least locally and at the State level, there are some signs that the failure of confidence in law enforcement officials may have stopped its decline. However, the Federal law enforcement officials must do much to rehabilitate their standing with the American people. I might add, I view this as a very serious problem, one of the most serious at the Federal level.

Again, just on a trend basis, if one were to point up where to worry about crime in the future in terms of citizens' perceptions, then it would be centered in the small towns of the South and West, and the place where law enforcement is felt to be weakest is at the Federal level.

Finally, Mr. Chairman, we asked people what they thought the major emphasis in most prisons is today and what it would be. The highest number, 33 percent, thought the emphasis was on rehabilitation, 31 percent on protecting society by removing offenders from future crimes that might be committed while incarcerated, and 23 percent who thought the emphasis was on punishing the individual convicted of crime. Then we asked people what they thought the main emphasis in prisons ought to be. By far the number one emphasis 48 percent of the people would like to see is trying to rehabilitate offenders so that they might return to society as productive citizens, compared with only 33 percent who feel that is what the emphasis is today. Then 23 percent thought that punishment should be the main emphasis, exactly the number who think that is where the emphasis is today. Finally, 21 percent think the emphasis should be on protecting society by removing the individual from circulation, compared with a higher 31 percent who felt that is the emphasis in prisons today.

By any measure, it is apparent that the American people feel that not enough is done to rehabilitate those who have been sentenced to prison. I might add that this is tacit recognition of the point you were making, that most crimes are committed by people who have previously committed crimes. People are worried about that and don't feel much is being done about that. At the same time, people also believe that courts are too lenient in the treatment they give to offenders found guilty and they feel that law enforcement officials and the system do not discourage crime.

This picture, Mr. Chairman, is not quite the simple "let's get tough and crack heads and back our local police" that rang through the air back earlier this decade around 1970. To the contrary, people have a sense that police and law enforcement officers are no longer sacred cows who stand always for the right and simply need more backing and latitude. Rather, people seem to be saying that more emphasis should be on rehabilitation, on more competent police and law enforcement, albeit not lacking in firmness on enforcement.

On the subject of the cities, Mr. Chairman, I just feel I have to add this even though it is not the major part of these hearings. The results from our HUD study clearly indicate that not only do the cities have problems, one of which is crime, but that they are also the literal hub of activity in this Nation.

It is significant, for example, that just among suburban dwellers, and I had no idea about this, to cite but one segment of the public, of all the times in the past year they went to movies, 53 percent of those times they went to the city. When suburbanites went to a museum or live play or concert, 53 percent went to the city not to the suburbs where they live; when they bought furniture or a major appliance, 46 percent of those shopping expeditions were in the cities; when suburban residents bought new clothes, 48 percent of the purchases were in the city; when they went out to have a nice dinner, an even 50 percent of those dinners were in the city; when they attended religious services, 44 percent of the time they went to a church in the city; when they went to see a live sports event, 46 percent of those events were in the city; when the suburban people went to a doctor, 52 percent of the visits were to a doctor in the city not in the suburbs; and when they visited friends, this is most startling of all,

47 percent of the suburban dwellers social visits were not to friends in the suburbs, but to the city.

These startling facts which indicate that despite their worries about the cities and crime, the cities are still the place where major life activities are spent, even for people who do not live in the cities.

By reputation, the cities not only are known for crime, poor schools, and for racial tensions, but also where there are some positive things, 90 percent of the Nation think they are where there are the most plays, museums, and other cultural opportunities; 81 percent think the cities have the best public transportation; 79 percent the best selection of movie theaters; 77 percent the best selection of restaurants; 73 percent the best clinics, hospitals, and health care facilities; 72 percent the best employment opportunities; 62 percent the best shopping; 67 percent the best colleges and universities; a plurality of 47 percent think the cities have the best parks and playgrounds; and a plurality of 39 percent think they have the best public services, which I know is a surprise, such as garbage collection, street maintenance, fire, and police protection. In all cases, people were asked to choose between the cities, the suburbs, and small towns and rural areas.

In short, Mr. Chairman, the outlook for the Nation's cities is not bleak, is not that of a place whose usefulness to society is to see how fast their most talented and educated citizens can move out. To the contrary, despite their reputation for crime, cities are the central hub, the central pivot of American society in the late 1970's, and the indications are that this will accelerate rather than decline.

Senator BENSTEN. I am sitting here trying to digest some of the numbers, but they do add up to one thing, that the people are deeply concerned about crime and would be supportive of what they view as an increase in a serious effort to see if we can't reduce crime within those cities.

Mr. HARRIS. No doubt of that, Mr. Chairman.

Senator BENTSEN. They would support those kinds of efforts.

Did you have a survey in there on the elderly and their feeling about crime?

Mr. HARRIS. We found easily the No. 1 group which is worried about their own unease on the streets, 62 percent of the elderly are worried. We did another study, I didn't report on it here, and I think my memory is correct on this. We found elderly people most concerned about being held up, robbed on the street, or mugged by young hoodlums, particularly in the case of social security checks that they have picked up, pension checks, or other things, at the Post Office and walking to their homes they find themselves often getting robbed or mugged.

The elderly as a consequence, said they don't go out of their houses and one can say they have been made prisoners where they live.

Senator BENTSEN. Did you have some correlation of numbers? Did your survey cover that? Of the statement by Mr. Curtis on one of the contributing reasons for business leaving the cities, the question of crime?

Mr. HARRIS. We didn't survey business as such. I think another study is planned on that. We will have some definitive information. We have some other studies in the working on site locations, where we have surveyed a number of States to find out what are the causes

for people moving from various States to large urban cities. Safety on the streets is a serious deterrent.

It is interesting because—to put it another way, they want the executives most of all, the company does, to have decent housing and safety would be an important elements. There would be others such as no enormous traffic jams in going back and forth to work, pollution, they don't want to move to a place that seems to be polluted.

There is a sense of worry about their own employees' safety. It is a factor that does pervade all modern life. I don't think our country is unique in this either.

Senator BENTSEN. Mr. Harris, would you mind staying for the rest?

Mr. HARRIS. I would be delighted.

Senator BENTSEN. Mr. Smith, if you would proceed. For the record, would you state your name?

**STATEMENT OF GEORGE C. SMITH, PROSECUTING ATTORNEY,
FRANKLIN COUNTY, COLUMBUS, OHIO, AND NATIONAL CHAIRMAN,
CAREER CRIMINAL COMMITTEE, NATIONAL DISTRICT
ATTORNEYS ASSOCIATION**

Mr. SMITH. I am George C. Smith, prosecuting attorney for Franklin County, Columbus, Ohio, and also national chairman of the Career Criminal Committee of the National District Attorneys Association.

It is a privilege to appear before the Subcommittee on Economic Growth and Stabilization. The problems of urban crime and urban blight are, as history teaches us, interrelated; one predictably follows the other.

This is my second term serving as national chairman of the Career Criminal Committee of the National District Attorneys Association. This duty has taken me, not only throughout Ohio and its eight major urban centers, consulting with and advising other prosecuting attorneys regarding multiple, violent offender projects, but across our Nation. In that capacity, I have seen the interrelationship of urban crime and urban blight reinforced. So I rely, not only on statistics, but prosecutorial experience in reporting that it is the poor and defenseless residing in the inner city who are more likely to become victims of crime.

Crime the world over has become a growth industry. More than two-thirds of the increase in crime that has occurred since 1900, has occurred the world over in 15 years. In France, from 1950 to 1964—and the trend has continued since—crime rose 70 percent; in Holland, 54 percent; in Italy, 40 percent. Since that time, Italy has been catching up. In Sweden some of you may be surprised to hear that crime rose 44 percent. Of course, we have done better than any of these countries. From 1960 to 1970 crime in this country rose by 144 percent. Last year, incidentally, crime decreased nationally by about 5 percent.

Criminologists such as Ernest van den Haag now tell us that the suffering and loss encountered by victims of crime often occur because of the actions of a small percentage of the criminal element responsible for a disproportionate amount of our Nation's violent crime. They are the violent, repeat offenders whom studies show represent only 7 percent of the criminal population, but commit as much as 40 percent

of our crime. They are career criminals. They are responsible for a high proportion of the violence that is the enemy of domestic tranquility in our inner cities. They destroy the sense of community, imprison the elderly, and corrupt our youth.

The career criminal program addresses the problem of violent crime and the habitual, repeat, violent offender. It focuses on the prosecution and lengthy incarceration of the career criminal. It involves putting time and effort and other resources aside to handle particular problems posed by these violent criminals who continually beat the system. Today, these violent offenders are not beating the system in career criminal jurisdictions because there really is a system that is ready for them.

Career criminal prosecution marks a creative and innovative step toward street safety.

We are putting professional prosecutors; competent, experienced full-time lawyers against the professional criminal. When this happens, there is simply no contest.

Statistics show us that career criminal jurisdictions are successfully prosecuting the career criminal. Since the program was launched in 11 American cities in 1975, 6,641 violent, habitual offenders have been convicted of 10,409 separate charges.

Discretionary funded career criminal programs have a 94.7-percent conviction rate; 89.4 percent of the dependants were convicted of the top felony as charged; 9,570 prison sentences have been pronounced; the prison sentences resulting from convictions of these violent offenders average 15.4 years.

The defendants prosecuted by the career criminal units had a total of 84,367 prior adult arrests; 38,710 prior adult convictions.

Based on the latest preliminary "Uniform Crime Report" statistics, covering the full calendar year 1977, career criminal program cities have continued to exceed crime reductions experienced generally in U.S. cities.

As contrasted with 1976, reported incidents of serious crime in all U.S. cities over 25,000 population decrease by 5 percent.

However, in the career criminal program cities, such incidents decreased by 8 percent—from 852,064 to 784,622.

Robberies nationwide dropped 5 percent; in discretionary funded career criminal programs, 8.2 percent—from 59,623 to 54,758.

As contrasted with 1976, reported incidents of burglaries in all U.S. cities over 25,000 population decreased 3 percent. In the career criminal program cities such incidents decreased 5.5 percent.

The decreases achieved by the career criminal program cities bettered the national average by 60 percent, 64 percent, and 83 percent respectively for all index crimes, robberies and burglaries.

Although the percentages of career criminal program superiority over the respective national average have varied, they have never fallen below 30 percent superiority on any of five analyses prepared by the National Legal Data Center, Thousand Oaks, Calif.

These figures are significant; but just as significant are the number of crimes that will not occur in our Nation. Based on the Rand Corp. study for the National Institute of Law Enforcement and Criminal Justice, it is estimated that a career criminal will commit an average of 20 crimes a year. Projecting these figures to the national picture, prosecution of career criminals means more than 132,820 violent crimes will not occur next year because of our efforts.

Plea bargaining has been virtually eliminated in career criminal jurisdictions as a result of the concentrated prosecution effort. Pleas in Ohio career criminal offices are accepted only to the most serious charge, not to a reduced charge. If the defendant refuses to plead guilty to the most serious charge, we go to trial. We win our cases, judges are making rational sentencing decisions, and career criminals are serving lengthy prison terms.

Justice is also swiftly dispensed under career criminal prosecution. Nationally, an average 106 days elapsed from the time of arrest to disposition of each case. The prosecution is well aware that delays do not benefit the innocent defendant, as our courts have clearly held.

Yet, it is often the constant delay in bringing a case to trial that has permitted the violent habitual offender to escape incarceration. Witnesses leave town, evidence is lost, or too much time elapses resulting in dismissal of the charges.

As a result of intensive prosecution, delays in court proceedings are challenged by career criminal prosecutors. Cases are brought to trial swiftly.

Furthermore, prosecutors appear at bond hearings to discourage low bail which allows a violent criminal to walk the streets, committing more crimes while his case is processed through the courts. Statistics indicate 53 percent of the crimes committed by career criminals occurred while the suspect was on parole, probation, or pretrial release; free to commit their urban terrorism.

Career criminal prosecution has also met the constitutional challenge.

Since its adoption in cities throughout America, a number of appellate courts have considered this question. It is my understanding that in each litigated case, the courts have ruled in its favor. Those appellate courts include Massachusetts, New York, California, Ohio, and in the State of Washington. Recently a case concerning this issue was appealed from Washington State to the U.S. Supreme Court. The latter declined to accept the case. Therefore, the favorable opinion of the Washington State Supreme Court stands.

The main issues center on the questions of due process and equal protection. In each instance, the courts have noted that it is within the prosecutor's discretion to selectively pursue defendants who are categorized as the repeat offender.

There are now more than 50 cities throughout the United States implementing career criminal prosecution efforts. Some of them are funded by Federal dollars, others through local resources. This growth and extension of the effort speaks to the success of the project. The career criminal program is beginning to become an accepted method of conducting the public's business in the area of criminal prosecution.

Today, we are here to explore the problems of urban blight and urban crime. Despite the remarkable accomplishments of career criminal programs throughout the United States, I believe it is too simplistic to assume that attacking the crime problem alone will solve the problem of urban decay, just as attacking urban blight alone will not solve the crime problem. The two problems are interrelated. The interrelationship of urban crime and decay demands new initiatives of coordination. Because there is no simple answer to the cause-effect question, I believe the approach to take is one that equally distributes resources into a two-pronged attack.

Our cities were founded as the gathering place for intellectual, cultural, commercial, and industrial development. By establishing the attractive and functional urban center, and by increasing the public's safety there, this development will be rekindled.

As a prosecutor, I am convinced people will not return to our inner cities or the now blighted areas of our cities until Americans are convinced it is safe to live there. This, obviously, is one reason people have moved away from inner cities. To attract citizens to the cities, we must develop the understanding that we will make the inner city a safer place to live and work by doing all we can to incarcerate the violent criminal element. The career criminal program is playing a major role in the effort to eradicate crime, remove the violent criminal, and therefore create a safe environment for our citizens.

But an integral part of this project is to spur those same citizens into improving the makeup of the neighborhood. A redeveloped area is one that precipitates more growth. If you can draw law-abiding citizens into the city then further redevelopment will occur.

Many cities have established projects with the Federal Government that result in low-cost housing being provided to individuals. Urban homesteading projects have attracted people to the city. They, in turn, attempt to recondition urban housing at affordable costs.

At the same time, of course, career criminal prosecution efforts provide the means of achieving the street safety necessary for this redevelopment of our inner cities. People will take the risk of settling in the city when they perceive the risk of becoming a victim of crime as more remote than it is now.

I believe we can achieve our goal of new growth, new prosperity, and street safety in our inner cities if we adopt a new national priority. That priority is to establish crime-fighting programs, such as career criminal prosecution, as a prerequisite to, for example, tax-free municipal bonds, urban homesteading projects, and any other Government programs targeted for development projects involving housing and recreation.

Our inner cities can be saved, but not when citizens are subject to violent criminal attack. If people are to be convinced it is safe to go downtown, they must be convinced that their governments, local, State, and Federal, are working to achieve street safety through practical crime-fighting efforts that achieve results.

Such efforts could include projects directed at the violent, repeat juvenile delinquent as well as the adult career criminal. These efforts would not have to be funded by the Federal Government. Local or State resources can be redirected. By establishing criteria, Federal officials can coordinate these efforts, through all of their departments, to insure that the inner cities are made safe; that violence, the enemy of urban growth is reduced; that the public is safe; that new projects are receiving the protection necessary for successful completion and prolonged existence.

Career criminal prosecution insures swift and sure justice. It reduces crime through measures that are effective and fair.

To pursue our goal of street safety, however, we must reemphasize the need for sentencing reform to make punishment certain and fair. Alternative forms of sentencing for nonviolent crimes must be re-evaluated, and humane prison facilities must be expanded.

If we are to achieve our goal of eradicating urban blight and controlling urban crime, local, State, and Federal governments must join together in this effort. The interrelationship of urban decay and urban crime teaches us that a coordinated effort is needed to solve both problems.

Perhaps the proposals I have offered today can help us achieve a tomorrow when all our citizens, including the young and the elderly, the rich and the poor, can walk the streets of our cities—our Nation, because we have achieved freedom from violence.

[The attachments to Mr. Smith's statement follow:]

NATIONAL DISTRICT ATTORNEYS ASSOCIATION—CAREER CRIMINAL COMMITTEE
REPORT FOR THE YEAR 1977

(By George C. Smith, Chairman)

ACHIEVING STREET SAFETY

In preparing this report I sought input from the jurisdictions that have implemented Career Criminal projects, and I am gratified by the response. The correspondence tells of one success story after another.

Since the Career Criminal Program was launched in eleven American cities in 1975, more than 4,700 violent, habitual offenders have been convicted of robbery, burglary, rape, murder, assault, larceny, and kidnapping.

The most recent report from the Justice Department's Law Enforcement Assistance Administration states the prison sentences resulting from convictions averaged 14.3 years.

The jurisdictions presently implementing Career Criminal Programs are experiencing a drop in crimes generally associated with habitual offenders, i.e. robbery, burglary. FBI crime statistics, for example, for the first three months of this year show that the robbery rate dropped 12.3 percent in 17 of the 22 project cities, compared to the same period a year earlier. The burglary rate dropped 9.1 percent. Nationally, the robbery rate for the same period fell 8 percent and the burglary rate was down 7 percent.

But even where project areas experienced a statistical increase in specific crime categories, the per capita incidence of crime was down, as was the case on Houston.

These figures are significant; but just as important are the number of crimes that will not occur in our nation. Based on the February 1974 Rand Corporation Study for The National Institute of Law Enforcement and Criminal Justice, it is estimated that a Career Criminal will commit an average of twenty crimes a year. Projecting these figures to the national picture, prosecution of Career Criminals means more than 94,000 violent crimes will not occur next year because of our efforts.

There are now 22 project cities funded by the Law Enforcement Assistance Administration. In addition we find that the success of the program has spurred other jurisdictions to establish programs funded locally. This, in itself, speaks to the success of the project. After January 1, 1978, it is estimated that a minimum 43 jurisdictions in the United States will have adopted the Career Criminal concept. The success of this program can be measured by the increasing number of offices implementing the concept, and by the renewed funding, federal, state and local, being made available to jurisdictions which have an on-going Career Criminal Program.

SUCCESS THROUGH DIVERSITY

The goal of the Career Criminal concept is to speed the prosecution of the violent-habitual criminal, and obtain the maximum sentence following conviction. We also seek to reduce the amount of time from arrest to conviction, well aware that crimes are frequently committed by recidivists while on pre-trial release.

The means of achieving that goal, however, differ. I firmly believe the great diversity evident in the offices now using the concept is one of the reasons the Career Criminal Program is succeeding. Many jurisdictions have taken this "blue print" for street safety and in line with their resources have successfully molded their Career Criminal Program to meet the needs of the citizens they serve.

Generally, the targeted crime categories in the Career Criminal jurisdictions remain robbery, burglary, rape, murder and assault. But District Attorney

Edwin Miller and Major Violator Unit Director Richard Neely in San Diego began their program by specifically targeting the robbery area in the pursuit of the recidivist. They report that the program was so successful, the decision was made in October of this year to expand it to the prosecution of the Career Criminal in the burglary crime area. The idea of focusing on the robbery area specifically was unique in the country.

District Attorney Carol Vance in Harris County, Houston, Texas reports the Career Offender Detail under Project Director Vic Pecorino has expanded its crime categories to include felons who previously were convicted of a crime of violence plus one more conviction of any kind, even if the most recent charge is not included in the category of violent crime. One defendant was tried for a felony conviction of a firearm and received a life sentence. To their knowledge this is the first time anyone has received a life sentence for carrying a pistol.

In New Haven, Connecticut, State's Attorney Arnold Markle has assigned a former administrative assistant of the Boston Mayor's Major Violator Project, Patricia Clark, to head the program. Mrs. Clark states burglary, robbery and sexual assault will be the crimes considered by her unit which received federal and state funding in October of this year.

E. Michael McCann, District Attorney of Milwaukee County says the original guidelines of his Career Criminal Unit called for the prosecution of robbery or armed robbery and homicide that occurred during the course of the commission of robbery or armed robbery where the defendant met certain criteria, the most important of which was a past felony record. He states in the third quarter of 1977 the unit also began screening all felonies in Milwaukee County and has assumed the prosecutorial role in those property crimes where the defendant is a recidivist.

While the majority of offices have created a special staff of attorneys to handle Career Criminals, it is apparent some jurisdictions have successfully prosecuted habitual offenders without such action.

The West Palm Beach, Florida office of David H. Bludworth reports his office is divided into four felony trial divisions. Three prosecutors are assigned to each division to prosecute cases. The senior trial assistant in each division is designated as the division chief and is solely responsible for prosecuting all Career Criminal cases within his division. In addition, a more senior assistant is assigned to monitor all Career Criminal cases within the office.

In Seattle (King County), Prosecuting Attorney Christopher T. Bayley has appointed a full time coordinator for his Career Criminal Program. While there is no separate unit, cases are assigned to experienced deputies with the priority that allows them to devote as much time as necessary to the case. Another note: The Kansas City Prosecuting Attorney also states his office is the first in this country to include juveniles in the program.

District Attorney Lewis R. Slaton of Atlanta, Georgia reports that one assistant district attorney is assigned to each judge and tries every case regardless of the nature of the crime or the defendant assigned to that judge. But to help in screening out Career Criminal defendants, the intelligence unit of the office monitors cases and then joins with the investigative units to work closely with the assistant district attorney in preparing the case for trial. The Atlanta unit also screens out organized crime figures as well as major repeat offenders.

The Career Criminal jurisdictions represent, in many respects, a community comprised of many unique families. As such, just as each family offers its services to that law enforcement community, our strength also lies in each family member who contributes his ideas in pursuit of our goal.

IDEAS FOR THE FUTURE

Since May, 1976 I have had the opportunity to sponsor a series of Conferences in Ohio to explain the Career Criminal Program to hundreds of community leaders. Their efforts in helping to establish new Career Criminal Programs in their own jurisdictions have achieved much. Many communities have adopted or plan to adopt the Program using local resources. Two jurisdictions who felt they were too small to have programs of their own combined those resources. Youngstown and Warren, Ohio are two industrial areas within close proximity. They shared similar problems and saw the need to share solutions to those problems. We now have in Ohio the first 'joint' Career Criminal Program involving two Prosecuting Attorneys from two counties.

Another idea that originated in the Memphis office of District Attorney Hugh Stanton was the Career Criminal 'flyer'. Similar in many respects to the familiar 'Wanted Poster', the flyer contains the picture and information about a Career

Criminal wanted on a *capias* warrant. The flyer is not released to the public, but is distributed to law enforcement officials in the jurisdiction.

Several of the offices report success in keeping the convicted Career Criminal incarcerated by further monitoring parole eligibility of the subject after sentencing. We have reviewed all notices of prospective paroles by the Ohio Parole Board for some time in Columbus and have been successful in alerting parole authorities considering the release of violent criminals. This is clearly a significant practice to adopt if each office is to succeed in obtaining lengthy incarceration periods.

Many offices have already implemented a 'direct indictment' program which enables us to bypass the preliminary hearing when a Career Criminal subject is arrested. The information about the crime can often be presented to the Grand Jury within a matter of hours which results in a savings of time for officers, and also for witnesses.

One of the most significant accomplishments of the Career Criminal Program has been the reduction in time between arrest and conviction of habitual offender subjects. While the average amount of time varies among jurisdictions, the important fact remains that the subjects in question were generally incarcerated during this period and were unable to commit new crimes.

As a result of our efforts, it is evident we are making a great deal of progress in obtaining lengthy incarceration periods. Dallas County District Attorney Henry Wade reports an average sentence of 51.8 years for all Career Criminal convictions, including an average 82.6 years for three-time felons. While many states do not have habitual offender statutes which would result in such lengthy prison terms, consecutive sentencing by the judiciary in Career Criminal cases has generally produced longer minimum and maximum sentences in most jurisdictions. Some jurisdictions have sparked renewed interest in establishing habitual offender statutes, or stimulated its use in states which have one though it was previously rarely used. Albuquerque District Attorney Ira Robinson reports that the habitual offender statute was rarely used in New Mexico until his Priority and Repeating Offenders Division (PROD) was established.

Perhaps the proof of the programs' success can best be illustrated by the outstanding conviction rate obtained by our Career Criminal jurisdictions. The average conviction rates have consistently stood above 90 percent, considerably higher than the average of regular trial staffs.

JUDICIAL SUPPORT

As this report is being prepared I have before me two Appellate Court decisions which further indicate the support the Career Criminal concept is receiving among the judiciary.

Summit County Prosecuting Attorney Stephen M. Gabalac (Akron, Ohio) reports that both subjects considered in appeals filed in the Ninth Judicial District of Ohio charged they were "prejudiced as a result of selective prosecution by the State of Ohio and . . . denied due process of the law and equal protection of the law."

In *State of Ohio v. Robert Morton Walker*, C.A. No. 8467 (Ninth District C.A. for Summit Co., Ohio, October 13, 1977) Judge William H. Victor wrote: "Selectivity of defendants in the enforcement of the criminal law violates no constitutional rights of those selected."

Judge Victor further stated: "A decision to quickly process and prosecute those who have long criminal records to prevent further criminal activity on their part is not arbitrary classification as to deny to such a person his constitutional right to the equal protection of law. Actually, such a program, if consistently and vigorously carried out, should have a salutary effect in deterring crime within the area."

The subject had been convicted and sentenced for aggravated burglary and theft.

In another decision, *State of Ohio v. Mark E. Lamp*, C.A. No. 8473 (Ninth District C.A. for Summit Co., Ohio, October 19, 1977), handed down by the same court, a subject's attempt to get his conviction for aggravated burglary overturned claiming his classification as a Career Criminal resulted in arbitrary denial of his statutory right to a preliminary hearing, failed when Presiding Judge Edward J. Mahoney wrote: "We hold that the Career Criminal Program, on its face, does not violate the equal protection clause of the 14th Amendment. The Career Criminal Program is not based upon a suspect classification, nor does it impinge upon any fundamental right of an accused. The Program bears a reasonable relationship to the legitimate interest of the state in the speedy, but fair, prosecution of those who have demonstrated a propensity for crime."

It is recommended that cases such as these which lend support to our efforts be forwarded to the media as well as to jurisdictions now using the program or those planning to. The National Legal Data Center, whose invaluable assistance under the guidance of Mr. Phil Cohen has meant so much to the Career Criminal Program's success, can provide data here which further indicates the Career Criminal concept has been held to be constitutionally sound, as well as effective.

CONCLUSION

This report cannot hope to cover the progress Career Criminal jurisdictions have made in successfully prosecuting the violent-habitual criminal. But it does represent the efforts that have been made to keep those sacred promises that our forefathers placed in our Constitution.

Those promises were to establish justice, insure domestic tranquility, and to secure the blessings of liberty for all. Those sacred promises, which we are bound to uphold, mean freedom from violence.

Two years ago, some questioned whether society was able to keep those sacred promises when challenged by a rising crime rate. But today we can say that challenge has been successfully answered and the Career Criminal Program is making our communities—our nation safe. The dedication of law enforcement officials throughout the United States has resulted in a remarkable turnaround; a success story that is only beginning to unfold.

CONSTITUTIONALITY OF CAREER CRIMINAL PROGRAM

In any innovative approach to criminal prosecution such as we have proposed, one of the obvious questions will be the issue of its constitutionality.

Since adoption of Career Criminal prosecution, the question has already received favorable response in a number of judicial opinions published throughout America.

I. The Career Criminal concept "is basically a program of accelerated prosecution. It is directed towards the perpetrator of serious crime and the repeat offender. Its goal is to insure swift and certain justice for such malefactor." *People v. Peterson*, 91 Misc. 2d 407, 408, 398 N.Y.S. 2d 24 26 (1977). It "was a response to studies which concluded that a relatively small number of offenders were responsible for a disproportionate number of serious crimes." *Peterson, supra*, 91 Misc.

The Supreme Court of the United States has recognized that since the "rate of recidivism is high a . . . (t)olerance for a spectrum of state procedure dealing with a common problem of law enforcement is especially appropriate." *Spencer v. Texas*, 385 U.S. 554, 556 (1967).

To this end the wide discretionary powers possessed by prosecuting attorneys have been recognized to include "the right to focus greater attention upon the prosecution of those charged with serious crimes and the career criminal." *Peterson, supra*, 91 Misc. 2d at 411.

II. It is clear that a prosecutor may consciously employ selectivity in charging and case processing decisions so long as he does not employ constitutionally suspect criteria such as race, wealth, sex or religion. *Oyler v. Boles*, 368 U.S. 448, 456 (1961).

Thus, a career criminal program which focuses on defendants apart from other similarly-situated defendants based on the severity of the present offense and the offender's prior criminal record denies neither equal protection nor due process of law.

In *Oyler v. Boles*, 368 U.S. 448 (1961), the Supreme Court was faced with the question of whether a failure to prosecute other offenders under a *habitual* criminal statute because of a lack of knowledge of prior offenses or because of the exercise of reasonable selectivity in enforcement denies equal protection to those who are prosecuted. Penitentiary records showed that a great percentage of those who could be prosecuted were not. The Court said, at 456:

"Even though the statistics in this case might imply a policy of selective enforcement, it was not stated that the selection was deliberately based upon an unjustifiable standard such as race, religion, or other arbitrary classification."

Therefore, no violation of equal protection was found.

III. Prosecutorial discretion is the very essence of any job description of duties of this office. For example, *People v. Peterson*, 91 Misc. 2d 407, 398 N.Y.S. 2d 24 (1977) held at p. 411:

"The District Attorney of Bronx County is charged by statute to prosecute diligently and fairly every crime committed by an adult within his jurisdiction (County Law, Section 700 *et seq.*). He is an agent of the People, independent of the judiciary. Of necessity, he must be free to allocate his resources, in terms of manpower and finances, to discharge the duties of his office to the best of his ability. That includes the right to focus greater attention upon the prosecution of those charged with serious crimes and the career criminal."

Indeed the concept of prosecutorial discretion *promotes and encourages* fairness. As stated in *Peterson, supra*, at p. 412:

"It has been held that 'Two persons may have committed what is precisely the same legal offense but the prosecutor is not compelled by the law, duty or tradition to treat them the same as to charges. On the contrary, he is expected to exercise discretion and common sense to the end that if, for example, one is a young first offender and the other older, with a criminal record, or one played a lesser and the other a dominant role, one the instigator and the other a follower, the prosecutor can and should take such factors into account.'" *Newman v. United States*, 382 F.2d 479, 481-482, *supra*.

In deciding whether or not to prosecute and how to prosecute in a certain area of criminal activity, the Prosecuting Attorney has wide discretion. As stated in one case:

"Such discretion exercised in good faith authorized the prosecuting officer to personally determine . . . that a certain plan of action or a certain policy of enforcement will be best productive of law enforcement and will best result in general law observance. *State v. Winne*, 96 A. 2d 63, 72 (N.J. 1953). See also *Oyler v. Boles*, 368 U.S. 448, 456 (1961).

There exists a strong presumption that such prosecutorial discretion is exercised on a rational basis. *Gregg v. Georgia*, 96 S.Ct. 2909 (1976).

In conclusion, the major issues involved with the concept's constitutionality are the due process aspects of equal protection and prosecutorial discretion.

The exercise of executive discretion by a Prosecuting Attorney in formulating programs and policies may be unlawful when it results in discrimination based on a prohibited classification such as race, religion, sex or other similar classifications. Yet the constitutional guarantees of equal protection of the law are not violated by virtue of the fact that the Prosecuting Attorney chooses to vigorously utilize certain legal techniques and strictly enforce certain laws or to even be lax in enforcing certain laws.

Senator BENTSEN. Mr. Smith, as a strong supporter of legislation on career criminal prosecution, I am pleased with the numbers that you have given us.

I would like to turn to Senator Hatch who has a competing committee meeting.

Senator HATCH. Thank you. I want to thank Senator Bentsen for his legislation that encourages us to prosecute criminals. I think he has done the country a great service and I have a high regard for that legislation.

Mr. Harris, I have one question for you, and then I have to run. You state that in the future, crime may be as much of a problem in the small towns in the South, and maybe even in the West, as any other part of this country, at least in the perception of those who lives in those areas.

Do you really think that people believe that crime is as big in Brigham City, Utah, as in New York City, or are you trying to tell us that the people in Brigham City, if they have crime, will consider that as big as those in New York City?

Mr. HARRIS. I think what I am saying is that there is no place to hide from crime in this country anymore. That somehow people move out, say, from a city to a smaller town hoping that they will find an end to this safety problem and they find it exists there. The fact is—what I guess the data suggest to me, while nearly everyone, 90 percent, think it is more serious in the city than anywhere else, including those

who live in the cities, if you find out where crime is increasing, is it increasing in cities or in your hometown. There you find small towns in the South and West where there is a feeling of uneasiness. Whatever gaps did exist, say, 10 years ago, people who live in these communities tend to feel these gaps are going down.

Senator HATCH. I appreciated reading your study.

Mr. HARRIS. I might say the West is something new. The South started about 3 years ago, when we started to see an uptake in crime.

Senator HATCH. What your survey is saying is that people are more concerned than they might have been in the past?

Mr. HARRIS. Let me say this, if I might. What this suggests is that if anyone has any doubt about what should be a Federal role in crime—for a long time it has been argued that crime can only be solved locally. If one of the important functions of the Congress of the United States is indeed to take the responsibility for national problems, one can certainly make a case now that there is no area in the country immune. But this is a national problem in terms of new programs which can be infused into local areas.

While it is true that local law enforcement people are the only ones that are going to catch criminals in the act, it should be an integrated Federal effort. I think the people feel this very strongly.

Senator HATCH. Thank you. I appreciate hearing that.

Senator BENTSEN. Congressman Brown.

Representative BROWN of Ohio. Thank you.

First, let me say I am delighted to see my friend, George Smith, who is prosecuting attorney of the metropolitan area—actually Franklin County, which is our State capital. He is one of the acknowledged experts, I think, in not only prosecution of criminals but also in the genesis of crime and the treatment of the problem, and is a young man who I hope will have the opportunity to serve in those capacities for some time to come.

I would like to ask all of you questions, and perhaps, Mr. Harris, I should start with you. When you talk about the increased incidence of crime, do you know how much of that relates to changes in lifestyles brought on by what might be considered a new freedom—other people would call it a deterioration of family values—that we seem to have about things like alcoholism, pornography, sex crimes, drug crimes, and the use of marihuana. A few years ago we used to think of that as serious crime, but now we have jokes about it on television. People are more casual about it, and there has been a suggestion, even from the White House, that we reduce the penalty for some of those crimes.

To what extent is our increase in crime related to this? Are we removing the criminal sanctions against some of these things that were formerly sanctioned while the situation is really getting worse?

Mr. HARRIS. I am not sure I am qualified to answer it, if you are asking me what the causes for the increases in crime are. I perhaps should say I don't come here today as an expert in criminology, rather as an expert in public opinion and attitudes toward crime. What I can report to you is that as the American people have lived with this problem of crime, and we see it rise, I can go back to the early sixties when we asked people what are the most serious problems facing the country and we got less than 1 percent voluntary

answers. It hit a high between the period of 1968 and 1970 when you could get a higher response as, I believe, 34 percent of the volunteers that said crime nationally, and this includes things like inflation, unemployment, war and peace, and so on. It grows precipitously during that period.

So public perception, worry, and apprehension about crime grows as violence in this society becomes more evident.

Representative BROWN of Ohio. The crime that people worry about is not a little free-lance prostitution in the neighborhood or a local adult movie or bookstore. It is actually violent crimes, or are those two things equated?

Mr. HARRIS. I would say you had a coalition or a coming together of two phenomena. One was, no doubt about it, in the sixties when you had violence on the streets. I mean by that, mass protests which got quite bloody. This worried people.

The other thing that worried people was the felt threat to their personal safety, to go out at night in many neighborhoods, they felt they would get mugged and they did get mugged if they didn't take some care and precaution. I think those of us old enough to remember, can remember when you could walk on the streets without any sense of fear; but that passed.

In answer to your question, do things such as marihuana have an effect, yes, there is no doubt there has been an easing of public worry about marihuana. For example, I think last year for the first time people wanted to have a minimal sentence and violation for possession of, I think, under 1 ounce of marihuana to follow the Oregon law that I think was one of the laws setting the pace for the country. I think other States have adopted it.

Having said that, there is also a clear cross of lines on drugs. The American people are enormously fearful on the subject of heroin, for example, so-called hard drugs. I don't think they have at all become more tolerant of that.

On pornography, people are bothered by it. They find it tasteless. I am not sure that they have hit the point of the panic button that I think some people have thought they have.

Representative BROWN of Ohio. Do you feel that because these things are more evident—it is easy to get high on marihuana, or the adult bookstore is in a local shopping center—people are more conscious of crime? Or, are they apt to be shockproof and therefore the crime problem really is not worse in the public's perception?

Mr. HARRIS. There has been a rise in alcoholism which has risen now to the point where the public thinks it is more serious than marihuana. I cite this because there is built deep into the American psyche, put it that way, a sense of pluralism and I think you should not ignore it. By that I mean people think that there are dangers in the use of marihuana, severe dangers in the use of hard drugs, but there is also a perceived danger in the use of tranquilizing pills that they can get legally.

There is a worry about the use of alcohol. But, they don't want to outlaw the use of alcohol. They don't want to outlaw the use of a lot of these things. They want to reserve that they themselves have the God-given right to take risks with their lives if they want to.

And above all else they want warnings, loud and clear warnings, just telling them what the danger is. They want to say, I am grown

up and I will make a decision on what is dangerous. But above all else, don't hit me from the blind side.

The reason I go into this is that I think that the phenomenon of drugs, both legal and illegal, and the phenomenon of alcoholism, and the other worries people have, is not particularly related to crime. That might sound foolish but it isn't.

People know that pep up pills, speed, things like this, are dangerous, and yet I can tell you, because we measured it, that you have over 20 percent of the American people who use such drugs, admit to it, and you have over 50 percent who use them and say it is dangerous. They get it because the doctor prescribed it. You have a confusion of legal and illegal drugs, which I think has taken a lot of the sting out of a sense of somehow drugs are automatically related to crime.

Representative BROWN of Ohio. My time is limited. These things that we have just been discussing apparently are not considered to be violent crime but rather in the nature of individual rights, which are not necessarily approved. Let me ask Mr. Smith and Chief Caron if those areas are spawning grounds for harder crimes or the financing mechanism for what you identify as the hardened criminals?

Mr. SMITH. Yes, I can respond in the affirmative to that. Crime develops out of those areas. For example, you have organized crime involved in gambling and prostitution. In addition, a study done by our office showed that 25 percent of the felonies tried by our staff were drug cases involving violations of the drug laws of the State of Ohio. Another 35 percent or more were estimated to be drug related crimes in that felons committed violent crimes due to the fact they had to have money or felt they should have money in order to pursue the use of drugs.

Representative BROWN of Ohio. To what extent is organized crime moving in on the operation of some of these marginal, misbehavioral patterns?

Mr. SMITH. Ostensibly, because of intensified local prosecution we see organized crime moving away from traditional activities. It is not totally removed from these activities, gambling and prostitution for example, but organized crime has taken quite a beating in some of the traditional activities. For example, an effort in Columbus to run the prostitutes out was really very, very successful, at least for a period of time. However, anywhere there is money to be made illegally, organized crime will move in, particularly in the areas of pornography and drugs. Basically, high visibility crimes are difficult for organized crime to pursue, so it is moving into other things.

Representative BROWN of Ohio. We are a very mobile society and I come from a town about 50 miles away from Mr. Smith's rather larger capital city in Columbus. I have been aware of complaints in that kind of a community, a county of 30,000 with a town of 12,000 as the county seat. It is very difficult because of the lack of staffing in the communities and assistance from outside to track down the drugs and other things that come into the community. Those kinds of communities are now being affected by drug traffic that centers in metropolitan areas, such as Columbus and Kansas City, and then serve a larger geographic area. I assume that is also true of prostitution.

I have to tell you frankly, I was in one of the outlying areas, in a shopping mall on the northern side of Columbus, and I was startled to see what I thought was something else. It turned out to be a rather polished up adult book store.

To what extent is that happening in rural areas?

Mr. CARON. Congressman Brown, in Kansas City one of the things we have found significant in the last 5 or 6 months is the small towns within a 50- or 60-mile radius have come to us seeking help to loan them undercover agents to buy drugs. There is a spreading of this to small towns.

Pornography is going out into the suburbs. The reason is that there is massive profit in it. As an example, a book that sells for \$2.50 can be purchased wholesale for 30 cents. A \$9 magazine showing hardcore pornography sells for \$1 or \$1.25.

Representative BROWN of Ohio. And this is a means of financing more severe crimes?

Mr. CARON. Yes, I think so. I think the other thing that has to be talked about is a concern of a lot of us in law enforcement, is that it breeds more severe crime. There are certain catch phrases that have popped up in the last few years that have been talked about in general terms, such things as victimless crimes. You get into this area of victimless crimes and I suspect they are talking of prostitution and what have you. What people fail to realize is that hard, vicious crimes follow on the heels of victimless crimes.

If you saturate a neighborhood with so many prostitutes that there are not enough customers to go around, then they have to start rolling and mugging their tricks. Another problem is that over the years we have seen a reduction in sentences. A man convicted for first degree murder can be paroled in, I think, the average is 7 years.

These are just some of the problems. Of course, ICAP and the career criminal program has begun to focus in on the career criminal who in the past, has been able to secure bond—who has been very successful at plea bargaining. He has more money. He is more sophisticated. He is able to get legal counsel and plea bargain and get paroled and he is back on the street preying on the community.

Drug-related crimes are on the upswing simply because there is so much profit in it and so much money that oftentimes the drug dealers prey on each other. You have others.

We just had a double murder which was an execution-style murder that was drug related.

In some ways the increase in crime however, is obscure. We have better reporting systems. We have developed better relations with the community through ICAP and other programs, so that people are more willing to report crime. Women, for example, thanks to some of our efforts to provide more sensitive treatment of victims, in Kansas City and other departments across the country are more frequently reporting rape and carrying through with the prosecution efforts. Although crimes are reported in greater numbers it is difficult to gage the extent of the increases in criminal activity both in rural and urban areas.

There are as many reasons for the increase in crime as there are for the crime itself.

Representative BROWN of Ohio. My time is up. I appreciate your response.

Senator BENTSEN. We are very pleased to have the very distinguished district attorney of New York, Robert Morgenthau, as our next witness.

**STATEMENT OF ROBERT M. MORGENTHAU, DISTRICT ATTORNEY,
NEW YORK COUNTY, N.Y.**

Mr. MORGENTHAU. I am sorry I was late in arriving.

There are those who say that crime is a cancer eating away at the inner core of the city, turning it into a forgotten wasteland. Even those who have not been victims of crime fear that their time is running out. People are afraid to use their parks, to travel the streets after dark. The elderly are afraid to walk outside their apartments, even during the day.

There are others, however, who say that crime is not the cause of our economic decay. Rather, crime is the result. Poverty, lack of opportunity, despair lead to the crimes which ravage our city.

It is futile, I think, to argue about which of these perceptions is true. Both are true. Crime and the decay of our cities feed on each other. It is impossible to deal effectively with one without dealing with the other. The problem we are addressing today has no single answer, no easy solution. What is clear, though, is that crime is an important factor in the decline of our cities. Anyone who cares about that decline, and wants to do something about it, must do something about crime.

Unfortunately, the traditional response to the problem of crime has been to increase police department budgets in order to put more men and women on the streets to make more arrests. Hundreds of millions of dollars have been spent on police forces—the most visible and politically attractive part of the criminal justice system. While that is important, little though, however, is given to the fact that overburdened courts and prosecutors cannot possibly process all of these cases in a fair and equitable manner that protects both society and the rights of the accused. Too often cases, even those involving offenders who have repeated their offenses, are “bargained” away because prosecutors and courts cannot deal with the volume of criminal matter they have to handle. The criminal is soon back on the street after a brief passage through the revolving door of justice.

A substantial number of defendants are benefiting from an overburdened criminal justice system; and they know it. Those who have spun their way through the revolving door know how to manipulate the system so that the fear of conviction and punishment is losing its bite.

Plea bargaining in its present form benefits no one but the guilty defendant. It creates cynicism among the public; it discourages witnesses from cooperating; it demoralizes the police officer who in trying to do a good job; it returns the criminal to the streets; and in some cases it encourages the innocent defendant to “cop a plea with no jail time rather than await the opportunity to vindicate” himself at trial.

I do not advocate the abolition of plea bargaining. Properly used it may do substantial justice while controlling crowded court calendars. In its present form, however, it is simply a cheap and fast means of preventing a total breakdown of the criminal justice system.

The plea bargaining system cannot deal adequately with these offenders. We have had to devise new programs to concentrate resources on these cases. We have had to seek, and we have obtained, funding for our career criminal program from the Law Enforcement

Assistance Administration. This funding is essential since few urban prosecutors can afford to relieve their most experienced assistants of other responsibilities, reduce their caseloads and divert them to this specialized purpose.

In our career criminal program we focus on the crimes of robbery, burglary, felonious assault against a stranger, grand larceny, and certain weapons offenses. Before we decide whether to accept a case for prosecution we consider the number and charges of prior arrests and convictions, the defendant's status at the time of his arrest, the length of time between the defendant's arrests, what crimes the defendant has committed while serving prior noncustodial sentences, the strength of the case, and possible mitigating factors.

The typical defendant in our program has a record of 14 prior arrests, 6 misdemeanor convictions, 1 felony conviction and is more likely than not on bail, parole, or conditional release on another case. More than 60 percent of the defendants have cases pending at the same time they are charged with the crimes for which they are referred to the program.

Thus far 632 defendants have been the subject of special treatment under the program. Our results are impressive; 97 percent of the defendants prosecuted by the program have been convicted. The comparable citywide figure is 76.8 percent. Of those defendants convicted, 82 percent received State prison sentences; the comparable citywide figure is 53 percent.

The average time from indictment to plea of guilty is less than 90 days. The comparable citywide average is 130 days.

The average time from indictment to jury verdict is less than 180 days. The average citywide figure is 283 days.

Eighty-six percent of the defendants pleaded guilty to the top charge or one count below.

In addition to getting pleas and sentences that more honestly reflect the defendant's criminal record and what he did, we have been able to obtain a higher conviction rate and a speedier disposition of cases. The career criminal program has created a renewed feeling of optimism and sense of purpose among participants in the criminal justice process.

We have also been able to have more effective cooperation between the police department and the prosecutor's office. An experienced trial attorney selects a case for the career criminal program within hours of arrest. Thorough investigation and preparation of the case for trial begin at this early stage. The arresting officer works closely with the assigned attorney who will handle the case until final disposition. Since the officer is intimately involved with the case during all stages of the prosecution, he comes to understand that an arrest without a conviction does very little to stop crime. He begins to realize that the prosecutor and court are his allies, not his opponents, in the war on crime. He is motivated to perform the extra work that is often required to build stronger cases. Career criminal assistants are on call at all times to assist the police in obtaining search and arrest warrants and to provide legal and tactical advice.

Programs like this must be expanded in New York and throughout the rest of the country. The hope and optimism we have been able to generate must not be lost.

[The prepared statement of Mr. Morgenthau follows:]

PREPARED STATEMENT OF ROBERT M. MORGENTHAU

There are those who say that crime is a cancer eating away at the inner core of the city, turning it into a forgotten wasteland. Even those who have not been victims of crime fear that their time is running out. People are afraid to use their parks, to travel the streets after dark. The elderly are afraid to walk outside their apartments, even during the day. Families with young children leave the city if they can. Tourists and organizations holding conventions shy away from the city. Corporate headquarters, shopping centers and other businesses leave for the suburbs. Jobs are lost and so are taxes.

There are others, however, who say that crime is not the cause of our economic decay. Rather, crime is the result. Poverty, lack of opportunity, despair lead to the crimes which ravage our city.

It is futile, I think, to argue about which of these perceptions is true. Both are true. Crime and the decay of our cities feed on each other. It is impossible to deal effectively with one without dealing with the other. The problem we are addressing today has no single answer, no easy solution. What is clear, though, is that crime is an important factor in the decline of our cities. Anyone who cares about that decline, and wants to do something about it, must do something about crime.

Unfortunately, the traditional response to the problem of crime has been to increase police department budgets in order to put more men and women on the streets to make more arrests. Hundreds of millions of dollars have been spent on police forces—the most visible and politically-attractive part of the criminal justice system. Little thought, however, is given to the fact that overburdened courts and prosecutors cannot possibly process all of these cases in a fair and equitable manner that protects both society and the rights of the accused. Too often cases, even those involving offenders who have repeated their offenses, are “bargained” away because prosecutors and courts cannot deal with the volume of criminal matter they have to handle. The criminal is soon back on the street after a brief passage through the revolving door of justice.

A substantial number of defendants are benefitting from an overburdened criminal justice system; and they know it. Those who have spun their way through the revolving door know how to manipulate the system so that the fear of conviction and punishment is losing its bite.

Plea bargaining in its present form benefits no one but the guilty defendant. It creates cynicism among the public; it discourages witnesses from cooperating; it demoralizes the police officer who is trying to do a good job; it returns the criminal to the streets; and in some cases it encourages the innocent defendant to “cop a plea” with no jail time rather than await the opportunity to vindicate himself at trial.

I do not advocate the abolition of plea bargaining. Properly used it may do substantial justice while controlling crowded court calendars. In its present form, however, it is simply a cheap and fast means of preventing a total breakdown of the criminal justice system.

This system of plea bargaining is most discouraging in the cases of those defendants—the career criminals—who are responsible for a large proportion of the crimes. Recent studies have disclosed that relatively few people are responsible for a relatively great amount of crime. A study reported in a recent issue of the *New Yorker* magazine disclosed that some defendants were arrested only once for every 125 crimes they had committed and were convicted only once for every six arrests. In other words, they had committed 750 crimes for each conviction. In Manhattan, a substantial proportion of the arrests for robber and burglary involve people previously arrested for the same or similar crimes.

The plea bargaining system cannot deal adequately with these offenders. We have had to devise new programs to concentrate resources on these cases. We have had to seek, and we have obtained, funding for our “Career Criminal Program” from LEAA. This funding is essential since few urban prosecutors can afford to relieve their most experienced assistants of other responsibilities, reduce their caseloads and divert them to this specialized purpose.

In our Career Criminal Program we focus on the crimes of robbery, burglary, felonious assault against a stranger, grand larceny and certain weapons offenses. Before we decide whether to accept a case for prosecution we consider the number and charger of prior arrests and convictions, the defendant’s status at the time of his arrest, the length of time between the defendant’s arrests, what crimes the defendant has committed while serving prior non-custodial sentences, the strength of the case, and possible mitigating factors.

The typical defendant in our program has a record of 14 prior arrests, six misdemeanor convictions, one felony conviction and is more likely than not on bail, parole, or conditional release on another case. More than 60 percent of the

defendants have cases pending at the same time they are charged with the crimes for which they are referred to the Program.

Thus far 632 defendants have been the subject of special treatment under the program. Our results are impressive.

97% of the defendants prosecuted by the Program have been convicted. The comparable city-wide figure is 76.8%.

Of those defendants convicted, 82% received state prison sentences; the comparable city-wide figure is 53%.

The average time from indictment to plea of guilty is less than 90 days. The comparable city-wide average is 130 days.

The average time from indictment to jury verdict is less than 180 days. The average city-wide figure is 283 days.

86% of the defendants pleaded guilty to the top charge or one count below.

In addition to getting pleas and sentences that more honestly reflect the defendant's criminal record and what he did, we have been able to obtain a higher conviction rate and a speedier disposition of cases. The Career Criminal Program has created a renewed feeling of optimism and sense of purpose among participants in the criminal justice process.

We have also been able to have more effective cooperation between the police department and the prosecutor's office. An experienced trial attorney selects a case for the Career Criminal Program within hours of arrest. Thorough investigation and preparation of the case for trial begin at this early stage. The arresting officer works closely with the assigned attorney who will handle the case until final disposition. Since the officer is intimately involved with the case during all stages of the prosecution, he comes to understand that an arrest without a conviction does very little to stop crime. He begins to realize that the prosecutor and court are his allies, not his opponents, in the war on crime. He is motivated to perform the extra work that is often required to build stronger cases. Career Criminal assistants are on call at all times to assist the police in obtaining search and arrest warrants and to provide legal and tactical advice.

Programs like this must be expanded in New York and throughout the rest of the country. The hope and optimism we have been able to generate must not be lost.

Senator BENTSEN. Mr. Morgenthau, the progress of the prosecution in the career criminal program is very impressive. I was noticing in the testimony earlier only 50 cities have adopted it. That is difficult for me to understand, why we have not done a great deal more in that period of time.

I notice on the second page of your prepared statement it says a substantial number of defendants are benefiting from an overburdened criminal justice system and they know it. They are resolved to it so that the fear of conviction and punishment is losing its bite.

There has been some testimony this morning and questioning on deterrent results and the certainty of punishment. What do you think about that? Do you think if there is a lessening of the certainty of punishment that the career criminal will feel less hindered in pursuing his course, that the certainty of punishment is a deterrent?

Mr. MORGENTHAU. I think the certainty of punishment is a very important deterrent. It is important to get that defendant off the street as quickly as possible. I think it is a deterrent to other people joining that kind of activity if they know someone down the block has been picked up, arrested, and put away. I think it will be effective in stopping other people, particularly in robberies and burglaries where there is a very high rate of recidivism.

Senator BENTSEN. Mr. Morgenthau, I have been turned off by things happening in plea bargaining where there have been gross miscarriages of justice. However, I speak to my colleagues in the legal profession who defend the process. I see you say, yes, it is proper under certain conditions. What can we do to try to make it where it is a usable tool that doesn't result in some of the losses of confidence in the system?

Mr. MORGENTHAU. I think we have to have the capacity to try cases whenever the defense—or the prosecution wants to. If a defendant knows his case can be tried and then decides to plea, then there can be justice. When you get unreasonable dispositions is where there is no trial capacity, where the prosecutor knows he can't try the case and the defendant knows he can't try it and then you end up with very, very bad results from the standpoint of the public.

But as long as there is the availability of a trial and everyone knows that that case can go out to trial, then the plea that is accepted can be fair and reasonable.

Senator BENTSEN. People are deeply concerned about ability of the local law enforcement people. I understand that and I am in total sympathy with that. But there is, as Mr. Harris said, a national problem involved here. What kind of a Federal commitment is necessary in trying to assist them? Do you feel this career criminal program and the techniques there are something we can have the help and the funding of the Federal Government for and at what level?

Mr. MORGENTHAU. I think at a significant level because that gives the local prosecutors the resources to concentrate on repeaters and on violent crimes. Without that kind of help it is extraordinarily difficult for prosecutors to single out cases and say they will get special attention, they will move quickly.

There is a tendency now for U.S. attorneys to be reluctant to handle what they consider to be local crimes, reluctance on bank robbery cases, a number of other areas. The U.S. attorneys are declining prosecutions in cases where there is not interstate travel so that a heavier burden is being put on local prosecutors, and it seems it is entirely appropriate for a very significant contribution can be made by the Federal Government to a problem that is both local and national.

Senator BENTSEN. Mr. Smith, did I understand you to say that with the career criminals program you virtually eliminate plea bargaining?

Mr. SMITH. Yes. That is one of the goals. In the type of plea bargaining that would take armed robbery and reduce it to unarmed robbery, which is a very big step, therefore the criminal would not be subject to the same length of incarceration. I think virtually the elimination of plea bargaining, or at least the type of plea bargaining that ends in reduced charges—in other words, you may have someone charged with five armed robberies and drop three and take two. You will be in the same position from a sentencing point of view as you would be if you convicted him on all five.

So by dropping three—that is not necessarily detrimental to the system. But if you drop them to an unarmed robbery or just a regular grand theft or something of that nature, then you are plea bargaining. You are giving away the courthouse as I say. I don't like to see that.

Mr. CURTIS. If I may respond to your question on resources. I would like to quote from my prepared statement:

One estimate is that, if 2 in 10 convicted offenders were sent to prison instead of the present rate of 1 in 10, up to \$5 billion would be needed immediately to improve current conditions and to insure the housing, feeding, and care of the new group.

If crime rates continue to rise and if reforms that logically interface with prison expansion are carried out, the cost of criminal justice reform is estimated at up to \$15 billion. Presently, the Federal criminal justice agency, LEAA, has an appro-

priation of \$700 to \$800 million, and, because of bloc grants, most of this money is outside of its control.

Senator BENTSEN. It seems to me from the testimony I have heard from those who have spoken to that point, that there is a unanimity of feeling about the necessity of improving the Federal prison system, or the prison system be it Federal or State. Am I correct in that?

Mr. SMITH. In Ohio it is absolutely essential. We are practically out of space now.

Senator BENTSEN. Let me ask you on plea bargaining—one of the things that always concerns me is that you get into a situation where they are not talking about a case of delay in trial, but they are saying, we want to get additional evidence against someone else involved in the crime. So we say to this fellow, we recommend 5 years instead of 10 years, to the court, if you testify against this other participant in the crime. That has always worried me.

It seems to me a situation where you end up offering a fellow \$50,000 against the other fellow in the crime. That is absolutely wrong. But if you offer him 5 years of his life, that is supposed to be all right.

Mr. MORGENTHAU. The problem, Senator, is that you have to have witnesses and you will not find choirboys as witnesses. So generally the person you will turn to is a confederate.

I am sure every prosecutor says this, if you lie to us, you will be in more trouble than if you don't tell us anything. But if you do cooperate, it will be reflected in the kind of sentence you receive.

Senator BENTSEN. But those fellows are not choirboys. That is, of course, a very valid point. But they are also the type that don't mind lying a bit. Particularly if 5 years—

Mr. MORGENTHAU. We will check out their stories right to the end. Often it involves telling us where the money is or where the gun can be found, that kind of thing that may not be direct evidence but can be substantiated and enable us to continue.

Representative BROWN of Ohio. But isn't there a question—and I am sorry Mr. Dash is not among us this morning—of legal ethics involved here?

Mr. MORGENTHAU. I hope not.

Representative BROWN of Ohio. It came to my mind when the chairman asked the question.

Mr. MORGENTHAU. In order to prove a crime you have to have a witness, preferably more than one witness. The only way you are going to do that in many cases is to get—particularly where there is organized crime or a number of people involved, you have to turn one of those defendants and get him to testify.

You won't take his testimony unless you are sure you can corroborate the things he has told you by other means. But if he does testify there has to be some inducement to him. The public wants criminals convicted. Society needs the convictions. But you have to have witnesses.

Under our system you can't just say, hey, you did it. One of the frustrating things is we know oftentimes who has committed a crime but we have no witnesses.

Representative BROWN of Ohio. But don't ethics speak to that?

Mr. MORGENTHAU. I don't think there is anything unethical about that.

Representative BROWN of Ohio. Do the canons of legal ethics speak to it, or should it be addressed in legal ethics?

Mr. MORGENTHAU. The ethical question would arise if you try to persuade someone to commit perjury. That would not only be unethical but illegal. But I don't think there is anything unethical in a defendant's lawyer telling the defendant if you cooperate with the people you will get consideration.

I remember a Federal judge from Louisiana who used to sit on the court in New York. He would always get the defendants in and say, gentlemen, if you go to trial and are convicted, you will get justice. If you plead guilty and cooperate with us, you will get mercy.

I had a little discussion with the judge about that because I don't think that that was a proper statement to be made, because I thought it was putting pressure on the defendant. One of those cases where he made that statement was taken up to the court of appeals in which the defendant declined to cooperate, went to trial, and was convicted, and it was taken to the court of appeals and was reversed because of coercion.

But, the defense lawyer can always tell his client, I can tell you if you cooperate you will get consideration for it. The prosecutor does not need to say anything.

Senator JAVITS. I noticed what you have done about the career criminal program, and I think it is excellent. The whole strike force idea is a very sound one. What I would like to ask you, sir, is: Are we doing as much as we can along those lines?

As a sophisticated prosecutor, you know that the rehabilitation business is a very slim reed, and cases of recidivism are unbelievably great. However, there are defendants in prison who can be rehabilitated such as first offenders, certain types of white-collar criminals, certain types of drug addiction, et cetera, but this takes a large amount of cooperation from the business community in terms of jobs and from the governmental community in terms of training. For example, I remember Riker's Island as being one of the first training programs organized. I wonder whether you would want to organize a consortium in the metropolitan area. We have five district attorneys and, counting those in the suburbs, approximately 16 million people. We then could use such a consortium of the prosecuting officials to reach out beyond their own means in order to expand the universe of activity in which they engage, because otherwise it seems to fall between the cracks and nothing gets done.

Mr. MORGENTHAU. I think that could be very valuable. Certainly we are concerned about what happens to defendants after they have been convicted and what opportunities there are for rehabilitation and jobs. You are right, there is little being done. I am the chairman of the Governor's commission on sentencing, and one of the problems we are looking into is what happens to sentenced prisoners and what the opportunities are. I think it is important that we remember that you cannot lock them up and throw the keys away. Since virtually everybody that goes to prison comes out, we will have to deal with them in one way or another when they reenter society.

Senator JAVITS. I hope that with your expertise you would be able to tell us what the proper channel would be for implementing this program. Would it be through the Governors taking our collection of New York, New Jersey, and Connecticut, or directly through the prosecuting official?

Mr. MORGENTHAU. It might be helpful through the Governors.

Senator JAVITS. I would think so, too. If we could get the Governors to take an interest and use our area as a laboratory, this program could be very helpful.

Mr. MORGENTHAU. I think you are right.

Senator JAVITS. I will try if I can to stimulate it, Mr. Morgenthau, and invoke your name in the process, and then they will be back to you.

May I make another suggestion? I noticed that much of your testimony is confined to what you are doing; I appreciate it and my compliments to you on your success in that regard. However, are there any other suggestions you would have for us? After all, we are on the Federal level.

For example, the treatment of arrests for use of marihuana, et cetera, was mentioned here, and the idea of bringing in the Oregon or comparable experiences. Would you like the idea of dealing with a crime of possessing small quantities of marihuana with a civil summons proposition?

Mr. MORGENTHAU. I would think that would be fine. We do not prosecute possession of small sums of marihuana. We decline prosecution on those kinds of cases.

On others I think the Federal Government could be helpful. I mean the States need witness protection programs. We cannot put people in the Federal program unless, in effect, we turn that witness over to the Federal authorities, and he ceases to be our witness. Often this is beyond the resources of the county prosecutors, and we need some provision for funding witness protection programs so that we could protect people. That would be very helpful.

The other area I think generally that is important is really to improve the cooperation between the police and the prosecutors. I think there is a significant gap in understanding of the relationships. I think that, for instance, in New York and I think elsewhere, when a man is arrested that file is literally stamped "closed," and, of course, that is when the prosecutor's job begins, and I think this is a source of frustration and irritation to the police. They do not understand what is happening to the case, and it is a problem for the prosecutor not to have that continuing help and assistance. But the pressure is on the police department to get those men back on the street. I think some helpful work could be done in this area to improve understanding and relationships between the prosecutors and the police department.

Senator JAVITS. Is that properly at LEAA program?

Mr. MORGENTHAU. I think it is.

Senator JAVITS. We should try to interest them in that as a committee in your judgment?

Mr. MORGENTHAU. Yes.

The other area is that in the whole State of New York we only have one security facility for juvenile offenders which are ages 13, 14, 15, and that facility only has 80 beds. So that means that of all of the juvenile offenders involved in rapes, homicides, robberies, which is a very significant number, there are only 80 that can be incarcerated at any one time; and there are virtually no Federal facilities as far as I know for that. So that is a serious problem and there are limited facilities for the incarceration of youthful offenders 16 to 19. And the thing that we, as a society, realize but we have not acted on is a high

percentage of violent crime is committed by people 19 and under, and that percentage increases every year. And judges are understandably reluctant to send people to adult prisons. They cannot do that in the case of juveniles; they can in the case of youthful offenders.

There is no room for juvenile offenders. Somebody commented the other day, it used to be that a juvenile looked like he was 12 when he was 15. How when a 15-year-old comes to the court he looks like he is 25.

We are getting an increasing number of crimes committed by young people and we are not prepared to handle that, either at the State or Federal level.

Senator JAVITS. Thank you very much.

Senator BENTSEN. Thank you, Mr. Javits.

I am particularly pleased to hear of the progress made on the career criminal program, because that was my amendment to the 1976 act, and I can recall at that time some of the officials of LEAA were opposing the program but I felt we should have some emphasis here and not just on hardware, and apparently it has made substantial progress.

Mr. MORGENTHAU. Tremendous help.

Senator BENTSEN. Senator Mathias also wanted to testify today, but was unable to attend because of conflicting schedules. I will take his prepared statement and insert it in the record at this point.

[The prepared statement of Senator Mathias follows:]

PREPARED STATEMENT OF HON. CHARLES McC. MATHIAS, JR., A U.S. SENATOR
FROM THE STATE OF MARYLAND

Mr. Chairman, I welcome the opportunity to be here today as the Joint Economic Subcommittee on Economic Growth considers the interrelationship between crime and urban decay. I congratulate the Subcommittee for calling national attention to this topic by scheduling today's hearing.

Urban crime is not a new phenomenon. In fact, as Robert Gold has noted in his "Urban Violence and Contemporary Defensive Cities": "many early civilizations created organizations to maintain public order and prevent crime in cities." Among the first to develop police forces to combat urban crime were the Hebrews, Chinese, Greeks, and Romans. Although the problem of urban crime apparently abated somewhat during the Middle Ages, by the Fifteenth Century it once again had become a major problem in Europe. In both France and England crime eventually became so severe that large sections of their cities were dominated by criminal elements. As Gold describes the situation:

"The prevalence of crime in early eighteenth century London was much higher than in any other part of England. Conditions of crime and public disorder during this period were similar to those in late sixteenth-century Paris. Criminals and destitutes occupied whole districts which were completely outside the control of public authorities. To protect themselves, and their property, citizens armed themselves, barricaded their doors, and kept off the streets at night. . . . (T)here were entire populations living in densely settled slum districts of London whose sole means of subsistence was crime. . . . There was little if any security for law-abiding citizens, who armed themselves and their servants and fortified their houses. Many people kept pistols within reach. . . . Similar conditions existed in other English cities in the late eighteenth century as towns grew quickly in size and environmental conditions deteriorated during the Industrial Revolution."

Nor was the infant United States long immune from the plague of urban crime. As the impact of the Industrial Revolution and large scale immigration began to transform the United States into an industrialized, urban nation, crime came to America's growing cities.

Today, crime still stalks our cities. More and more our elderly citizens withdraw into isolation rather than risk assault on the streets. Everywhere shopkeepers and householders alike have armed themselves against intruders. Although no group and no area are out of crime's reach, non-whites are four times more likely to be victims of crime than whites, according to the Urban League.

As our cities grew and their problems became more complex, urban crime took on new dimensions. As former Attorney General Ramsey Clark has stated:

"In every major city in the United States you will find that two-thirds of the arrests take place among only about two per cent of the population. Where is that area in every city? Well, it's in the same place where infant mortality is four times higher than in the city as a whole; where the death rate is 25 per cent higher; where life expectancy is ten years shorter; where common communicable diseases with the potential of physical and mental damage are six and eight and ten times more frequent; where alcoholism and drug addiction are prevalent to a degree far transcending that of the rest of the city; where education is poorest—the oldest school buildings, the most crowded and turbulent schoolrooms, the fewest certified teachers, the highest rate of dropouts; where the average formal schooling is four to six years less than for the city as a whole. Sixty per cent of the children in Watts in 1965 lived with only one, or neither, of their parents."

This situation is untenable. But, the failure of government to adequately protect its citizens against crime has not been for lack of trying. We have spent millions of dollars and thousands of man-hours to control crime. Everyday our law enforcement officers put their lives on the line. But crime still blights our cities.

I think it is fair to say that our cities will never be truly livable until we make them safe. We cannot expect to attract families back to the inner cities in large numbers until we can promise them safe streets and safe schools. Regrettably, we cannot make these promises.

Mr. Chairman, the Congress, including this Subcommittee, is in the midst of reviewing legislative proposals to revitalize our cities. The importance of this task cannot be underestimated. Cities are the life-blood of our national economy and the source of our prosperity. Our nation's future in large part depends on the success of these efforts to rejuvenate urban America.

But, it would be shortsighted indeed, if we did not acknowledge at the outset that any comprehensive plan for saving America's cities must contain an effective anticrime component. The absence of such a component in President Carter's urban package gives me great pause.

It seems to me that it is incumbent upon Congress to fill this void in the President's program. We must review the record of our effort to control urban crime, to discover both where we have gone wrong and what we can learn from the experience. Then we must develop new, innovative programs to help make our cities livable again.

Fortunately, I don't think we have to look far to find the appropriate starting point for such an urban anticrime component. Today, one of the most important and innovative anticrime programs to come along in years is in full swing in cities throughout our nation. It holds out great hope for the future. I'm referring to the so-called career criminal programs developed by the Law Enforcement Assistance Administration (LEAA) in the early 1970's. There is no doubt about the success of these programs. Approximately 25 cities are now operating federally funded career criminal programs. A number of others are being run without federal funds, including three in my own state of Maryland. Recently, the California legislature appropriated \$3 million to fund their career criminal programs.

At the heart of these programs is the recognition that a relatively small number of repeat offenders have proved responsible for a large proportion of serious crime. For example:

A recent study of 10,000 persons by University of Pennsylvania Researcher Marvin Wolfgang reveals that 650 chronic offenders were responsible for $\frac{1}{4}$ of all the arrests and $\frac{1}{3}$ of the crime committed by the group over a five-year period.

Another study revealed that between 1971 and 1975 in Washington, D.C., seven percent of those arrested for serious crimes accounted for 24 percent of all such arrests. Some criminals were arrested up to 10 times during that period.

One reason for this perplexing state of affairs was identified as long ago as 1921 by Roscoe Pound. In his revealing study of the Cleveland criminal courts, Pound discovered that "the professional criminal and his advisers have learned rapidly to use this machinery and make devices intended to temper the application of criminal law to the occasional offender as a means of escape for the habitual offender."

The situation today is still much as Pound rescribed it 56 years ago. Obviously, it must be remedied. We must develop a mechanism to identify these repeaters and to process them quickly through the criminal justice system.

What we need is a system that will promote:

Prompt identification of repeat offenders through the use of computers and other means;

Expeditious prosecution of career criminals with emphasis on reduction of pre-trial, trial, and sentencing delays;

Creation of special teams of prosecutors and investigators to follow career criminals through the criminal system; and

Sharp restrictions on plea bargaining by career criminals.

I am convinced that the career criminal programs produce such a system.

To date, reports on application on the career criminal concept nationwide are encouraging. Testifying before the Subcommittee of the Judiciary of the District of Columbia Committee, Earl Silbert, United States Attorney for the District of Columbia, termed the District's repeat offender program "Operation Doorstop" an unqualified success. He reported that:

"During the first eight and one-half months of operation (from August 16, 1976 through April 30, 1977) . . . of those defendants who were charged by information or indictment by the United States Attorney's office and whose cases have been disposed of, 94 percent have been convicted . . ."

I am encouraged by these results. They justify making the career criminal concept an intergral part of our national effort to revitalize our beleaguered cities. For this reason, on January 10, 1977, I introduced S. 28, The Repeat Offenders Prosecution and Prison Improvements Act of 1977.

Title I of S. 28 makes available a program of technical and financial assistance for career criminal programs in localities with populations of 250,000 or more.

In framing this bill, I purposely provided a specific program under LEAA, with its own appropriation in order to insure that career criminal programs not lose out in the annual competition for LEAA funds.

S. 28 promotes career criminal projects in several ways. It establishes an Office within LEAA headed by a Presidential appointee, to administer career criminal grant projects. This Office would also provide technical assistance to qualifying communities to help them plan, develop, and administer such Projects.

Perhaps the most important aspect of S. 28 is that it is not a one-shot demonstration project. I am aware that there has been a reluctance on the part of some jurisdictions to apply for LEAA career criminal grants because of the burden which remains after the federal funds terminate. This is understandable. Dollars are scarce and career criminal programs often are expensive to operate. To deal with this issue, I specifically included in S. 28 a provision for continued annual funding for career criminal projects as long as they were needed and operated in conformity with provisions set forth in the bill. And, S. 28 gives due consideration to projects which pre-date enactment of the bill.

I am convinced that the enactment of S. 28 or similar legislation will guarantee that on-going career criminal programs are not discontinued for lack of funds and that jurisdictions do not forego starting such a project for fear that their federal funds will be cut off sometime.

Mr. Chairman, as you are well aware, efforts are underway to restructure LEAA. The possibility of such reorganization raises an important question: Can we be sure that the highly successful career criminal programs will be continued regardless of how LEAA is reorganized? I have proposed this question both to Deputy Attorney General Civiletti, and to those responsible for the administration of these programs. I have been assured that the Administration's plans for reorganizing LEAA will not threaten the continuation of these excellent programs. We, in Congress, must be vigilant to insure this result.

I would like to end with a warning from Leslie T. Wilkins in "Crime and Criminal Justice at the Turn of the Century":

"The probability that the criminal justice system will suffer a complete breakdown before the year 2000 cannot be discounted. If law and social control systems are to accommodate change in their environment at the necessary rate, a new philosophy as well as quite different operating procedures must be worked out. . . . If we wish for a better kind of future for criminal justice, we must start to invent it now."

I believe that the success of these career criminal programs gives us a head start on this inventive process.

Senator BENTSEN. Are there other comments?

Mr. HARRIS. District Attorney Morgenthau talked about juvenile crime. We did do a survey on this about 1 year ago and I was struck by the fact we asked people at what age about they think an offender

ought to be treated as an adult, and the cutoff age was 18. They felt below that they ought to be treated differently.

We did probe it, but what they wanted was not less severe treatment but isolated treatment, and this ties to what Mr. Morgenthau was saying because in a sense the choice the public thought they had—and this is what I think led to some degree to a decline in confidence in law enforcement—was a choice between saying, well, either we let off these young potential offenders or criminals or we lump them in with the adult criminals. The public, I think, has lived with this issue a long time and has come to be articulate and feels: Be firm with them but in their own area rather than just throw them in.

“Why do you want them thrown in? They will become more hardened and learn from the older ones,” and I suspect that is what you are finding.

Mr. MORGENTHAU. Yes.

Representative BROWN of Ohio. I would like to pursue that point with you, Mr. Morgenthau, and Mr. Smith and any others.

A lot of people think that prisons are training schools or universities for crime because the first offender is dumped in with the—what some people call—hardened criminals. The hardened criminals then literally spread their criminal image or capacity through these first offenders that might otherwise be cured.

You indicated the limitations on juvenile facilities in the State of New York. Yet I understand that one of the proposals made in connection with the Olympic winter program in New York is that the facilities for the program be built in upstate New York in such a way that they will protect the athletes from any repeated Munich experience, where the international terrorists killed Israeli athletes. The hope is that then after the Olympics are over that might be used as a juvenile facility. But there are people, including church groups, organizing to oppose that facility because they feel that we should not build more facilities to incarcerate criminals, but that there should be an increased use of shock programs to turn them back out into the street.

Would you comment on that, Mr. Morgenthau or Mr. Smith?

Mr. MORGENTHAU. The plan to get a second use out of those facilities is a very sound one, assuming that you believe we need more facilities for juveniles, which I very strongly believe we do.

Representative BROWN of Ohio. And separate facilities.

Mr. MORGENTHAU. And separate, absolutely. One of the reasons we have so much juvenile crime and youthful offender crime is we do not have the facilities, and judges are reluctant to send them to maximum-security prisons which they do with 16 and 19 year olds, but, we have virtually no secure facilities for the juveniles. So I believe, yes. Unfortunately, there are some young people who are committed to a life of crime and the only thing we can do is get them off the streets for the protection of society.

Mr. SMITH. We have just instituted what might be called a career criminal juvenile program. We call it the “dangerous juvenile offender program.” There is only one other like it in the United States. Here, the prosecutor screens the rapist, the person under 18 who has committed a serious crime, a violent crime, and has a prior record of violent crime or repeated felony offenses. We have them bound over and tried as an adult for the purpose of having more of an incarceration potential than what we now have as the maximum under the juvenile laws of the State of Ohio.

In preparing for that, and preparing for the grant we received from LEAA, our studies showed that 25 percent of all violent crimes in the United States are committed by persons under 18 years of age. These figures further reinforce the concept of separate facilities for some juveniles.

We are trying to separate the dangerous juvenile offender from the status offender, the person who is consistently running away and things of that nature, so they do not serve time together. You really must have more than a juvenile facility. You must have a dangerous juvenile facility, and alternative forms of treatment for the non-violent juvenile.

Representative BROWN of Ohio. Let me try to bring together something on this subject. Mr. Harris, the pollster, says there is a schizoid nature in the public about narcotics, prostitution, some of the victimless crimes, and you and the chief have said that these very areas are breeding grounds for crime and help finance organized crime and finance those who commit more violent crimes. Then you and Mr. Morgenthau have said that social deprivation is also a breeding ground for juvenile crime.

My question is, with the limited resources of the Federal Government, if we had the choice about doing something about some of these problems, where should we begin?

You know, our capacity is limited to deal with some of it. Should we begin with youth employment? That would keep the kids off the streets, give them a job and a worthwhile start in life. A few years ago we thought it was urban renewal: Just tear the old buildings down and build new ones and the city is better and everything will be lovely. But we found out that some ugly old buildings were replaced by ugly new ones, while it did not solve the problems of the city.

Is it narcotics convictions? Is it neighborhood maintenance in terms of cleanliness and the economic liability of it? Where is the first place to attack, or do we just build new incarceration facilities?

Senator BENTSEN. I have a conflicting engagement, and if you gentlemen will excuse me I am pleased that you have appeared. I do not want to interrupt the Congressman. Thank you.

Mr. SMITH. I would like to comment on that. I think I can speak on behalf of the more than 3,000 prosecuting attorneys who are members of the National District Attorneys Association. The violent, career criminal is the number one enemy of big city life. We have got to meet the problem head on and not try to work around it. I think that is the whole purpose of the career criminal program.

Getting specifically to your question, Congressman Brown, I think that by virtue of LEAA's providing, and Senator Bentsen's worthwhile amendment that enabled that providing, we were able to establish the career criminal program. At the same time, we were able to sell the program to our county commissioners. I can sell it because I can show all we have been able to do, and that is vital. I do not believe that it would take Federal money to establish other crime fighting programs throughout the United States. Possibly, local funds could be redistributed. But, as I pointed out in my prepared testimony, funding for other Federal projects, for example, urban renewal projects, should be contingent upon establishment of a career criminal type program or a crime fighting program. You have

to address both problems. We must tell our cities we are not going to give you all this money for, say, youth employment and other programs, if you do not have any way to handle the crime problem. Obviously the problems of urban decay and urban crime are inter-related.

Mr. MORGENTHAU. I would agree generally with Mr. Smith. I could not sit here in good conscience and tell you putting money up for prosecution of career criminals will solve all the problems of urban decay. It is a many-sided problem and jobs for the young is an important part of that.

Crime is a significant facet in that it does drive people out of the city if they can afford to leave. I would hope, therefore, any urban renewal project would consider prosecution of violent crimes and repeaters who commit them. That is the most serious problem.

Mr. HARRIS. One of the things, Mr. Chairman, in this HUD study we did, one is a comment on trying to get it together and the second is some of the results, and this was striking to me, I had not really thought it out before, is that the Federal Government is deeply flawed—that is a judgment I am making—in not always, somehow attacking problems in a kind of segmented way.

You isolate a problem that, let us say, in the cities we will apply a lot of money and programs here to solve that problem. Then you go out and you have another program and you attack that totally separately to a point where—this is true in south Bronx. Somebody told me that there were two new public schools designated to be built with no children to go to the schools. The reason was that there is a Federal aid program to build schools and that was the site chosen, and willy-nilly, the people running it did not think in terms of the community or people's lives that they were administering this to. And it seems to me what you need in the Federal level is some notion: You keep one thing in mind which would be what does this do to the nature of the lives of the people who live there. If you could just ask that question, and what does it do to enhance or sort of split apart further the sense of community that exists in cities. It seems to me that this would be an enormous step forward, and yet for the life of me, the deeper we get into it, the more we see this fragmentation. And the worst part of all, you spawn bureaucracies, which have an almost blinders-on limited scope, and they fight like the devil for their own programs and do not really think that they have any kind of relationship to anything else. If you began to put them together, and this is just as pertinent with crime as well, you can approach the program without also finding out what else is being done. We do not think that way. Somehow we get overorganized, splinterized, and in the progress I suspect literally tens of millions of dollars get wasted this way.

Representative Brown of Ohio. Do any of the rest of you have comments?

Mr. CURTIS. Just a few points. I generally agree with the other speakers, especially on the need for comprehensive programs. I might add that HUD and LEAA for the first time are combining forces for an integrated attack on crime in the cities. It is still in the developmental stage, but we are talking in ways that we have not before.

I would go back to my statistics: Presently 1 in 10 people who are convicted go to prison. To change the ratio to 2 in 10, you have to

spend perhaps \$15 billion more. That is a lot of money. I believe some of it should be spent on career criminals-type programs because they are important, but certainly not all of it. I would remind you that it is less expensive to spend 4 years at Howard University than to spend 4 years in prison.

My own particular emphasis would be on the youth problem, considering the relationship between youth unemployment and youth crime. I would want to target youth programs on the rehabilitation of the inner city. I would return to the recommendations of the 1969 violence commission on which I served. We called for both protection of the public through the criminal justice system and provision of economic opportunity for minority populations.

Representative BROWN of Ohio. Gentlemen, thank you very much. The subcommittee is adjourned.

[Whereupon, at 12:20 p.m., the subcommittee adjourned, subject to the call of the Chair.]

[The following information was subsequently supplied for the record:]

OFFICE OF THE SHERIFF,
HARRIS COUNTY,
Houston, Tex., May 24, 1978.

HON. LLOYD BENTSEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: It is my understanding that you have requested written testimony from local officials concerning how they view the federal role in assisting law enforcement. Following are my suggestions:

1. An expansion of assistance available from the Federal Bureau of Investigation to local law enforcement agencies, particularly in the realm of criminal investigations and apprehension of criminals who cross state borders, would be of tremendous value to local jurisdictions. F.B.I. assistance is presently available on a restricted basis; however, there do not appear to be any uniform, clear-cut guidelines as to what help is available and under what specific conditions. The F.B.I. has unique expertise and capabilities which, if expanded to more directly support local law enforcement efforts, could contribute significantly to a nationwide crime reduction.

2. If federal funds may be available to support law enforcement needs on a local level, such support should be *direct* from the federal agency to the local jurisdiction and the guidelines for obtaining such assistance *simplified*. The existing cumbersome process for obtaining L.E.A.A. grants seems to inhibit, rather than encourage, many local jurisdictions from initiating crime-fighting efforts which require funding beyond their local budgets.

3. Any support the federal government may accord to swift and certain justice for offenders would not only assist local law enforcement, but it would alleviate the overcrowding which is currently rampant in jails throughout this nation. Since prolonged pre-trial incarceration appears to be a violation of the individual's constitutional and civil rights, it is suggested that this may be the avenue through which the federal government may mandate and enforce speedy trials within state and county jurisdictions!

4. Increasingly, federal courts are mandating architectural and operational changes within jails and the implementation or expansion of programs for inmates. Such court-ordered changes are generally very costly and often times dependent on local bond elections which may or may not be approved by local citizens. In my opinion, it is not unreasonable to receive federal financial assistance for complying with such orders issued by federal courts! Again, the process for obtaining federal assistance should be direct and simplified.

As a matter of information, I heartily endorse your position with respect to career criminals, and commend you for the positive leadership you are according to urban crime policy.

Very truly yours,

JACK HEARD, Sheriff.

OFFICE OF THE DISTRICT ATTORNEY,
Harris County, Tex., June 7, 1978.

Senator LLOYD BENTSEN,
U.S. Senate,
Washington, D.C.

DEAR LLOYD: Knowing of your keen interest in improving the quality of law enforcement, I want to take this opportunity to report to you on several significant improvements in the criminal justice system that have been made possible through federal grant moneys administered by the Law Enforcement Assistance Administration. Your support for the Career Criminal Project and other programs has been a significant factor in the provision of funds which have enabled this office to greatly improve prosecution of career criminals, modernization of case screening procedures, and the provision of greater services to victims and witnesses. The purpose of this letter is to outline the accomplishments of five major programs which have been made possible through LEAA funds.

The Harris County District Attorney's Office has received approximately five million dollars over the past seven years in LEAA grants. These grants have enabled this office to initiate vital programs in five areas: the Career Criminal Project, the Special Crimes Project, the Economic Crimes Project, the Case Screening Project and the Victim/Witness Assistance Program. Without federal support through the LEAA, these vital programs would not have been possible.

Career Criminal Project

As you know our office instituted the first Career Criminal Program in the United States with an initial LEAA grant of \$295,473.00. During its first two years of operation, this program disposed of 511 cases. In these cases, only nine defendants were acquitted and only seventeen were placed on probation. The average sentence of those incarcerated was 30.4 years.

LEAA funding over the past three years has totaled approximately \$861,000. During the first two years the additional cost per conviction due to LEAA funds was about \$1,177. This is a small investment to convict a career criminal who poses such a significant threat to the urban community. Incarcerating a career criminal, convicted of three prior felonies, and perhaps many other unsolved crimes, is a major step in reducing the incidence of urban crime. The Career Criminal Project removes the relatively small group of criminals responsible for an inordinate amount of serious crimes.

In 1975, when the Career Criminal Project was initiated in Houston, robberies decreased by 11.3%, and in 1976 decreased again by 13%. This is especially significant in view of the dramatic increase in Houston's population during those years. No other program has had as great an effect on the spiraling crime rate.

Economic Crimes and Special Crimes

The Economic Crimes Project consists of a special prosecution task force that deals with consumer fraud, organized crime, and white collar crime. Prior to the LEAA Grant, these areas were relatively untouched by local law enforcement agencies which lacked the expertise and manpower to investigate these often complex cases.

Currently, The Special Crimes Project has a staff of thirty, handling cases from investigation through trial in the areas of narcotics trafficking, gambling, official corruption, major frauds, and offenses against community standards. Within The Special Crimes Bureau we have also organized a Consumer Fraud Division which receives over 200 complaints a week involving deceptive trade practices.

While the LEAA has provided approximately \$1,164,043.00 to finance our Special Crimes Bureau, we have collected over \$6,000,000 in restitution for the citizens of Harris County. In both the Economic and Special Crimes Projects, the county government has assumed financial responsibility, but the initial grant by LEAA was indispensable in demonstrating the significance of this program.

Case Screening Project

In 1971 an LEAA Grant enabled us to establish a screening division which reviews every case before it is filed by local police agencies or citizens. With approximately 20,000 felonies and 40,000 misdemeanors filed a year, we cannot afford to expend our time and resources on unprosecutable cases. The case screening project operates as the "gatekeeper" of the criminal justice system.

Police manpower, court time, and prosecution are more efficiently used by eliminating unprosecutable cases prior to filing of charges. Through The Case Screening Project, experienced prosecutors are now on duty seven days a week,

twenty-four hours a day to screen cases and draft warrants. This is another example of LEAA funds which have been used to perform essential functions.

Victim Witness Assistance Program

So often, victims and witnesses are the forgotten people in our criminal justice system, yet justice hinges upon their cooperation and participation. The Victim/Witness Assistance Program has enabled the District Attorney's Office to respond to the needs of victims and witnesses by providing a central clearinghouse for all requests for information and services.

The program was initiated with an LEAA Grant of approximately \$44,000 in 1977 and \$77,800 in 1978. We are now able to provide social service referral for all victims and witnesses of felony offenses and in some cases, transportation to and from the court. The office also assists victims in recovering stolen property and intercedes with employers to excuse employee/witnesses from work with pay. The program also contributes to efficiency of the courts by keeping victims and witnesses informed of hearings and trial settings, thereby reducing dismissals and resettings due to absent complainants and witnesses.

Since its inception, the staff of the Victim/Witness Program has sent approximately 35,000 letters relating to court settings and dispositions. However, the real test of success is community acceptance. In 1977, this office conducted a poll of former grand jurors to determine their attitudes concerning the program. Of the 300 persons who responded, over 95% felt that money spent on the Victim/Witness Assistance Program was a worthwhile expenditure.

Conclusion

Federal support of local criminal justice agencies has been an indispensable part of our effort to reduce crime. During the past seven years, the LEAA has granted approximately \$5,000,000 to the Harris County District Attorney's Office. This investment has yielded many benefits: a reduction in the number of robberies due to the operation of the Career Criminal Program, restitution of approximately \$6,000,000 through the Special Crimes Project, an increase in services for victims and witnesses, and a more efficient use of prosecutorial resources due to an improved case screening procedure. Part of the financing for these programs has been assumed by the county government, but federal support is still an indispensable element of their continuance.

I hope this information will prove helpful to you as the Joint Economic Committee considers development of urban crime policy. Your support for strong law enforcement programs is greatly appreciated by all who are concerned about the increase in urban crime over the last several years. I am, of course, willing to provide any information at my disposal for consideration by the Committee, or to discuss these matters further at your convenience. With warmest personal regards.

Sincerely yours,

CAROL S. VANCE,
District Attorney.