

OVERSIGHT HEARINGS ON EMERGING CRIMINAL JUSTICE ISSUES

HEARINGS BEFORE THE SUBCOMMITTEE ON CRIMINAL JUSTICE OF THE COMMITTEE ON THE JUDICIARY HOUSE OF REPRESENTATIVES ONE HUNDRED FIRST CONGRESS SECOND SESSION

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**OVERSIGHT HEARINGS ON EMERGING
CRIMINAL JUSTICE ISSUES
(Drug Use and the Pretrial Population)**

TUESDAY, MARCH 27, 1990

**HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIMINAL JUSTICE,
COMMITTEE ON THE JUDICIARY,
*Washington, DC.***

The subcommittee met, pursuant to notice, at 2:44 p.m., in room 2237, Rayburn House Office Building, Hon. Charles E. Schumer (chairman of the subcommittee) presiding.

Present: Representatives Charles E. Schumer, George E. Sangmeister, George W. Gekas, Howard Coble, and Michael DeWine.

Also present: Don Goldberg, professional staff member; Teresa Faunce, clerk; and Raymond V. Smietanka, minority counsel.

OPENING STATEMENT OF CHAIRMAN SCHUMER

Mr. SCHUMER. The hearing will come to order and let me apologize for being late. My flight was delayed.

Our ranking minority member, Mr. Gekas, is here and he is finishing up a meeting, but he said we should go ahead and start, so we will.

This subcommittee has been exploring meaningful options at all stages of the criminal justice system, options that while ensuring public safety, would provide treatment for addicts, decrease recidivism rates and lessen prison overcrowding. This is no easy task. Our criminal justice systems are literally bursting at the seams.

This afternoon, we will try to identify one major factor in this system, the increasing number of drug users being arrested.

Recent data show a staggering number of arrestees who are testing positive for drug use. In some cities, upward of 70 and 80 percent of those arrested have drugs in their system. In New York City, for example, 83 percent of male arrestees test positive for drug use. Such a figure suggests that policymakers must exercise extreme caution in pronouncements about the success of America's war on drugs.

Like the mythological Greek monster, the Hydra, the war on drugs has many heads and we must not take false comfort in chopping off one only to see two more replace it.

As much as touting successes, policymakers must focus on problems that are growing worse, not better, and to do less is to give

the American public the dangerous impression we can relax our guard because victory is right around the corner.

The statistics I have mentioned are alarming. They suggest that we haven't even put a dent in the criminal justice system in this problem. We are being told that drug use is declining in the United States, but that news hasn't yet penetrated to this part of the population.

But hopefully, if we identify the nature and scope of the drug problem at the beginning of the criminal justice system, we can design programs that specifically address the growing number of drug-dependent offenders. It may well be that the criminal justice system itself offers the best hope for getting these people off drugs because we have the greatest leverage over them when they are in jail, on bail or on probation.

Coerced treatment programs appear to be significantly more successful than voluntary treatment. We need to take advantage of this. If we identify drug-dependent offenders as they enter the system, perhaps we can keep them out of the system in the future.

Yet, I am distressed to announce that the Department of Justice decided last week that it will no longer provide funds for drug treatment programs, as it has in the past through discretionary grants. In recent years, the Justice Department has funded prison-based drug treatment programs at a small level, \$2.8 million a year, and even that funding has been discontinued.

It funded drug treatment programs in jail settings at \$1 million a year. That funding has also been discontinued and it will no longer provide funding to implement a training program for teams of probation officers, parole officers and treatment supervisors to refer drug abusers to treatment facilities.

Criminal justice experts agree that providing basic drug treatment to substance abusers caught in the criminal justice system is the best way to reduce their drug abuse and, just as importantly, their criminal activity in future years. Thus, it is very difficult for me to understand how the Justice Department can eliminate these programs at a time when they should be dramatically expanded.

We have a number of witnesses who will discuss these issues this afternoon. We will hear about drug use in the population in general, as measured by various surveys by the National Institute on Drug Abuse. We will hear from the author of another survey, the Drug Use Forecasting study, DUF, which measures drug abuse among arrestees.

We will talk to the Director of the District's Pretrial Services Agency, which has been drug testing arrestees for many years. We will also have other witnesses who are experts in the field.

Let me just make two other points. I think that many people throughout the country are looking for some hope in terms of criminal justice. We have had 10 or 15 years of focus, and yet, out on the streets, people don't feel any safer. It is my view that the ideological fights that have characterized much of the discussion here in Congress about criminal justice have really lost their steam; that rather, we have to start looking simply at the facts.

I am amazed—I have been spending several months now studying the system—how valid and compelling research studies are not even paid attention to by anybody out there, and I think there is a

lot of potential to actually reduce drug use, reduce future crime by doing this, by studying the system and trying to find out how to make it better.

This is the first of a series of hearings that we are going to have to outline the problem and determine where we go from here and hopefully make a contribution to that debate.

Our first panel will start off with Dr. Charles Schuster—the almost direct commonality of our names is only a coincidence and I am not a doctor. He is the Director of NIDA. He will be followed by Dr. Eric Wish, of the Narcotic and Drug Research, Inc., and visiting fellow at the National Institute of Justice; and finally Dr. Robert DuPont, the former head of NIDA and a well-known expert in this area.

So, Dr. Schuster, we will read your entire statement, which is rather lengthy, into the record and would ask you to make whatever comments you feel are fit and appropriate.

**STATEMENT OF CHARLES R. SCHUSTER, PH.D., DIRECTOR,
NATIONAL INSTITUTE ON DRUG ABUSE, DEPARTMENT OF
HEALTH AND HUMAN SERVICES**

Dr. SCHUSTER. Thank you very much, Mr. Schumer.

First of all, let me say that I am very pleased to be able to come here today to share with you some of the data which NIDA collects as part of its activities as the lead Federal agency for conducting research on the demand reduction aspects of the problems of drug abuse.

What I would like to do, and you will forgive me, I am an ex-college professor—I am going to show you some slides as it is a quick way of getting through some data that I think summarizes some of the complexity of the problems of drug abuse that you have alluded to. It is a many-headed Hydra and I think sometimes we confuse the public with our presentations. I hope to bring some clarity to this.

[Slide.]

Dr. SCHUSTER. First of all, let me just mention some of the major surveys which NIDA conducts. What this slide shows are the major surveys, first of all, the national household survey on drug abuse, the high school senior survey. These are the principal measures of the incidence and prevalence of drug abuse in this country in the general population.

I would like to emphasize from the very start that when we say a national household survey, we are talking about those people who are 12 years of age and older who are living in households, so that does not include the homeless; it does not include those who are in prison; it doesn't include those who are in any other institutions, et cetera. Further, our high school senior survey, up until now, only includes those 17- to 18-year-olds who have reached their senior year of high school and not the 20 to 25 percent of those who drop out prior to that.

In addition to these measures of incidence and prevalence, we also are interested in the consequences of drug use and we collect part of that information from our surveys, such as DAWN, which stands for Drug Abuse Warning Network, and we have a system in

which we look at the numbers of individuals who come into emergency rooms in 21 different metropolitan areas in the United States plus a national panel. DAWN monitors emergency room visits that are precipitated by abuse of a drug. Similarly, our DAWN medical examiner data indicates those deaths associated with licit and illicit drugs. Medical examiners' data are reported from 27 cities.

Now, we also have to talk about consequences of drug use in terms of the numbers of people who need treatment and we assess this in a variety of ways. First of all, we have a national drug and alcoholism treatment unit survey which simply surveys all of the public and private treatment units in the United States and there are roughly 8,000 to 9,000 of these, for the kinds of services that they give to the public, to the nature of the clients which they have, to how they are funded, the numbers of people that they have, and the waiting lists and so forth.

Now I would talk about the system called DATOS, or drug abuse treatment outcome study. One of the things that I think we all want to know is whether or not the Federal Government dollars, as well as the States' investment in treatment, really works. We have therefore developed a major program for assessing the outcome of treatment as measured by our drug abuse treatment outcome study, which began in 1989.

What I would like to do is very quickly run through some of the data that is generated by these surveys.

[Slide.]

Dr. SCHUSTER. To put things into perspective, I have included in the estimated number of current users—that is, people who have used the substance in question at least once in the past 30 days prior to the survey—alcohol, about 105 million; cigarettes, about 57 million; marijuana, about 12 million; and cocaine, about 3 million. I put the cigarettes and alcohol on the slide simply to give some perspective to the problem. I needn't remind you that there are 375,000 premature deaths associated with tobacco use in our country every year.

In the general household population, for the remainder of the different types of drugs—and we get estimates on 11 different types of drugs—an estimated 1 to 2 million people are current users.

It is important to look at the overall perspective. If we look at those who are 12 years of age and over who have ever used any type of illicit drug, that is, lifetime experience, we see that 63 percent of the population has never experimented with drugs. I think it is important to remember this because we sometimes tend to think of the entire U.S. population as having been drug experimenters. But 63 percent report that they have never had an experience with an illicit drug. On the other hand, 37 percent report that they have.

But of those who have ever used, 23 percent report that it was in the past, but not in the past year. Only 14 percent of the general population report that they have used an illicit drug in the past year.

[Slide.]

Dr. SCHUSTER. What this slide shows is that there are 27 million drug users; that is, those who have used in the last year. Of those,

about 14 million are what we would call the intermittent user, the experimenter. They report that they have used an illicit drug somewhere between 1 and 10 times in the past year.

About 6 million people have used an illicit drug somewhere between 11 and 49 times in the past year.

The group we are really concerned about are the heavy users, about 7 million people who report that they have used an illicit drug 50 or more times in the past year.

Mr. SCHUMER. Dr. Schuster, I am sorry to interrupt, the numbers on the first chart, they don't really add up to as many as on this chart.

Dr. SCHUSTER. Yes. I think that you will see that they do. That is a percentage.

Mr. SCHUMER. Do they?

Dr. SCHUSTER. That is percentage, not number.

Mr. SCHUMER. OK. But on the next one, it is 27 million. I thought marijuana was 11 and then cocaine was 3 and then—

Dr. SCHUSTER. Yes.

Mr. SCHUMER. There should be some overlap.

Dr. SCHUSTER. This is annual. This is annual prevalence. This is the numbers of people who have used an illicit drug in the past year. The drug users on this slide—27 million and if we go back—this slide was for those who had used an illicit drug in the last 30 days.

Mr. SCHUMER. OK.

Dr. SCHUSTER. These are the current users and this slide is for annual use.

Mr. SCHUMER. Fine, thank you.

Dr. SCHUSTER. The point that I am trying to make is that of the 27 million people who report that they have used an illicit drug in the past year, 7 million of them have used an illicit drug 50 or more times in the past year. That is heavy use by anybody's standards and probably people who are in need of some form of intervention.

[Slide.]

Dr. SCHUSTER. Now, let's talk more specifically about some drugs because I think it is important that we look at the national trends. The highest prevalence of use is among 18- to 25-year-olds. These are age groups which we have included in the household survey.

What you can see is that marijuana use reached a peak in the United States in 1979. Its use has been steadily declining ever since then in all age groups.

[Slide.]

Dr. SCHUSTER. This is a similar pattern to what is seen in our high school senior survey where, again, it reaches a peak in 1979-80 and it has continued to go down. Actually, it goes down in 1988 and 1989, but this slide is an older slide. In 30-day prevalence, that is use in the past 30 days, use in the past year and lifetime prevalence, all of these measures have gone down.

Mr. SCHUMER. Just explain to me what lifetime prevalence means.

Dr. SCHUSTER. It means that the person has reported that they have used the drug at least once in their lifetime.

So in 1979, more than 60 percent of our high school seniors reported that they had tried marijuana at least once.

Not shown on this slide, but of relevance to this is the fact that in 1979, about 11 percent of high school seniors reported they were using marijuana daily, every single day; 11 percent. I am pleased to say that that number is down to less than 3 percent today. Still tragically far too high, but nevertheless, a significant decline from the peak year of 1979.

[Slide.]

Dr. SCHUSTER. If we just look at data for cocaine use among the 18- to 25-year-olds, the first thing that is apparent is that between 1976 and 1979 is when the use of cocaine took off in the United States. That number just shot up.

Subsequently, cocaine use in the general population has come down. Now, remember this 1976-79 because our consequence data stands in stark contrast to the fact that from the years 1980 on, we are seeing a decline in the overall numbers of people who are using cocaine. But remember that this is simply one use in the past month. It doesn't imply that they are necessarily addicted to the drug; it is simply one use.

[Slide.]

Dr. SCHUSTER. Similarly, data from the high school senior survey, which is conducted on a yearly basis, indicate that cocaine use rose from the years 1976-79 and, in the case of the high school seniors, continued to increase until about 1985. But from there on out, and including 1989, it has shown a significant decline.

[Slide.]

Dr. SCHUSTER. Why is it declining? Well, I can say this—the high school seniors' report perceived availability of the drug has increased. They are reporting whether or not they believe they can get cocaine and if anything, it has gone up.

So it is not lack of availability that is driving it down. In response to the question of "Do you think that it is dangerous or harmful to your health to try cocaine even once or twice?" We see that this perceived risk has increased in the last few years. On the other hand, there has been a decline in the actual prevalence of high school seniors' use of cocaine.

So we believe it is a change in attitude about the perceived risk that is the relevant variable here since availability has not changed, or if anything, it has increased.

[Slide.]

Dr. SCHUSTER. Now, let me just say that that is the good news. And there is a decline in the number of people who report past year use of cocaine, from 1985 in our household survey to our 1988 household survey.

In 1985, 12 million people in the United States reported they had used cocaine at least once in the past year. That number was only 8 million in 1988. However, the number of people who reported that they were using cocaine on a weekly basis; that is, they have used it at least once a week, has not gone down. As a matter of fact, it has increased.

So those who are using the drug intensively have actually not shown the same trend as what I would call the casual user of cocaine.

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[Slide.]

Dr. SCHUSTER. That is reflected here in our emergency room data, from 1984 through 1988. The total number of cocaine mentions is 8,831 from the reporting emergency rooms in 1984. From those same emergency rooms—this is a consistently reporting panel, it has increased fivefold to over 46,000 in 1988. That number, 46,000, incidentally, is higher than the number which we see for alcohol in conjunction with other drugs. We have never seen any other drug come close to the number of emergency room mentions associated with alcohol in combination with other drugs until this explosion of cocaine.

We believe that smoking cocaine is probably one of the principal causes of all of this. There has been a thirtyfold increase in the number of emergency room mentions associated with smoking cocaine.

I can't distinguish between crack cocaine here and what is called free-base, but it doesn't matter. It is smoked cocaine and the consequences of smoked cocaine are that you can continue as long as you are breathing to get increasingly higher and higher doses of cocaine into your body with clearly toxic effects, as are shown by the number of emergency room mentions associated with it.

[Slide.]

Dr. SCHUSTER. Similarly, if we look at the number of medical examiner reports, you can see that deaths associated with cocaine use have gone up over threefold through those same years.

Consequently, we are simply saying that although the number of casual users have gone down, the intent users are using it in a more toxic form, namely smoking it, with incredibly important public health consequences, as you can see from these numbers of emergency room mentions and deaths.

[Slide.]

Dr. SCHUSTER. Similarly, we also have a significant problem in the fact that we are very capable of treating heroin addiction. We are far from being there in terms of cocaine addiction, and in our other surveys, which I am not going to report on today, we know that less than 17 percent of heroin users are using heroin alone. Most of them are using heroin in combination with cocaine and this simply shows you the increases in the number of deaths associated with that combination over this same period of time, which has shown about a sixfold increase.

So our treatment picture is grossly complicated by the presence of cocaine and the fact that heroin users are now not just heroin users. They are speed-baller combination of heroin and cocaine users.

[Slide.]

Dr. SCHUSTER. What has resulted from this is an incredible impact on our treatment systems. We can see that admissions to treatment for cocaine abuse have gone from about 39,000 in 1985 to over 134,000 in 1988. This does not reflect the full picture by any means because this is just those that are State-supported programs and doesn't include the private programs. The point I am making is that, clearly, the numbers of people who are in need of treatment for their cocaine abuse have increased in the same way that the emergency room mentions and so forth.

[Slide.]

Dr. SCHUSTER. Now, we recognize the fact, as I said before, that our surveys are very conservative. They don't get at the same types of populations that Dr. Wish will report on, but this just shows you some of the complications.

If we look at the percentage of people who reported any drug use in the past, for those who are employed full-time, about 10 percent, versus those who are unemployed, about 20 percent, it is clear that when we get into those who are not in the mainstream, minorities, areas where there is greater unemployment, subcultures that exist in the United States, the drug-using prevalence is going to be much higher than what is reflected in our total surveys.

Let me just end by saying that in addition to the kinds of surveys that we conduct, we have a number of activities that are relevant to the criminal justice system. Because of our interest in treatment, we do a lot of treatment evaluation of the State programs in which treatment has been brought into the prison itself. For example, we are doing the evaluation of a program on Riker's Island which began in 1987. It is called KEEP [Key Extended Entry Program], where people can either be in drug-free treatment programs while they are in prison or in methadone maintenance programs. Then, that is followed by an intensive transition service where we link them back up to treatment programs in the community. NIDA's role in this is not to provide the service, which is supported by the State and the city, but rather, we do the evaluation of the outcome. I could name five or six other programs in which this is the case, in which we are using our services as a research organization to evaluate the impact of prison-provided treatment.

I would agree with you that this is a key place in which we can have a major impact and, further, I would agree that all of our studies show that the longer people stay in treatment, the more successful the outcome is. If we have some leverage to keep them in treatment by virtue of referral from the criminal justice system, our job is made much easier.

But I have to say that the criminal justice system has to be in the position to impose consequences if they drop out of treatment. It is a carrot-and-stick approach, and it doesn't work unless you have both.

Thank you very much.

Mr. SCHUMER. Thank you, Dr. Schuster, for that information and outstanding testimony.

[The prepared statement of Dr. Schuster follows:]

PREPARED STATEMENT OF CHARLES R. SCHUSTER, PH.D., DIRECTOR, NATIONAL
INSTITUTE ON DRUG ABUSE, DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mr. Chairman and Members of the Committee, I am Dr. Charles R. Schuster, Director of the National Institute on Drug Abuse. I am pleased to appear at this hearing to discuss the nature and extent of drug abuse in the United States.

DRUG ABUSE IN THE UNITED STATES

The primary data source for determining the nature and extent of drug abuse in the United States is the National Household Survey on Drug Abuse. The first of these nationwide surveys was done in 1971 and they have been sponsored by NIDA since 1974. The Household Survey has been conducted every 2 to 3 years, and beginning in 1990 will be done every year. The methodology has been comparable for all of the surveys: respondents are interviewed in their homes by trained interviewers using self-administered answer sheets for drug use questions to maximize confidentiality and response validity. Respondents are selected randomly using a multistage national probability sample representative of the household population age 12 and older, which includes over 98 percent of the total population of that age. Estimates of drug use from the survey are considered to be conservative because populations not included in the survey may have high rates of drug use. These excluded populations are prison inmates and the homeless who are not part of the household population, as well as household members who are selected for the survey but do not participate. NIDA has a number of s

underway which will provide information on these excluded populations. For example, the Metropolitan Area Drug Study, conducted in the Washington, D. C. area, will develop methodologies for collecting data from non-household populations such as the homeless and prison inmates. Other methodological studies are being conducted in conjunction with the 1990 Household Survey to evaluate nonrespondent characteristics and to improve data collection techniques for that Survey.

Before I discuss some positive recent trends, I would like to point out that during the past two decades drug abuse has become widespread in the United States. Estimates developed from surveys conducted in the 1970's suggest that less than 5 percent of the population had experience with illicit drug use (including the use of marijuana, hashish, cocaine, inhalants, hallucinogens, heroin, and nonmedical use of psychotherapeutic drugs) in the early 1960's (NIDA 1979). However, by the early 1970's, that estimate had increased to over 10 percent, primarily due to use by young people (NIDA to be published). Over half of young adults (age 18-25) and over one-fifth of youth (age 12-17) in 1974 had tried illicit drugs at some time in their lives. As this cohort of young people grew older and as younger cohorts continued to experiment with illicit drugs, the percent of the population having used illicit drugs in their lifetime increased rapidly during the 1970's and 1980's, until by 1988 an estimated 36.6 percent (72.5 million) of Americans age 12 and older had used illicit drugs. Experience with illicit

drugs is no longer restricted to youth and young adults as nearly a quarter (23 percent) of adults, age 35 and older, had tried illicit drugs by 1988.

While experimentation with illicit drugs has been widespread and represents an illegal behavior as well as an increase in risk for experiencing various adverse consequences associated with drug abuse, it is also true that most of the 72.5 million Americans who have tried illicit drugs no longer use them. In 1988, 28.0 million people, or 14.1 percent of the population age 12 and older, had used illicit drugs during the past year. Furthermore, 14.5 million people, or 7.3 percent of the population age 12 and older, were current (past month) illicit drug users. Thus, past year users represent less than half of the lifetime users, and current users represent only one-fifth of lifetime users. It is these past year and past month users who are of most concern because they are at the highest risk of suffering the consequences of drug abuse.

An index developed by NIDA shows that about 7.6 million people, or more than one-quarter of the past year users age 12 and older, were classified as "heavy" users in 1988, based on using drugs 50 times or more during the past year. About 4 million of these can be considered "hard core" users, having used drugs 200 or more times a year. About half (14.3 million) of the past year users were classified as "experimental" or "occasional" users, and the remaining 6.1 million people were classified as "regular" users.

Although illicit drug use continues to be more prevalent among young people today than it was in the 1960's, in recent years there have been encouraging trends in drug abuse prevalence. The aging of the cohorts with high rates of use has resulted in increases in overall (total population) lifetime prevalence rates due to the cumulative nature of these estimates, but lifetime prevalence among young people and current prevalence among all age groups have declined since 1979. Today's youth are less likely to use illicit drugs than were the youth of 1979. Between 1979, which appears to have been the peak year for drug abuse prevalence, and 1988, the lifetime prevalences of use of marijuana, hallucinogens, cocaine, cigarettes, and alcohol have all decreased significantly among youth age 12-17 and also among young adults age 18-25. Among high school seniors, similar decreases have been observed in lifetime as well as current use of drugs. In the total household population, a decreasing trend in current (past month) use of illicit drugs has occurred since 1979, with particularly large decreases between 1985 and 1988. Current prevalence of any illicit drug use decreased from 23.0 million (12.1 percent of the population aged 12 and over) in 1985 to 14.5 million (7.3 percent) in 1988.

There was a significant decline between 1985 and 1989 in the percentage of high school seniors who reported using cocaine during

the past month, a trend that is consistent with the downward trend seen in the household population, where prevalence declined from 5.8 million users in 1985 to 2.9 million users in 1988. One factor that seems to have played a role in the reduction in drug use is an increasing awareness on the part of high school students that use of illicit drugs is dangerous. This increased awareness is evident in the household population as well. For example, 31 percent of youth age 12-17 in 1985 reported that there was "great risk" in trying cocaine, while in 1988 that estimate had reached 53 percent. Similar increases in perceived risk occurred for other age groups and for other drugs.

Because polydrug use is common among drug users, focusing on a single drug of abuse cannot provide a complete picture of the nature and extent of drug abuse. However, studying the problem in terms of prevalence of use of each of the major drugs does provide a way of looking more closely at patterns of use and differences among population groups.

Marijuana Use

Marijuana remains the most commonly used illicit drug in the United States. Almost 66 million Americans (33.2 percent) have tried marijuana at least once in their lives. Four million youth, 17 million young adults, and over 45 million adults age 26 and older have tried marijuana. Marijuana has been called a "gateway drug"

because its use is associated with the use of other drugs. For example, lifetime cocaine use is rare (less than half of 1 percent) among people who have never used marijuana and the likelihood of having used cocaine increases as the frequency of use of marijuana increases. Among people who have used marijuana 200 or more times in their life, 77.4 percent have tried cocaine.

Current use of marijuana was estimated at 5.9 percent (11.6 million) of the population age 12 and older in 1988. Current use was higher for males (7.9 percent), for young adults age 18-25 (15.5 percent), for the unemployed (14.8 percent), and for those living in large metropolitan areas (6.9 percent), which are defined as metropolitan areas having at least 1 million population in 1980. Of the 21.1 million people who used marijuana in the past year, almost one-third, or 6.6 million, used the drug once a week or more often.

Cocaine

The number of lifetime users of cocaine was 21.2 million in 1988, representing 10.7 percent of the population 12 and older. The overall rate of current use was 1.5 percent, but certain segments of the population, for example, males (2.0 percent), those aged 18-25 (4.5 percent), the unemployed (4.6 percent), and minorities (2.0 percent for blacks and 2.6 percent for Hispanics) had higher rates of use. Among the 8.2 million past year cocaine users 11.

1988, 10.5 percent used the drug once a week or more, while only 5.3 percent of the users in 1985 were weekly users. Thus, despite the decrease in the number of past-year users that occurred between 1985 and 1988 (from 12.2 million past year users in 1985) there was no decrease in the number of heavy users.

While lifetime prevalence of cocaine use remained stable for whites and blacks between 1985 and 1988, a significant increase occurred among Hispanics, from 7.3 percent to 11.0 percent.

Approximately 1.3 percent of the population age 12 and over have used crack at some time in their life, and one-half of 1 percent used in the past year. This translates to about one million past year crack users in 1988.

Heroin Use

Household surveys do not adequately measure the prevalence of heroin use and are believed to result in underestimation. This is because heroin users are likely to be either not living in households or not available to be interviewed if they are found in a household. Research has also shown that heroin use is more likely to be underreported by self-report methods than is other drug use. Nevertheless, 1988 Household Survey data show that 1.9 million Americans (1.0 percent) have tried heroin, and 88 percent of these lifetime users were age 26 or older. Rates of lifetime

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use were highest for males (1.3 percent) and blacks (2.3 percent). Under a NIDA contract in progress, an estimate of the number of current heroin addicts is being developed using mathematical modeling. Previous modeling such as this resulted in estimates of about 500,000 heroin addicts in 1982.

Intravenous Drug Use

Household surveys are also believed to underestimate intravenous (IV) drug use, for the same reasons that heroin use is underestimated. However, researchers have speculated that the size of this population is between 1 million and 1.5 million people. An estimate compiled from "best guess" estimates from individual State Alcohol and Drug Abuse Agencies was 1.3 million, with New York, California, and Pennsylvania reporting the largest numbers. Data from NIDA's 1985 client treatment data system (NIDA 1987), as well as more recent Drug Abuse Warning Network (DAWN) data, indicate that most IV drug use involves heroin, cocaine, or amphetamines. Estimates from the 1988 Household Survey, which are conservative, indicate that 1.3 percent of the population age 12 and older, or 2.5 million people, have used one of these drugs intravenously at some time in their lives. Seventy-three percent of these IV users were male, and blacks had higher rates of use (2.0 percent) than whites (1.2 percent) or Hispanics (1.3 percent). Past year IV use occurred mainly among 18-34 year-olds.

Other Illicit Drug Use

Hallucinogens, which first gained prominence during the 1960's, include such drugs as LSD, PCP, mescaline, peyote, and MDMA ("Ecstasy"). Lifetime prevalence of these drugs is highest among 26-34 year-olds (17.7 percent) and current prevalence is highest among 18-25 year-olds (1.9 percent).

Nine percent of youth have experimented with inhalants, but current use is rare: only 2 percent of youth and young adults, and less than one-half of 1 percent of older adults are current inhalant users.

Current nonmedical use of psychotherapeutic drugs (sedatives, tranquilizers, stimulants, and analgesics) decreased from 3.2 percent in 1985 to less than 2 percent in 1988. Current use was slightly higher for females (2.0 percent) than males (1.4 percent), and was highest among 18-25 year-olds (3.8 percent). Stimulants, which include methamphetamine, were the most commonly used category of psychotherapeutic drugs among current users.

Recently an outbreak of a smokable form of methamphetamine, called "ice" or "crystal," occurred in Hawaii and was investigated by a team of NIDA epidemiologists. While national data systems have not yet shown a major increase in the use of this drug, it is being monitored and the identification and investigation of other

possible outbreaks of new types of drug use is a critical part of NIDA's epidemiologic activity.

CONSEQUENCES OF DRUG ABUSE

Despite the encouraging downward trends in prevalence during the 1980's, some adverse health consequences connected to substance abuse are increasing in numbers. In hospitals consistently reporting to the DAWN, the number of people admitted to emergency rooms following cocaine use increased from 8,831 in 1984 to 46,020 in 1988. Much of this increase is accounted for by increases in cases involving the smoking of cocaine, primarily crack cocaine. Cocaine smoking cases increased from 549 in 1984 to 15,306 in 1988. Further, the number of people who died following cocaine use, as reported by DAWN, more than tripled during the same time period. Some of the factors which contribute to increases in health consequences during a period of declining prevalence, among people who continue to use, are: increases in frequency of use, increases in dosages, increases in drug purity, changes in route of administration to more dangerous routes (e.g., smoking and injecting cocaine), the use of drugs in combination, and complications associated with long-term use and aging of the user.

Recent data indicate that the increase in cocaine-related emergency room episodes may be ending. A leveling off of these cases is evident in DAWN data from the first three quarters of 1989.

Data on the characteristics of people suffering the negative consequences of drug abuse help to identify the segments of the population most severely affected by drug abuse. These data can also help identify the patterns of use and types of drugs used that are most likely to result in adverse effects.

Drug Abuse Related Deaths

The majority of drug-related deaths reported to DAWN as having occurred in 1988 involved either cocaine (49 percent) or heroin (37 percent). Many of these deaths involved heroin and cocaine in combination, commonly called "speedballing." Alcohol was also a factor in 38 percent of deaths reported to DAWN, although alcohol deaths are not included in DAWN if other drugs are not involved. Males accounted for 80 percent of the cocaine-related deaths, 83 percent of the heroin-related deaths, and 73 percent of all deaths reported to DAWN. Blacks accounted for 41 percent of cocaine-related deaths and 32 percent of heroin-related deaths, even though blacks comprise only 16 percent of the U.S. population in large metropolitan areas (estimated from the 1988 National Household Survey on Drug Abuse data file), which the DAWN data

generally reflect. Half of the heroin deaths and almost half of the cocaine deaths occurred among 30-39 year-olds, but cocaine deaths were more likely to involve people under age 30 than were heroin deaths.

Emergency Room Episodes

Cocaine is the single drug most frequently involved in emergency related reports to DAWN accounting for more than one-third of all episodes in 1988. Males accounted for 56 percent of all drug episodes, but 67 percent of cocaine mentions, 70 percent of heroin mentions, 75 percent of PCP mentions, and 72 percent of marijuana/hashish mentions (most of which involved other drugs).

Patients aged 20-29 constituted 38 percent of the DAWN emergency room episodes while those aged 30-39 years accounted for 32 percent. Nine percent of the emergency room episodes were for persons 6-17 years of age.

Heroin accounted for 16 percent of emergency room episodes among blacks, 18 percent of episodes among Hispanics, and 10 percent of episodes among whites. Cocaine was reported in 56 percent of episodes among blacks, 32 percent of episodes among Hispanics, and 25 percent of episodes among whites. PCP was involved in 8 percent of episodes among blacks, 6 percent of episodes among Hispanics,

and 3 percent of episodes among whites. Methamphetamine, on the other hand, was involved in 4 percent of episodes among whites, compared with less than 1 percent of episodes among blacks, and 1 percent of episodes among Hispanics.

Drug Abusers in Treatment

Drug abuse treatment units responding to the National Drug and Alcoholism Treatment Unit Survey (NDATUS) reported that 263,510 drug abuse clients were in treatment on October 30, 1987. New York State had the largest number of clients, 69,636, and California was second, 40,522. These two States accounted for 42 percent of the Nation's clients. An estimated 67 percent of drug abuse clients were male, and the majority (56 percent) of clients were between the ages of 25 and 44. Youth under age 18 accounted for 15 percent of clients. Blacks and Hispanics comprised a larger proportion of the treatment population than is seen in the general population or even in the drug-using population identified by the National Household Survey. Twenty-five percent of clients were black and 16 percent were Hispanic. Application of U.S. population estimates to NDATUS client counts resulted in rates per hundred thousand population of 203 for blacks, 200 for Hispanics, and 68 for whites. An estimated 42 percent of drug abuse clients were intravenous drug users. Data from the State Alcohol and Drug Abuse Profile (SADAP) show that the primary drugs of abuse among treatment clients are heroin, cocaine, and marijuana. Estimates of admissions to

treatment for cocaine abuse more than tripled from 1985 to 1988 (from 39,696 to 134,734) in State-supported treatment programs.

Drugs and Crime

The impact that drug use has upon the criminal activities of individuals has been a topic of much concern in our society. In recent years, policymakers, health care providers, and law enforcement officials have declared that drug use and its related criminal activities is one of the most serious social problems facing our Nation.

The magnitude of this problem has been explored in detail by research projects funded by the National Institute on Drug Abuse and other institutions. This research has yielded a number of significant results. It has been shown that drug-related crime cost American society approximately \$20 billion dollars in 1983. The criminal activities of each daily heroin user cost society approximately \$55,000 per year. The typical narcotic addict commits an average of 178 criminal offenses per year. If this result is generalized to the estimated number of active heroin addicts living in the United States, it can be concluded that narcotic addicts commit over 80 million crimes every year. Approximately 38 percent of these crimes are drug related (e.g., purchase, sale, trafficking), and 22 percent include other "victimless crimes" such as prostitution, procuring, gambling, and

alcohol violations. The remaining 40 percent include robbery and assaults, vehicle theft, shoplifting, selling stolen goods, forgery, counterfeiting, burglary and pickpocketing. Results from interviews conducted on serious juvenile delinquents in Miami, Florida, indicated that youth involved in the use and sale of crack cocaine committed an average of 880 criminal offenses per year. Sixty-one percent of their crimes were related to drug dealing or possession offenses, 23 percent to petty property offenses, 4 percent to major felonies, and 11 percent to vice offenses and prostitution.

Results from urinalysis tests on male and female arrestees in 14 major urban areas show that from September to December 1988, approximately 75 percent of jail arrestees tested positive for drug use. These data come from the Drug Use Forecasting System (DUF), a nonrandom sample of arrestees in major urban areas.

Preliminary findings from interviews conducted on 285 drug users (152 males and 133 females) living in New York City suggest that violence related to illicit drug use results more from involvement in the drug distribution network than from drug induced violence. Other results from this project indicate that female drug users were more likely to perpetrate acts of violence against their children than male drug users (Goldstein 1988).

In summary, results from research studies indicate that narcotic addicts commit a disproportionate number of crimes, most of which are related to drug dealing/possession offenses. Data also suggest that drug use is a costly social problem which may be linked to an array of criminal offenses.

Drug Use During Pregnancy and Consequences

Data from the 1988 National Household Survey on Drug Abuse indicate that there are over 5 million women in the child-bearing age group (age 15-44) who are current users of an illicit drug, including about 1 million cocaine users and 4 million marijuana users.

In the case of pregnant women abusing drugs, however, there are no data available from any national surveys or studies. Only recently, a NIDA grantee reported results of a pilot study of 36 mainly urban hospitals in the U.S., representing an annual delivery rate of about 155,000. The use of illicit drugs during pregnancy was between 0.4 and 27 percent, and that of cocaine alone was between 0.2 percent and 17 percent, depending upon the hospital. He estimated that as many as 375,000 infants may be affected from in-utero exposure to drugs each year in the United States. However, the extent of use of these drugs during pregnancy was not known.

Drug abuse during pregnancy has been found to be associated with a number of obstetric and neonatal adverse consequences, such as preterm delivery, abruptio placentae, low birth weight, infants born of small gestation age, and Sudden Infant Death Syndrome, in women who used/abused cocaine during pregnancy. In addition, isolated cases of seizures, cerebral infarction, urogenital birth defects in infants born to cocaine-abusing women have been reported.

Drug Use by Employed Persons

Drug use is most prevalent in adults aged 18 through 34 years. This age group is also a major segment of our work force. Although drug use prevalence is higher among unemployed than among employed persons, nearly 17 percent of full-time employed 18-25 year-olds had used marijuana in the past month. For the age group of 26 to 34 years, 11 percent of the full-time employed had used marijuana in the past month. Drug use prevalence decreased with increasing age among full-time employed people.

Drugs, including alcohol, in the workplace can interfere with an employee's productivity and safe performance of job responsibilities. The use of drugs can also reduce an employee's dependability by increasing the number of days lost from work. Drug use by the members of the American work force carries with it all the risks and problems associated with drug dependence.

Studies on the human and economic cost of drug abuse indicate that the direct and indirect costs of drug abuse to business are substantial. These include decreased productivity, absenteeism, accidents at the workplace, health care, loss of trained personnel, theft, and the costs associated with prevention treatment, and deterrence programs.

This completes my formal presentation; I will be happy to answer any questions you may have.

Mr. SCHUMER. Our next witness is Dr. Eric Wish, of the DUF survey. Again, Dr. Wish, your statement will be read fully into the record. You may proceed as you wish.

STATEMENT OF ERIC D. WISH, PH.D., SENIOR RESEARCH SCIENTIST, NARCOTIC AND DRUG RESEARCH, INC.

Dr. WISH. Thank you, Mr. Chairman, members of the committee. It really is a privilege to be here and to be able to present this information.

I am here today as an employee of Narcotic and Drug Research, Inc., New York City and I am also a visiting fellow at the National Institute of Justice, where I am helping the Institute to set up the DUF Program.

My remarks today do not represent, however, the Department of Justice or the National Institute of Justice.

As Dr. Schuster has indicated, two of the primary measures of national drug trends in the country are the household survey and the high school senior survey, and as he had indicated, these surveys omit from their samples certain parts of the population that they weren't basically designed to measure.

The high school senior survey—if a person did not stay in school until the 12th grade, he would not be in that survey. With the household survey, if a person was homeless, transient, or in an institution, such as a prison, that person would not be measured by the survey or available when the surveyor knocked on the door.

So these people are omitted from those surveys, and the interesting thing is that, also, as Dr. Schuster had indicated, what we know about drug use indicates that these types of people that are omitted from these major surveys are those at very high risk for using drugs. So as a result, in order to measure drug use in this high-risk population, the National Institute of Justice established the DUF Program beginning in 1987.

In addition to trying to measure drug use in this population, there was some evidence indicating that by measuring drug use in the arrestee populations over time, one might be able to have a leading indicator of drug epidemics in the country.

[Slide.]

Dr. WISH. The Drug Use Forecasting Program was funded—known as DUF—was funded by the National Institute of Justice and cofunded by the Bureau of Justice Assistance.

[Slide.]

Dr. WISH. The purpose of DUF is to provide each city with information for detecting drug epidemics earlier, for planning the allocation of law enforcement, treatment, and prevention needs, and for measuring the impact of efforts to reduce drug use and crime. It is also to provide national-level estimates of illicit drug use among offenders and to track and forecast national drug use trends.

[Slide.]

Dr. WISH. What we do is we obtain voluntary and anonymous interviews and urine specimens from samples of male and female arrestees. We get information from approximately 250 new male arrestees and 50 to 100 female arrestees every 3 months.

So basically we go into the major central booking facilities in the larger cities of the country that are participating and the trained staff approach the arrestees and ask them for this information. We try to undersample people charged with drug offenses, because we didn't want to study people who are just charged with sale or possession of drugs. So what that means is that the estimates that I am going to show you of recent drug use, however high that they are, are actually minimal estimates because they do not include as many of the people charged with drug offenses who would normally be contained in these populations and people who are charged with drug offenses tend to be very likely to test positive for drugs.

DUF has also been expanded to collect information from juveniles in certain cities. Response rates are very high. Approximately 95 percent of the arrestees agree to the interview, and of them, roughly 80 to 85 percent provide the voluntary and anonymous urine specimens. We are now in 23 cities.

[Slide.]

Dr. WISH. This gives you an idea of the coverage of the country. It is the largest cities, primarily, that had a central booking facility available.

[Slide.]

Dr. WISH. In addition to taking some information from the arrest report, personal information and information about the charge, we obtained information about education and marital status, drug use history and information about behaviors that may place persons at high risk for AIDS.

[Slide.]

Dr. WISH. We test for 10 drugs. As you can see here, cocaine, marijuana, opiates, amphetamines, which we confirm by a special test to rule out over-the-counter drugs, PCP, Valium, methadone, Darvon, barbiturates and methaqualone. The primary drugs found in the arrestee populations across the United States are the top five; cocaine, marijuana, opiates, amphetamines, PCP.

This shows us the percentage of the arrestees in each city who never made it to 12th grade; that is, dropped out of school before 12th grade, and you can see that on the average, for black—these are males—black arrestees, it is about 50 percent. For the whites, it is 42 percent and for Hispanic arrestees, it is almost 70 percent dropped out of school before the 12th grade.

If I were to show you a slide of females, it would be the same type of results. So the point is that, at least in terms of the high school senior survey, these people wouldn't have been around to answer the questions.

[Slide.]

Dr. WISH. We knew from research done in New York and Washington that there were a lot of people using drugs among arrestees in those cities. We were amazed when we went throughout the rest of the country to find the level of drug use, recent drug use. I am just going to show you once what cities these are. It goes from the west coast to the east coast.

This is positive for any of the 10 drugs, including marijuana, and these results come from 1988. Basically, this is Los Angeles, San Diego, Portland, Phoenix, San Antonio, Dallas, Omaha, Houston, Kansas City, St. Louis, New Orleans, Chicago, Birmingham, Indian-

apolis, Detroit, Cleveland, Ft. Lauderdale, Miami, Philadelphia, and New York City. Again, in 1988.

[Slide.]

Dr. WISH. Even if we ignore marijuana in this group, you can see that the results are still quite high, except for Omaha, where it drops to 27 percent and Indianapolis, 23 percent.

Now you have to remember that most of the information presented from the major surveys look at drug use over the past month. When a person tests positive for cocaine or heroin or amphetamines here, it means that they were using the drug in the last 2 to 3 days.

[Slide.]

Dr. WISH. I just want to show you quickly the types of drugs that we found. Cocaine was generally the most prevalent drug found, and at that time, it ran from a little above 80 percent in New York to a low of about 15 percent in Indianapolis. Again, these people who are primarily charged with serious nondrug offenses have all used cocaine in the last 2 to 3 days.

[Slide.]

Dr. WISH. This is marijuana.

[Slide.]

Dr. WISH. This is opiates—heroin would show up as an opiate. You can see you find sort of pockets of use, San Diego, San Antonio, Chicago, New York, but not as much as you might have expected before we did the study because a lot of times, we used to think that the bulk of our crime was heroin related. It may be that it used to be, but now it is primarily cocaine related.

[Slide.]

Dr. WISH. This is the Washington Monument slide. This is D.C. here. Percent positive for PCP, was at this time 28 percent in Washington. In 1987, it topped out at 47 percent of all arrestees in Washington testing positive for PCP. It is now down to, I believe, around 8 or 9 percent.

[Slide.]

Dr. WISH. This is amphetamines, which—when we first got the results, a toxicologist in New York called us and said, "Your results must be wrong because they don't use amphetamines any more." The point is on the east coast, you don't find them. It is a west coast phenomenon, primarily in San Diego, Portland, Phoenix. If a person was using "ice," which is methamphetamine, it would show up as a test-positive for amphetamines. So far, in terms of the DUF results, we don't find any evidence of an increasing trend in methamphetamine use in this population. But the point I want to make strongly here is that as you look at these slides, note that there are geographic differences. It may not be appropriate to just talk about one national figure of drug use. We have different drug problems in different parts of the country and policy must address that.

[Slide.]

Dr. WISH. What would have happened if we had asked these people whether they had used cocaine in the last 2 to 3 days? OK. This is the percent in each of these cities who said that they had used cocaine in the last 2 to 3 days. This is the percent who tested positive.

So, in other words, within the criminal justice system, asking people, even in an independent study where you are not collecting names—asking people whether or not they used an illicit drug in the last couple of days misses the large majority of the people who did use. The numbers are two to four times higher on the average that you pick up both in men and women if you test—yes.

Mr. SCHUMER. I would like it noted that New York is the most honest place of all.

Dr. WISH. Right, at that time.

[Laughter.]

Dr. WISH. But it didn't hold up at other times.

The point is, and we will get into this later, that the criminal justice system in the country operates as if people will voluntarily tell them that they are using illicit drugs.

[Slide.]

Dr. WISH. You can't detect the drug user by charge at arrest. It is true that people charged with sale or possession of drugs are those most likely to test positive. You can see that they are 85 to 90 percent testing positive for drugs in all of these cities, but the point is, look at people charged with income-generating crimes, violent crimes or other crimes. You are talking about close to 40 percent in some instances, but you are finding, basically, a half or more of the people charged with other than drug offenses testing positive for a drug.

The basic bottom line on this is that the people coming through the criminal justice system are saturated with drugs. It does not matter what they were arrested for.

[Slide.]

Dr. WISH. Males are different from females in this. It turns out they are in the sense that we generally find female arrestees less likely to test positive for marijuana, however, they are as likely or more likely to test positive for cocaine or for heroin than men. We find serious drug problems in the female arrestees. They also are much more likely to admit to injecting drugs.

[Slide.]

Dr. WISH. This is the percentage of arrestees in these cities who indicated that they thought at that time that they needed drug or alcohol treatment. It roughly runs 25 percent to 45 percent, roughly the same with the women. The point is, these figures are low. These are the people who admit.

Now, compare this to the percentage who are testing positive.

[Slide.]

Dr. WISH. These are the types of trends that we have developed as DUF was available. Now, this—because Washington, DC, tests all arrestees for drug use and has been doing such since 1970, there is much more data available. This shows you the trends in the District. You can see from 1984-89, that at one point, PCP was more prevalent than cocaine, but at some point in early 1985, it overtook PCP and then cocaine, in 1986, took off as PCP started down.

Opiates, in the meantime, have been sort of steady to down.

[Slide.]

Dr. WISH. There has been a lot of talk recently about a reduction or a decline in persons testing positive for cocaine in Washington, DC. This is the latest DUF results on that from fourth quarter,

1989, and you do see a drop in both the females and males testing positive for cocaine.

However, we have seen drops before, so I think we need a little more time to see where this is going to go.

[Slide.]

Dr. WISH. This shows you New York City in 1984 and then 2 years later in 1986, when we started the DUF Program up through fourth quarter, 1989. The point is that when we were looking at arrestees in 1984 in a special research project, we found 42 percent testing positive for cocaine, which at that time was astounding. This is before people really knew about crack.

When we went back in 1986 as the pilot study for DUF, we found it had jumped to 82 percent testing positive for cocaine in New York City. We didn't believe the findings so we went in several more months and again, it stayed in the 70- to 80-percent range. But notice that since then, it has been in sort of a high level between 65 and 80 percent testing positive for cocaine.

[Slide.]

Dr. WISH. Now, let's not forget juveniles here. Most of the people whom we interview in the DUF system, if you ask them when they began their drug use, it is not at 17 or 18. It is 13, 14 years of age. This shows you the percent of juvenile detainees in Washington, DC, monthly from January 1987, to January 1989, who tested positive for cocaine and you can see it tripled from about 7 percent to about 22 percent testing positive during this time period.

[Slide.]

Dr. WISH. If you go into another city—for instance, San Diego, and I could show you another slide from Portland, you will find the same—you will find that as age of the arrestee goes up from 13 to 19, for instance, you get more and more chance that the person will test positive for drugs, so you can see, just look at this top line here. This is the percent testing positive for any drug. You can see at 14, people aged 14, you have a little over 20 percent there, but look at how it systematically, with each year of increase in age in people, it climbs until when you get up to about the 18-, 19-year-old juvenile detainee, he starts to look like the figures from the adult arrestees. There are roughly 60 to 70 percent testing positive.

In addition, you usually find marijuana in the juveniles and then cocaine and maybe some other drugs coming on later in age. So there may be a window of opportunity to identify the drug user among the juvenile detainee who is just using maybe marijuana at that time and perhaps by putting in some intervention or prevention program, prevent them from progressing to using the more dependence-producing drugs like cocaine and heroin.

[Slide.]

Dr. WISH. Now, I want to put these findings in perspective.

If you take—looking at cocaine—the percentage of the people in the household survey who said in 1988 that they had used cocaine in the last 30 days, it would be 1.5 percent. In the senior high school survey, it was 3.4 percent said they had used the drug in the last 30 days. If you ask, as we do in our interview, in the DUF males and the DUF females, if we ask them whether they have used cocaine in the last 30 days, we get 24 percent—this is self-

report indicating it—versus 27 percent of the females. That is sort of the median city of all the cities that we looked at.

However, if you go and look at the urine test results, which are again talking about use in the last 2 to 3 days, it is 49 percent to 52 percent, so you go 1.5, 3.4 to 49 percent and 52 percent in this population.

[Slide.]

Dr. WISH. Even if you just compare people sort of at the similar age—this is the senior high school survey versus juvenile detainees in four cities, Washington, DC, Tampa, Phoenix, San Diego, you find, again, the 3.4 percent using—saying they used cocaine in the last 30 days, but you find in Washington, DC, 22 percent positive; in Tampa, 10 percent; Phoenix, 18 percent and San Diego 9 percent. Again, showing use in the last 2 to 3 days.

[Slide.]

Dr. WISH. What if, now, we take the results that I have been showing you for 1988 in terms of the percentage of arrestees testing positive for cocaine and we now apply those percentages to all of the arrestees in 1988 in the 20 DUF cities at that time and the 41 largest non-DUF cities? So in other words, what we are trying to do is say how many frequent users of cocaine existed in 1988 in the population of arrestees in the 61 largest cities in the country, and using some—what I think are very conservative assumptions, what we come out to is between 978,000 and 1.3 million arrestees who are frequent users of cocaine.

Now, we are not counting there other persons arrested in other cities across the country and we are not counting people who are on probation, parole, or in prison, both in the original DUF cities or in the rest of the country. So we are talking about excluding from our estimates of frequent cocaine users almost 11 million people that would have come from this 61 cities.

So the point is that without them, without having any estimate because we don't have any measures of drug use in this part of the population, we come up with 978,000 to 1.3 million versus the number from the household survey indicating 620,000 to 1.2 million. So we are saying that you have, basically, as many frequent users of cocaine in the 61 largest cities just in the arrestee population in 1988 as the household survey indicated for the entire U.S. household population in 1988.

Different samples measuring different groups of people. I think that the bottom line is that when you factor in these numbers, too, for whom we don't know how many are using cocaine, that we can say that probably as much as a half to two-thirds of the frequent users of cocaine in the United States are people coming through the criminal justice system.

[Slide.]

Dr. WISH. Now, you ask, are things getting better? This shows the percent testing positive for cocaine in 1988 in each of these cities. These are the figures from the fourth quarter, 1989, in other words, October, November, December 1989, and you can see that basically the numbers are fairly similar. You do get this drop in Washington, which I think is real, given the large numbers that they test there from the pretrial testing program, and you have a drop in Los Angeles, but it is only—we don't have data between

this period for Los Angeles, so I can't say if this is a real drop—if I am confident about this number.

So you have a couple of cities that look like they went down and then you can see St. Louis going up from 38 to 49 percent; Indianapolis, the bottom going up from 15 to 25 percent. If you average these two columns, you have 47 percent testing positive for cocaine in 1988 and 46 percent in fourth quarter, 1989.

In other words, the decline that we have been finding in the Washington, DC, area doesn't look like it is showing up in the rest of the country.

[Slide.]

Dr. WISH. I just wanted to anticipate some of the other issues. You know, we say, why test the arrestees? What does the test mean other than that they are just testing positive? We did some research in New York and looked at basically 5,000 people, whether or not a person's drug use at arrest was related to their recidivism.

We expected to find that persons who tested positive for a drug at arrest would be more likely to recidivate, but we were surprised when we found the number of drugs found was related. So look, you will see of those people who tested negative at arrest, 43 percent had one or more subsequent arrests in the next 11- to 17-month period.

Of those positive for one drug, it was 50 percent; of those positive for two or more drugs, it was 61 percent. OK? But note that the real difference isn't whether or not a person had one or more arrests, it is the multiple rearrests, 20 percent, 29 percent, 40 percent. That is, 40 percent of the people positive for multiple drugs at arrest had two or more rearrests in the next year to year and a half.

Now, when you look at their rearrests, it is not simply that they were being rearrested for sale or possession of drugs. Two-thirds of their rearrests were for nondrug offenses.

Again, the most involvement—next slide.

[Slide.]

Dr. WISH. It turns out—this comes from that same sample—the more symptoms of drug use dependence, needing treatment, the more drugs found in the urine, the more—this is prior-arrest history, but it also works for subsequent arrests, in other words, the more active criminal.

[Slide.]

Dr. WISH. One final point I wanted to make here is that while we were studying the arrestees, the intensive supervision probation department in New York City came to us and said, "Look, we think a lot of people are using drugs. We don't have money to test them. You come in and do a small project there and find out, how much drug use is going on in our probationers." So we went in there and this is the intensive supervision probation program. What that means is that your client caseload was basically 20 to 25 to 1, as opposed to standard probation, which may be as high as 200, 250 probationers to one probation officer.

There are a minimum number of visits to the office and to the home and a lot of contacts that are supposed to be made. The point is that if anyone is going to know the habits of their probationers,

it should be the people in the ISP Program, the intensive supervision probation program. So we went in and interviewed the probationers right after they got done with the probation officer.

We interviewed them in an independent way with the protection of confidentiality and information we were collecting. We asked them whether they had used drugs in the last 24 to 48 hours. What we found was that 3 percent of the probationers that we interviewed said that they had used cocaine in the last 2 to 3 days.

We also asked the probation officers to rate the same people in terms of whether they used cocaine in the last month, whether they thought these people had used cocaine in the last month, and we found that they said 9 percent of these same people had used cocaine in the last month.

OK, now, the overlap is not complete because they didn't always pick the same people who admitted to cocaine use. But the point is, the urine tests showed that 52 percent of these people tested positive. Basically, almost six times as many people tested positive for cocaine than the probation officers said they thought were cocaine users. So the real point is we are expecting probation officers to be able to monitor their clients. We are expecting them to keep their clients off drugs and we don't give them the tools to be able to do it. Without the drug tests, they don't know who is using drugs.

[Slide.]

Dr. WISH. OK, so lots of times when I present these figures, people are very depressed over the magnitude of the drug problem. I prefer to say that what we have here is a tremendous opportunity to focus our resources on the demand for drugs in the part of the population that contains the most dysfunctional drug abusers. In a sense, the most dysfunctional frequent drug users in the country, in the population, are coming through the doors of the criminal justice system every day, and yet, the system, for the most part, acts as if it just wants to ignore that problem.

If I am arrested in most of the major cities in this country and I have been committing crimes, primarily because of a drug problem, I will be in and out of that system, oftentimes in hours, without any attempt being made to identify my drug use problem.

You wouldn't take someone who is a cigarette smoker and who is sort of addicted to nicotine and put them in a jail or a room for a few hours, take away their cigarettes and then return them back home and expect them to stop their cigarette smoking.

However, that, in a sense, is what we are doing with people who are using cocaine, and cocaine is, as you know, one of the most potent dependence-producing drug that we have ever had.

OK, so my first recommendation is that the highest priority ought to be given to encouraging large cities to establish drug-testing programs within the criminal justice system. These screening programs should be linked to subsequent testing and monitoring and, where appropriate, to testing, coupled with treatment. I know Jay Carver will be presenting some information on his program.

The point is that we are giving a lot of money already to States to spend in this area of drug abuse in the criminal justice system, but very little of it is getting to testing, as far as I can see. In fact, it is kind of surprising to me that we seem more willing, for instance, to go and test 26,000 Department of Transportation employ-

ees to find 150 who test positive than we are to test in the criminal justice population, where, as we know, we are going to find 50 to 60 percent testing positive.

The second recommendation is that special consideration should be given to establishing drug testing and drug prevention programs for juvenile detainees. I think that the adult population that we have been looking at, criminal population, a lot of them are very hard to treat and hard to respond to any interventions, but it may be, as I mentioned earlier, that the greatest chance is to really intervene with juveniles and that means to test juveniles and to start putting them into programs, prevention and intervention programs that may reduce their drug use.

Finally, I think a high priority should be given to funding and evaluating demonstration projects designed specifically to reduce drug use in the adult and juvenile criminal population. As Dr. Schuster indicated, we don't know real well how to treat people who are dependent on cocaine. We need to first identify these people coming through the system and then do a lot of demonstration projects where we try out different techniques to see what will work to reduce both their drug use and crime.

Mr. SCHUMER. Dr. Wish, let me thank you. Those are incredible numbers and they beg a lot of questions. But it is an amazing survey that you have done.

Dr. WISH. Thank you.

Mr. SCHUMER. Just incredible.

[The prepared statement of Mr. Wish follows:]

PREPARED STATEMENT OF ERIC D. WISH, PH.D., SENIOR RESEARCH SCIENTIST,
NARCOTIC AND DRUG RESEARCH, INC.

1

Thank you for the opportunity to address this Committee. I am a Research Scientist at Narcotic and Drug Research, Inc. in New York City, and currently a Visiting Fellow at the National Institute of Justice, U.S. Department of Justice.¹ I have been conducting research in the area of drug abuse and deviance since 1973. I have directed research projects investigating the relationship of drug use to crime, the assessment of treatment services for marijuana abusers, and the relationship of drug use by an arrestee to pretrial misconduct and behavior on probation. As a Visiting Fellow at NIJ, I have been preparing a manual for practitioners, on drug testing of offenders and have served as Chief Scientist for the newly established Drug Use Forecasting program (DUF).

Overview

What has been frequently overlooked in recent years, and what the new data that I shall describe clearly indicate, is that even as there has been a welcome and dramatic drop in middle class and "casual" drug use, revealed in the NIDA-sponsored High School Senior Survey and the Household Survey, there remains a stubborn hard core of lower class drug use that is intense, and perhaps, still growing. The majority of illicit drug consumption in the United States today can be found among the criminal underclass in large urban areas (Johnson et al. 1990). These persons are frequently involved with the criminal justice system.²

The DUF system provides a new measure of drug use in a deviant, relatively undersampled, segment of the population that can be used in conjunction with the established NIDA surveys to provide a more comprehensive picture of drug use in the United States. The combined information provides compelling evidence for the need to focus even more efforts on curbing drug use in the criminal population where drug use appears severe. I shall conclude with some recommendations about how this might be accomplished.

¹Opinions expressed in this testimony are those of the author and do not necessarily represent the points of view of the U.S. Department of Justice.

²A more complete discussion of these issues appears in, U.S. Drug Policy In The 1990's: Insights From New Data From Arrestees, The International Journal of the Addictions, in press.

Measures of national drug use trends.

National estimates of drug use trends in the United States are derived primarily from two surveys sponsored by NIDA³. The National Household Survey is conducted every two to three years and is designed to estimate drug use in the U.S. household population aged twelve and older. This survey excludes persons living in group quarters or institutions such as military installations, dormitories, hotels, hospitals, and jails, and transient populations such as the homeless. The annual High School Senior Survey consists of self-administered questionnaires completed by about 16,000 students enrolled in 125 to 135 public and private high schools throughout the coterminous United States. This survey does not include in the target population youths who have dropped out of high school before graduation. Thus, the types of persons omitted from these two surveys are those whom the bulk of empirical scientific literature indicates are at highest risk for illicit drug use and for cycling through the criminal justice system.

In order to gather new information about drug use from that population, the National Institute of Justice (NIJ), the primary research arm of the Department of Justice, established the national Drug Use Forecasting (DUF) program in 1987. The primary goal was to measure recent drug use trends in arrestees by urinalysis, in order to provide policy makers with current information about drug use trends in a deviant part of the population at high risk of drug use.

Each quarter, voluntary and anonymous urine specimens and interviews are obtained from new samples of male and female arrestees in 23 of the largest cities in the United States. Some cities also test juvenile detainees. Respondents are selected to represent primarily

³Other data systems containing information pertinent to drug use trends include: the Drug Abuse Warning Network (DAWN), the National Drug Abuse Treatment Utilization Survey (NDATUS), the Uniform Crime Reports and federally sponsored surveys of prisoners and jails. The National Household Survey and the High School Senior Survey, however, are currently the primary tools used to measure national drug use trends.

arrestees charged with serious nondrug offenses. Because arrestees charged with sale or possession of drugs are those most likely to be using drugs near the time of arrest and because persons with these charges are deliberately undersampled, DUF estimates of drug use are minimum estimates of drug use in arrestees⁴. While the sampling scheme for the DUF cities does not permit the computation of combined national estimates of drug use in arrestees, they do yield accurate estimates of recent drug use in arrestees in each participating city .

Comparison of Estimates of Drug Use in the U.S. in 1988 .

Table 1 compares estimates of drug use in the prior month obtained from the 1988 Household Survey, the High School Senior Survey and the DUF program. Estimates are provided for arrestees in 20 cities in the DUF program in 1988 (Washington, D.C. was excluded from this analysis because interview information was not obtained). Both self-reported use of drugs in the prior month and the results of the urinalyses are presented for the arrestees. In contrast to the surveys, which find marijuana to be the most prevalent drug, the DUF urinalysis results show that recent cocaine use is even more common among arrestees than marijuana use.

The level of cocaine use in the arrestee population far exceeds that reported in the general population. Self-reported cocaine use among arrestees in the past month was eight to twelve times the level of use in the general population. However, according to the urinalyses, cocaine use by arrestees (in the prior 2-3 days) was 17 to 25 times greater than the use in the past month reported in the general population. This is because twice as many arrestees tested positive for cocaine, than admitted to using the drug in the prior month.

More marijuana use and heroin use were also found in arrestees than were reported by persons in the general population. Use of heroin was

⁴Research comparing computer simulations of DUF sample estimates of drug use with estimates obtained from the population of arrestees routinely tested by the District of Columbia Pretrial Testing Program indicated that DUF samples yield estimates that were about six percentage points below the estimates of drug use obtained from the entire population of arrestees (Harrell and Cook 1990).

especially rare in the household and high school senior populations, but was detected in 6% of male and 19% of female arrestees. In New York City, 26% of female arrestees tested positive for opiates.

The statistics in Table 1 are not totally comparable because the age distributions of the participants in the three studies are not equivalent. However, even if one compares estimates of recent drug use in high school seniors to DUF findings from juvenile detainees, a similar pattern of differences presents itself. Rates of cocaine use in the prior 2-3 days among juvenile detainees (ages 11 to 17) are three to seven times that reported by high school seniors.

Is Cocaine Use Declining in Arrestees?

The D.C. Pretrial Services Agency routinely tests all arrestees for urinalysis. Their monthly statistics have shown a four month decline in the percentage of adults positive for cocaine, from about 65% in August, 1989 to 54% in December. To discover whether a similar decline has occurred in other DUF cities, we compared the test results for cocaine for male arrestees for all of 1988 with the results from the fourth quarter of 1989 (October to December). The table below presents these findings.

COCAINE USE IN MALE ARRESTEES: 1988 AND FOURTH QUARTER, 1989

	Percentage Testing Positive:	
	1988	4TH Q., 1989
NEW YORK	74	68
PHILADELPHIA	72	72
WASH. D.C.	60	50
LCS ANGELES	60	47
CHICAGO	58	53
CLEVELAND	52	54
NEW ORLEANS	51	60
BIRMINGHAM	51	52
DETROIT	51	40
HOUSTON	49	52
DALLAS	49	47
SAN DIEGO	43	39
FT. LAUDERDALE	42	48
KANSAS CITY	41	40
PORTLAND	40	31
ST. LOUIS	38	49
PHOENIX	30	32
SAN ANTONIO	27	22
INDIANAPOLIS	15	25

These results indicate considerable stability in the test results from the two periods. While Washington and Los Angeles show a decline of ten percentage points or more, Indianapolis and St. Louis increased by that much. The small sample sizes (under 250 persons) on which fourth quarter results are based leads me to conclude that, with the exception of Washington, none of these differences represent a significant change in cocaine use in these cities. Because the findings from Washington are based on thousands of arrestees tested each month and were confirmed by test results from juvenile detainees and arrestees in a neighboring jurisdiction, it is reasonable to conclude that the detected decline is real and significant. Regardless, it is accurate to say that in the majority of these cities in late 1989, at least one half of the persons arrested for serious nondrug offenses had used cocaine in the prior 2-3 days.

Cocaine Use in Arrestees in the 61 Largest Cities

We used the DUF findings and statistics from the UCR to construct an estimate of the prevalence of frequent cocaine use in the arrestee population in the 61 largest cities in the United States in 1988⁵. We estimated that in these cities, there were between 978,000 and 1.3 million arrestees who would have tested positive for cocaine.

To put these estimates in perspective, we compared them with the number of weekly cocaine users in the U.S. household population in 1988 (Table 2)⁶. The arrestee population in the 61 largest cities contains about as many weekly cocaine users as is estimated to exist in the entire U.S. household population (620,000-1.2 million, National Institute on Drug Abuse, 1989, p. 111). If we combine the estimated number of frequent users of cocaine from the arrestee and household data,

⁵The computations are described in, U.S. Drug Policy In The 1990's: Insights From New Data From Arrestees, The International Journal of the Addictions, in press.

⁶Ethnographic studies of the criminal population have found that the drug-using offender is a frequent user of cocaine and other drugs (Johnson et al. 1985; Wish and Johnson 1986). Large surveys of persons arrested or incarcerated have also documented considerable drug use in these populations (Chaiken and Chaiken 1982; Ball et al. 1981; Chaiken and Johnson 1988). It is therefore reasonable to assume that nearly all of the persons who tested positive for cocaine at arrest probably used the drug at least once a week.

we estimate that arrestees from just these 61 cities, account for one half or more of the total.⁷

Furthermore, these estimates do not include the entire criminal justice population. They are derived solely from the arrestee population in 61 cities and do not measure cocaine use in arrestees in other cities or in probationers, parolees or incarcerated persons. This segment comprises as many as 10.8 million other persons, many of whom are at high risk for drug use. While it is not possible to translate these numbers directly into the amount of cocaine that is used, our findings suggest that much of the demand for cocaine in the United States stems from the persons who are detained and supervised by the criminal justice system. The criminal justice system therefore has a unique opportunity to provide access to these most dysfunctional drug users in the United States. The challenge is to find a way to take advantage of their arrest and detention to take steps to intervene in their drug use and other social and behavioral problems.

Focusing on the Criminal Drug User

If one half or more of the frequent cocaine users in the United States are contained in the arrestee and offender population, it would seem that one may be able to make a sizable dent in the domestic demand for cocaine by reducing drug use in the criminal population. Furthermore, it is easier to identify the one to two million frequent cocaine users (in the largest cities) from their three million arrests each year than it is to identify the estimated 1 million frequent cocaine users in a general population of 250 million persons. This is especially so when one considers that these drug users are already accessible as they regularly enter the doors of the criminal justice system.

The law enforcement community is effectively apprehending many of the nation's drug users. What is needed is the willingness to take advantage of the opportunity that exists from their detention by the

⁷The degree of overlap between these two populations is unknown. This percentage assumes no overlap.

criminal justice system. The same degree of attention and resources that has been directed towards casual drug users should now be directed toward the criminal drug user. These persons need to receive specialized interventions such as enforced treatment, frequent urine surveillance, and training programs to help them to overcome their educational and vocational deficits (Wexler et al. 1988; Carver 1986; Leukefeld and Tims 1988). They tend to come from the most disadvantaged segments of the community. According to the DUF findings, a majority of the arrestees across the country are members of minority groups. Education is severely limited and many are not working at full-time jobs. Approximately 50% of the male and female arrestees never completed high school. Almost 70% of Hispanic arrestees dropped out of school before completing the twelfth grade (National Institute of Justice 1989, 1990). While these programs are expensive, the cost of not having them is even greater.

Recommendations

As the successful efforts of the last decade continue to reduce the use of drugs in the middle and upper classes, the drug problem in America will increasingly be a problem of drug use by the most disadvantaged and most problem-generating segments of society. The danger exists that as drug use declines in the middle class, this residual group of drug users will become a national scapegoat subject to extremely harsh societal reactions or, alternatively, become a neglected group that society has "written off."

I believe a more humane and constructive strategy would be to take advantage of the access to these persons that the criminal justice system affords. The criminal justice system not only provides the best opportunity for tracking the magnitude of drug use in this segment of the population, but it is uniquely positioned to offer the best hope for helping these people, their families and their communities to end their drug related problems, the very problems that are thwarting other efforts by their communities to help people to achieve better lives. To accomplish these goals may require that more attention be given in the 1990s to the

drug use and associated problems of persons detained and supervised by the criminal justice system.

While considerable federal money is spent on law enforcement, resulting in huge drug abusing arrestee populations, more attention needs to be given to what happens to the drug user after arrest, by expanding our efforts to identify and intervene in the drug use of persons detained and monitored by the criminal justice system (Wish and Gropper 1990). It is here where I believe a great impact on demand and distribution of drugs in the United States can be made. These conclusions, suggest several directions for future drug policy in the United States.

The National Drug Control Strategies of 1989 and 1990 (The White House 1989, 1990) endorsed drug testing for the criminal justice system. Testing is the first step to enable intervention in the offender's drug use. By identifying drug users one can begin to take responsible actions to reduce their drug use. Such actions include continued urine surveillance and the provision of treatment as well as vocational and educational programs.

Recommendation 1: The highest priority should be given to encouraging large cities to establish drug testing programs within the criminal justice system. These screening programs should be linked to subsequent testing/monitoring and where appropriate, to testing coupled with treatment.

The DUF interviews with adult arrestees consistently indicate that their illicit drug use began years earlier, in their early teens. Results from the Washington D.C. testing program for juvenile detainees, as well as from several DUF sites that test juveniles, indicate a growing likelihood of juveniles testing positive for drugs with increasing age. Furthermore, marijuana is the drug most likely to be found in the younger juveniles with cocaine and other drugs becoming more common in the late teens. And evidence exists that juvenile detainees initially positive for

marijuana may go on to use cocaine and commit more crimes (Dembo et al. 1990).

The adult drug using offender may be especially hard to treat. However, by testing juvenile detainees and intervening in their drug use, it may be possible to reduce their likelihood of progressing to the more dependence producing (and injectable) drugs and associated high crime rates seen in adults (Wish and Johnson 1986). And yet, systematic drug testing of juvenile detainees is almost nonexistent outside of Washington, D.C. and Phoenix, Arizona (Wish and Gropper 1990).

Recommendation 2: Special consideration should be given to establishing drug testing and drug prevention programs for juvenile detainees.

There is an urgent need to learn how best to reduce drug use in the criminal population. Much of the knowledge with regard to treating such persons is based on research conducted with heroin addicts. Widescale testing of offenders will enable more accurate classification of persons according to their drugs of abuse. Effective interventions will be needed for the large number of users who are identified. Research is needed to test new interventions for the criminal drug user.

Recommendation 3: A high priority should be given to funding and evaluating demonstration projects designed specifically to reduce drug use in the adult and juvenile criminal population.

TABLE 1

**Estimates of Current Drug Use in 1988 from Self-Reports and
Urine Tests from Three Populations**

	<u>Percentage reporting use of drug in prior 30 days:</u>				<u>Percentage positive for drug by urinalysis:</u> *			
	Household Survey:	Senior H.S. Survey	DUF Males	DUF Females	DUF Males		DUF Females	
			Median**	Range	Median	Range	Median	Range
Cocaine	1.5%	3.4%	24% (8-50%)	27% (9-51%)	40% (15-74%)	52% (15-75%)		
Marijuana	5.9%	18.0%	39% (18-51%)	29% (19-40%)	39% (17-50%)	23% (15-38%)		
Heroin	<1%	<1%	5% (<1-16%)	10% (0-20%)	6% (1-24%)	18% (6-26%)		
(N)	(8,814)	16,300)	(10,554)	(3,261)	(10,554)	(3,261)		

*The urine tests used in DUF detect cocaine or opiate use in the prior 2-3 days, and marijuana use up to 2 weeks.

**Data are based on results from all of 1988 from arrestees tested by the DUF program in 20 cities for males and 15 cities for females (DUF Annual Report 1988). One half of the cities have a higher percentage of arrestees who tested positive for the drug than the median and one half have a lower percentage than the median.

TABLE 2
FREQUENT COCAINE USERS IN 1988:
CRIMINAL JUSTICE AND HOUSEHOLD POPULATIONS

	Number of People	Frequent Cocaine Users	
		Low Est.	High Est.
Criminal Justice Population:			
<u>Arrestees in 81 largest cities</u>			
20 DUF cities	1,407,000	826,000 ^a	826,000
41 largest non-DUF cities	1,020,000	152,000 ^b	478,000 ^c
	2,427,000	978,000	1,304,000
<u>Other C.J. persons</u>			
Other arrestees ^d , prisoners, probationers and parolees	10,800,000 ^e	Unknown	Unknown
General Population:			
U.S. households ^f	250,000,000	820,000	1,200,000

^aLow and high estimates are the same for DUF cities because they employ the exact estimates of cocaine use obtained from arrestees tested in each city.

^bAssumes that 15% of arrestees would test positive for cocaine (the lowest rate found in any DUF city--Indianapolis).

^cAssumes that 47% of arrestees (simple average of all DUF cities in 1988) would test positive for cocaine.

^dArrestees in counties, cities with less than 250,000 population, and rural areas.

^eIncludes 7,500,000 arrestees, 600,000 prisoners and 2,700,000 probationers/parolees.

^fSource: National Household Survey on Drug Abuse: 1988 Population Estimates, p. 94. National Institute on Drug Abuse, 1988.

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Mr. SCHUMER. Dr. DuPont, your entire statement will be read into the record.

STATEMENT OF ROBERT L. DuPONT, M.D., PRESIDENT, INSTITUTE FOR BEHAVIOR AND HEALTH, INC., AND CLINICAL PROFESSOR OF PSYCHIATRY, GEORGETOWN UNIVERSITY SCHOOL OF MEDICINE

Dr. DuPONT. Thank you very much, Mr. Chairman. It is an honor for me to be here today. I have some good news and some bad news or maybe I can say I have several sorts of good news. First, I don't have any slides, so my presentation will be very short. Second, I spoke with Mr. Goldberg of the subcommittee staff before the hearing telling him that, I had made a commitment to see a patient in my office at 5 o'clock, so I am going to have to leave at 4 o'clock. Whatever we are going to do with me will have to be fairly brief. I apologize for that.

I have spent 20 years in the drug abuse field. Professionally, I have grown up with the drug abuse issue. The happiest and most productive years of my 20 years were spent only a few blocks from here working for the District of Columbia Government, where I worked for the D.C. Department of Corrections and formed the Narcotics Treatment Administration in the city's Department of Human Resources between 1967 and 1973.

So this hearing today is a coming home for me. I began my professional life in the criminal justice system at Lorton Reformatory and in the D.C. jail working on the drug problem in this city.

I can summarize my statement in a few words. It is important that the committee and then the Congress and then the Federal Government establish a clear standard with respect to drug use in the criminal justice system. Illicit drug use will not be tolerated by anyone under supervision of any criminal justice agency in the United States. That statement must be made clearly so everyone understands it.

When a person is under supervision, his continued use of illicit drugs will not be tolerated. Whatever steps need to be taken to ensure achievement of that goal that will be taken, using the concept of progressive discipline. The ultimate sanction—and there are lots of intermediary sanctions—must be incarceration. Anything less than that standard is not taking advantage of the opportunity and not dealing with the problem of drugs and crime.

In order to establish and maintain that standard, it is absolutely essential that there be universal and frequent drug testing of all people who are under criminal justice supervision in any stage of the process.

We have talked a lot today about urine testing. It is very important. I would call your attention to the fact that there is one other tissue that can be tested for drugs and that is hair. Hair testing has many advantages in a criminal justice context, not to replace urine testing, but as an adjunct to urine testing. The most important advantage is the long surveillance window. Whereas urine tests identify drug use within 1 to 3 days, hair tests cover drug use for 90 days with an inch and a half of hair. That long surveillance window has obvious very important implications.

If Dr. Wish had done hair tests on those subjects, we might very well see those numbers at 50 or 60 percent positives go up much higher. In preemployment testing in the workplace typical companies find with urine tests 5 percent positive and hair tests 30 percent positive. That means that using urine tests, many drug abusers are not detected with urine tests who can be detected with hair tests.

Now you might ask, why go to the trouble, why go to the expense of hair testing? The answer is because this criminal justice population, as we have heard today, has the heaviest, most frequent drug use because they are the people with the most severe personal and social consequences. Mr. Chairman, you said in your opening statement that treating people and intervening to stop drug use in the criminal justice system offers the best hope for these individuals, for their families and for their communities. That statement needs to be underscored.

There is an enormous opportunity in the criminal justice system that now is being squandered—an opportunity to save lives, to save families, to save communities. This hearing is all about seizing that opportunity.

Now, with respect to drug abuse treatment, and I remind the committee that I have spent a good bit of my life involved in drug abuse treatment, I would like to suggest that the committee look very carefully at what we mean by "treatment." I have come to the conclusion rather late in my own career, that the most valuable and effective treatment is the mutual aid 12-step programs, Alcoholics Anonymous, Narcotics Anonymous and the related family of programs. They have not been developed to the extent that they should be and I call your attention particularly to the fact of these 12-step programs are culturally relevant to all different populations in the United States in a way that no organized, professionally run and funded drug abuse treatment program ever could be.

The coupling of a standard in the criminal justice system that says there will be universal drug testing and that illicit drug use will not be tolerated with the promotion and development of 12-step programs represents a balanced approach that has enormous potential for helping people "get well," for saving families and communities.

I have found it distressing that the concept that was developed 20 years ago of dividing our Federal antidrug efforts into supply reduction and demand reduction today leads to a pointless, often partisan, debate about whether we should have more emphasis on demand reduction or supply reduction, more emphasis on treatment or law enforcement.

The reality is we don't think very clearly about either treatment or about the criminal justice system when we make these distinctions. To call the programs of probation and parole and the criminal justice system supply reduction is ridiculous. They are among the most effective demand reduction programs we have. The fact that they are funded through the Department of Justice has nothing to do with this. I suggest that a much clearer budget analysis would come from looking at antidrug programs that are funded to deal with the drug user, as distinct from programs that are designed to impact the drug itself or the supply of the drug. So we

should distinguish between the drug and the drug user, and when we do that, Mr. Chairman, I think we will find that today, yesterday and every year since 1971, the very large majority of all Federal, State, and local money has always been spent on the drug user, where it should be. The debate about the balance between supply and demand reduction simply is obscured by the way we count our Government spending today. This committee could provide a very useful service and move the national debate into more productive directions by reanalyzing our spending in this new way.

Finally, the drug user is the key to drug abuse prevention. We must reduce social tolerance for illicit drug use. It is precisely the tolerance of illicit drug use that has created the drug epidemic in the United States. Our best hope of ending that tragic epidemic is to reduce our misguided social tolerance for illicit drug use. That goal is not harsh, cruel, or unkind. It represents what has been called in other contexts, tough love. It is very important today that this standard of tough love be applied in the criminal justice system.

That concludes my summary, thank you.

Mr. SCHUMER. Thank you, Dr. DuPont.

[The prepared statement of Dr. DuPont follows:]

PREPARED STATEMENT OF ROBERT L. DUPONT, M.D., PRESIDENT, INSTITUTE FOR BEHAVIOR AND HEALTH, INC., AND CLINICAL PROFESSOR OF PSYCHIATRY, GEORGETOWN UNIVERSITY SCHOOL OF MEDICINE

The nation's modern response to the problems of drug abuse can be divided into three phases. The first phase was from 1969 to 1975, the second from 1975 to 1986, and the third from 1986 to the present. To understand the drug abuse problems faced in the criminal justice system it is useful to review this historical perspective. My thesis is clear: The Criminal Justice System (CJS), defined as that area of the CJS that relates to drug abusers themselves and not the area of the CJS that relates to drug traffic, is today the most overlooked and the most important component of the national drug abuse strategy.

Phase One

In the first phase of the nation's war on drug abuse, from 1969 to 1975, drug policy focused almost exclusively on the problems of heroin addiction and crime. In 1971, when the first White House Drug Czar was appointed, his first priority was the use of heroin among American servicemen in Vietnam and in American urban areas. The national responses to that drug problem were to cut the supply of heroin, especially through international efforts to get Turkey out of the opium business and to eliminate the French Connection. The federal government also helped to provide methadone treatment for heroin addicts throughout the United States. This was the era in which federal drug policy was first conceptualized as being divided into two components: Supply Reduction and Demand Reduction. The new thrust in those years was to balance the traditional federal supply reduction efforts with the new federal demand reduction efforts. In those days supply reduction meant "law enforcement" and demand reduction meant "treatment," especially methadone treatment for heroin addicts.

One of the major achievements of this first phase of our national response to the drug abuse epidemic was the leadership that researchers provided on the new demand side of the drug abuse equation. From 1971 to the present the demand side of federal drug policy has been headed by a biomedical scientist. The current Director of the National Institute on Drug Abuse (NIDA), my good friend and colleague on this panel today, Charles R. Schuster, Ph.D., is a distinguished and productive representative of that tradition, which was established in 1971. From this same era, and reflecting the leadership of the nation's top researchers, NIDA and the White House Special Action Office for Drug Abuse Prevention (SAODAP), created a new network of epidemiologic data, led by the Household Survey done every few years, and the High School Senior Survey, conducted each year since 1975. This national data base remains the principal basis for our country's assessment of how we are doing in the war against drug abuse.

Most Americans have little appreciation for the success of the initial federal anti-heroin effort. Heroin supply, and heroin overdose deaths, along with the rates of serious crime

fell in the early 1970s. Perhaps the most striking success was the fall in the rate of new heroin addiction, what epidemiologists call "incidence." Even today, heroin addicts who are in treatment and dying of overdoses in the United States are primarily an aging cohort who became addicted as teenagers and youths in their twenties in the 1969 to 1973 era.

While the first wave of patients in methadone treatment were "voluntary" patients, by about 1972 most heroin addict patients were court-referred. The criminal justice system was at the center of this first phase of the antidrug effort since a high percentage of heroin addicts were on probation and parole. In Washington, D.C., the center of drug programs and policies in that era, the first court-based, universal urine testing program in the country began on April 1, 1970 in the D.C. Superior Court. Today, 20 years later, while many American communities have copied parts of that program (it was the model for the federally funded TASC programs of the early 1970s), no other city has the comprehensive court-based urine testing program for abused drugs that D.C. pioneered.

Phase Two

With the relative success of this first phase of the War on Drugs, national drug abuse prevention policy entered a new and troubling era, the second phase, from 1975 to 1986. The news that success was being achieved, or what was then labeled "turning the corner on heroin addiction" did not lead to redoubled efforts but to a slackening of commitment on all levels of society, including the federal government. The federal government pulled back support for all drug programs as budgets shrank in real terms.

This, parenthetically, is a warning to the current federal drug leadership from someone who has seen just how devastating "success" can be in the war against drug abuse. Good news in 1973 led to budget cuts and even worse, cuts in support through the entire nation. It could, I fear, happen again if we did have genuinely good news on drug abuse.

During the second phase of the drug war there was a strong commitment from the federal government and from virtually all drug abuse experts, both in government and outside government, to target ever-scarcer resources on "hard" drugs, which meant mostly heroin. This strategy, which passed at the time for the height of sophistication, called for de-escalation of efforts against "soft" drugs, especially marijuana and cocaine.

While federal leadership in the period from about 1975 to 1986 was relatively weak, this was not a quiet time for drug abuse policy development. The leadership in drug abuse shifted

from the federal government to private citizens. The most important development was the "Parents' Movement" which focused on the "Gateway Drugs," at first on marijuana and later on cocaine and even alcohol, as the keys to drug abuse prevention in the United States. This revolution in thinking sprang from the middle class, where the effects of drug abuse were especially devastating in the 1970s. Marijuana and cocaine were, in this view, not minor drug problems but the drug problem.

In time the federal government picked up many of the new ideas from the private sector. The drug abuse strategy of the federal government shifted to focus more on what is now being called "the casual drug user." The litmus test of this shift in attitude between the first and the second phase of the nation's response to drug abuse was thinking about marijuana use. The old way of thinking about marijuana in drug policy, the way that was all but universal in the 1969 to 1975 era, was that marijuana was a nuisance of no real significance to anyone other than the inappropriately worried mothers of rebellious middle-class teenagers. That is still the way marijuana use is thought of by many drug abuse treatment professionals and by most people in the criminal justice system who deal with drug abusers. They remain stuck today with attitudes from the 1969 to 1973 era, when most drug abuse treatment and CJS programs had their origins.

In 1982 the Navy discovered a serious drug abuse problem, one that had been there for a decade, but which had been denied behind the belief that, "We know what our drug problem is and we are taking care of it." The Navy, coming out of this denial in 1982, began universal random drug testing. This event, little noticed at the time, was, like the Parents' Movement, to change the course of national policy on drug abuse. The Department of Defense developed a universal drug testing program which proved to be far more effective in preventing drug abuse and drug-caused problems than the earlier efforts which had relied exclusively on education and "for cause" drug testing. In the late 1980s drug testing was rapidly adopted by civilian employers following the Department of Defense lead.

Another development of this period which has been insufficiently appreciated was the emergence as a massive national movement of the 12-step, mutual-aid programs (including Alcoholics Anonymous, Narcotics Anonymous, Al-Anon, Cocaine Anonymous, Children of Alcoholics and the entire family of related programs).

These three developments -- the Parents' Movement, drug testing in the workplace, and the explosive growth of the 12-step programs -- shifted the focus of national drug policy away from heroin and crime, away from the criminal justice system, away from the urban poor and into the broad middle class of the nation. The American drug problem, between 1975 and 1986, became

everyone's problem, not just the problem of the poor, minority, criminal heroin addict. "Drugs" came to have a new meaning. Drugs now meant marijuana and cocaine, and even alcohol. These gateway drugs, rather than the end-stage drugs in the drug dependence syndrome, took center stage in American drug abuse policy.

During this second phase the first real breakthrough on illicit drug use in general took place. The use of marijuana, the most commonly used illicit drug, as reflected in both the Household Survey and the High School Senior Survey, peaked in about 1978. Use of cocaine, the second most commonly used illicit drug, peaked in 1986. In the first phase, the use of heroin, the target drug in that phase, declined sharply. But the policy of pulling back from "soft" drugs led to unprecedented rises in the use of marijuana and cocaine. By the end of the second phase, led by private initiatives, the nation got its first good news on illicit drug use in general, and on the use of marijuana and cocaine, the most widely used illicit drugs, in particular.

Phase Three

As this new, broader way of thinking about drug abuse took over federal policy in the early 1980s, a new reality changed the drug scene almost beyond recognition. Cocaine became the new chic drug and then, in about 1985, a new form of cocaine use became widely popular in the U.S.: smokeable cocaine or "crack." Here was unmistakable evidence that cocaine use, at least in this form, was not benign. Crack came to be seen as "the most addictive of all drugs."

The death of Len Bias, on June 19, 1986, was a true watershed in the nation's thinking about drug abuse. That was the day the current drug abuse era began. That tragic death of a modern American prince at the peak of his powers occurred in an election year. It coincided with the introduction of crack cocaine. The media and the politicians of both parties, responding to public outrage, grabbed the drug issue as never before. Drug abuse, in 1986, became the number one priority of the nation as it had not been since 1971. The federal government jumped back into the drug field with both feet. The country got a new Drug Czar in 1989, for the first time since the last one saw Congress and the President eliminate his office in 1975.

The federal government took the lead in encouraging drug testing in the workplace. The agenda of Parents' Movement was adopted in toto by the government as its new prevention strategy. Cocaine took center stage (replacing heroin from the first phase of the national drug response, and marijuana from the second).

The drinking age was moved back to 21, one of the most important events of the 1980s for drug abuse prevention.

Lessons from the Recent Past

Today, early in the third decade of our modern drug abuse epidemic, it is appropriate to rethink our national response to drug abuse. There are many others doing that right now, both in the executive and the legislative branches of the federal government, as well as in state, local, and private areas. There are three lessons that we should learn from the last 20 years:

1. A balanced national strategy is needed, not one that ignores any drug problem, or any segment of the nation. Drug abuse is one problem of what has come to be labeled "chemical dependence." It is truly a national tragedy that spares no family, no community, and no economic, ethnic, or age group. The new focus on the middle class has had many important benefits for everyone in the country. Among the benefits is the apparent fairness of the antidrug efforts which, when drug policies focused only on the poor, could be seen as discriminatory. Today that argument cannot be made since the toughest antidrug stands are now taken, not in poor communities, but in the middle class. The new focus on alcohol and marijuana is also a welcome change from the errors of the first phase of the nation's response to the drug abuse epidemic.

2. We need to redefine supply reduction and demand reduction if we are to think clearly about drug abuse policy. Calling everything in law enforcement "supply reduction" makes no more sense than equating treatment with "demand reduction." Our current budget analysis, based on the best thinking of 20 years ago and never having been updated, separates supply reduction from demand reduction in this way. It has led to a pointless, often partisan, debate about the "balance" between these two approaches to the drug problem. Liberals seem attracted to demand reduction and Conservatives to supply reduction.

A far more sensible approach is to separate our drug abuse prevention efforts, and our analysis of spending, based on the distinction between the Drug and the Drug User. Some law enforcement efforts target the drug or the drug seller. These are truly supply reduction efforts. But many research efforts also target the drug. These are not now thought of as supply reduction. This same confusion comes up in the treatment area. The current distinctions between supply reduction and demand reduction imply that parole and probation are supply reduction programs because they are part of the CJS when they are, almost exclusively, focused on drug users, not the drug itself, or even on the suppliers of drugs. When these new distinctions are made it will be seen that the lion's share of federal resources are

now, and have been right along, focused on the drug user, not the drug or the drug seller. Demand reduction has been taking the majority of the federal budget on drug abuse since 1971. This new analytic approach also helps think more clearly about involuntary treatment, often administered by criminal justice system agencies. These issues are not peripheral but central to the nation's treatment of drug abusers, since no drug abuser enters treatment truly "voluntarily" and for most drug abusers, especially the most serious abusers, it is only when the long, strong arm of the law enters their lives that they change.

If that sounds as if I am singling out poorer people for this new tough focus on drug users, think about how the Driving While Intoxicated (DWI) programs in every state are now affecting the nation's alcohol abuse problems: Many middle and even upper class people are confronting their alcoholism in courtrooms across the nation today because of these programs. These DWI programs in the courts are truly demand reduction programs.

3. Having acknowledged the importance of the retargeting of drug abuse on the middle class, the triumph of the second phase of our national response to drug abuse, we now need a refocusing, a new balance, of our national drug abuse prevention efforts. The key lessons of the second phase of our national drug abuse response -- the importance of marijuana and alcohol, the importance of the middle class, the importance of drug abuse prevention in the workplace, the unique value of the 12-step programs -- remain true and important today. However, it is also true, as it was true 20 years ago, that the most devastating drug problems, and the people and the communities least able to cope with those drug problems, are reached uniquely by the criminal justice system. To regain the vital balance today we need to refocus on the criminal justice system, the forgotten area of concern from the second phase of the modern American drug era. These communities have what is called "lower bottoms" as they lack the preventive effect of early intervention in the drug dependence syndrome. One clear goal of a new national drug abuse policy is to stop the often institutionalized enabling that now afflicts poor communities, and to develop tough, effective early intervention efforts to halt drug use. This will take a dose of "tough love" that the middle class began taking 10 years ago. It will not be easy to apply it to lower class communities but it is a matter of life and death for these communities.

In this regard, I am pleased to commend my esteemed colleague, Eric D. Wish, Ph.D., for his outstanding reinterpretation of the data from the criminal justice system to show that not only is the problem of drug use among arrestees large and not shrinking, as it is in the middle class, but that it is the largest fraction of the entire national drug abuse problem. These new data will help us refocus on this important, and often neglected, segment of our drug-using population, people

under CJS supervision. We also know that the leverage provided by the CJS can make the difference between continued addiction and recovery. The CJS not only finds the highest risk drug abusers, it also offers the best hope for helping them, their families, and their communities.

I suspect that if the DAWN data from NIDA were looked at the way Dr. Wish has looked at the DUF data from the National Institute of Justice, it would show a similar picture: The problem-generating segments of the drug-abusing population are not well reflected in the major national surveys.

Also needed is a better characterization of who is not counted in these surveys, and the validity of self-reported data. In this regard, hair testing of survey respondents is the best way to establish the history of recent drug use among survey respondents (it is easier to get a sample of hair than of urine, and the "surveillance window" of three months for a hair sample is far more useful than the three-day window from a urine test).

A New Policy for the Criminal Justice System

A new policy for the criminal justice system needs to be developed and put into practice, based on all that has been learned in the last 20 years. Four elements of that new policy are clear:

1. This goal should be established and maintained: While under supervision within the criminal justice system all illicit drug use must be prohibited. Alcohol use should be similarly prohibited for all people under supervision who have a history of alcohol or drug abuse. This standard should be strictly enforced with effective sanctions for violation. This standard should be applied throughout the federal criminal justice system to serve as a model for states and localities. It should become universal throughout the criminal justice system at all levels.

2. All individuals subject to criminal justice supervision should be drug-tested regularly. Without regular testing the CJS is like the Navy before they instituted universal random testing in 1982: flying blind, handcuffed by denial.

3. Positive drug tests should lead to progressive discipline with the end stage being incarceration or re-incarceration. Creative use of non-prison penalties should be employed short of incarceration whenever possible.

Some will argue that such an approach will swamp the already overcrowded jails and prisons of the nation. The exact opposite is the fact. It is the denial of the drug problems of people under supervision that is now crushing that criminal justice

system. A tough new policy to identify and discourage drug use by probationers and parolees will empty, not fill, prisons. The experience in D.C. in the early 1970s made this point clear. The populations of Lorton and the D.C. Jail fell precipitously when the heroin problem came under control in the period of 1970 to 1973.

4. Drug abuse treatment should be separate from the standard of being drug-free for people under supervision. Some chemically dependent people can get and stay drug free without any treatment at all. They simply need a powerful reason to not use drugs. Others will need help to achieve this goal. When it comes to getting people help for drug problems, whether in the CJS or elsewhere, the best bet is always a 12-step program. Organized, professional treatment, whether privately funded or publicly funded, is primarily effective by recruiting chemically dependent patients into lifelong attendance at 12-step meetings.

With respect to drug testing, I am particularly impressed by the potential for hair testing as an companion for the traditional urine testing. Hair testing has several distinct advantages over urine testing. The most significant is that the surveillance window for hair is several months (for a one and one-half inch hair sample), while a urine test covers only three days. Also, hair samples are easier to collect and to handle. Hair testing is not subject to the sorts of deception that urine tests are. It is easy to get a second hair sample in disputed cases so there is virtually no "false positive" problem when it comes to hair testing.

Summary

It is my privilege to appear before your distinguished Committee today. I am submitting to the Committee a document which I hope will be useful to you in your deliberation. It is entitled, "Operation Trip-Wire: A New Proposal Focused on Criminal Heroin Addicts."¹ This paper was my final contribution to the issue of the use of drug testing in the criminal justice system while I was Director of the National Institute on Drug Abuse. It was a sad commentary on those times that the ideas reflected in the paper fell on deaf ears within both the criminal justice system and among federal policy makers. I hope those ideas, updated and broadened from heroin to apply to all illicit drugs, will prove useful today.

We are entering a new period of great hope in this country with respect to drug abuse. The most hopeful area of all is the criminal justice system. I am grateful to you for this opportunity to contribute to the process of rethinking our response to drug abuse within the criminal justice system.

¹ DuPont, Robert L. "Operation Trip-Wire: A New Proposal Focused on Criminal Heroin Addicts." Presented to the Federal Bar Association Convention, Washington, D.C., October 1, 1977.

OPERATION TRIP-WIRE:
A New Proposal Focused On Criminal Heroin Addicts

by

Robert L. DuPont, M.D.
Director
National Institute on Drug Abuse

Federal Bar Association Convention
Washington, D.C.
October 1, 1977

It is a great pleasure for me to join you here in Washington, D.C. and to participate again this year in the convention of the Federal Bar Association.

A little over four months ago, when I addressed the National Drug Abuse Conference in San Francisco, I outlined some important new directions for the National Institute on Drug Abuse. One primary target for development is the criminal justice system. I want to take the opportunity of our meeting here today to outline a new plan specifically focused on those persons addicted to heroin who are arrested and convicted for the commission of serious crimes.

I am today proposing consideration of a major new initiative for the close supervision of probationers and parolees at high risk of heroin addiction. This new program is not targeted on all addicts or on all criminals. I propose setting up a trip-wire in every American community that will signal only those who are both daily heroin users (addicts) and also convicted criminals. These are the individuals responsible for most of the crime associated with drug abuse. These are also the individuals with whom, I am convinced, we can do the most--to help them and to help our communities. I realize this will be a difficult undertaking, requiring cooperation among Federal, State, county, and local agencies. It will also be controversial. But there is no question that Operation Trip-Wire is needed, and needed now, if we are going to reduce the high costs of heroin addiction and criminal recidivism.

Essentially, I propose that urine testing be made available to all probation and parole offices, to be used in detecting heroin use among criminal offenders released to their communities. I propose that--when placed on probation or parole--all offenders should be promptly screened for heroin use, using histories, physical examinations, and urinalysis. I propose that those probationers

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and parolees who have a demonstrated history of addiction (i.e., daily heroin use) be required to submit to periodic (e.g., monthly or twice monthly) urine testing. A routine, random urine testing program should also be used for all probationers and parolees; the average frequency of testing should be once or twice a year. Such random testing of the entire probation and parole population will serve both as a deterrent and as a casefinding technique. But the main thrust of Operation Trip-Wire is not the random testing; it is the systematic testing and followup of those who are known to be or to have been heroin addicts.

I propose that any probationer or parolee who produces a "dirty" urine--one found positive for heroin or its metabolites--be required to provide weekly urine specimens. No disciplinary action would be taken if these frequent urine tests turn out clean--produce a negative result. But, if they remain dirty on repeated testing, I propose that the probationer or parolee should be referred to compulsory drug abuse treatment or--if treatment is refused, or if it fails to halt the daily heroin use pattern--be reincarcerated to complete a part of his or her original sentence. Such reincarceration need not be prolonged; three to six months probably makes the point. But, on subsequent release, urine testing should be conducted more frequently.

We owe this close supervision and prompt intervention both to the ex-addict offenders--to provide the medical and counseling assistance needed to help them stay off of heroin--and to ourselves, who become the victims of the street crime required to support a daily heroin habit.

My concern today is the ex-addict criminal offender who is placed on controlled release (i.e., probation or parole) back to his or her community. It is in this situation that the greatest risk of adopting or resuming addictive drug

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use occurs. Our best estimate indicates that approximately 1.7 million criminal offenders are on either probation or parole in the United States each year. This figure includes both adults and juveniles, both felons and misdemeanants. Drawing from a number of sources,¹ we roughly estimate there are a little over 1 million probation slots nationwide, through which pass about 1.5 million probationers each year. Similarly, we estimate there are about 230,000 parole slots, which handle about 270,000 parolees annually.

The bulk of these probationers and parolees have been convicted on charges of burglary, robbery, larceny, and motor vehicle theft--all income-generating crimes. According to a 1976 summary of the National Crime Information Center's Computerized Criminal History File, these four categories of charges exhibit the highest rearrest rates. Burglary, robbery, and motor vehicle theft, respectively, carry the highest indications for repeated arrest: 81 percent of those convicted of burglary were rearrested within four years; 77 percent of those found guilty of robbery and 75 percent of those found guilty of motor vehicle theft were rearrested within four years. Larceny demonstrates only a slightly lower indication for repeated offense, with 65 percent rearrested within four years. Those arrested on narcotics possession or sale charges, by the way, demonstrate the same 65 percent rearrest rate after four years.

Taken together, these four categories of charges are among the criminal offenses most likely to be used to support a daily heroin habit. Burglary, robbery, larceny, and motor vehicle theft make up much of the "street crime" linked to the heroin addict lifestyle.

Setting aside for the moment the statistical issue of causality, when an individual spends large amounts of money for daily use of heroin and has no

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substantial source of legitimate income, then criminality must be considered a necessary condition for addiction to exist. Whether it is for the crime of narcotics sale or for the income-generating crime needed to support the daily heroin habit, the heroin addict is a major source of criminal activity and recidivism in our society. Those addicts who support their heroin habits by selling heroin are major sources of contagion for heroin use.

At this point, let me backtrack a bit to clarify an important point. As you know, the Department of Justice, Law Enforcement Assistance Administration (LEAA) has made a determined effort in recent years to upgrade our knowledge and understanding of the workings of the criminal justice system. Much of what we now know about the portion of our population that becomes involved with our courts, jails, and prisons is a result of LEAA's fine work. However, even today, our information about the patterns and consequences of drug abuse among the criminal justice system's offender population is limited.

We do not currently have adequate data on the drug abuse experience of criminal justice offenders, neither those incarcerated nor those on controlled release. We have some data and we can make estimates. For instance, in 1974, LEAA and the U.S. Bureau of the Census interviewed a representative sample of 10,400 inmates in 190 State correctional facilities throughout the U.S. This study² concluded that, of the 191,400 criminal offenders incarcerated in State prisons at that time, 30 percent had used heroin, 21 percent had used it daily (i.e., had been addicted), and 14 percent were daily heroin users at the time they committed the offense for which they were then in prison.

We can only estimate the percentage of drug abusers who may be on controlled release to their communities. Again, there are currently no satisfactory data

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on this aspect of the criminal justice system's offender population. Our best guess is that 20-30 percent of all probationers and 20-40 percent of all parolees are serious drug abusers. Among authorities in the field, there is a growing consensus that 10 percent to 20 percent more accurately reflects the magnitude of the core problem, particularly when daily heroin use (addiction) is the focus. Therefore, we are concerned with an estimated 150,000-300,000 probationers and 25,000-50,000 parolees annually who are heroin addicts.

I again want to emphasize that I am interested here in the heroin addict, the individual who uses heroin or other opiate drugs on a daily basis and--in order to support that daily habit--must rely on street crime as a source of income. Many studies have demonstrated the link between heroin use and crime. In a recent NIDA-sponsored study based on self-reports, McGlothlin et al.³ found that employment only accounted for about 13 percent of an addict's total income during periods of daily narcotic use, while criminal activities provided over 50 percent of income. Eckerman et al., in 1971, found that addicts accounted for 80 percent of all arrests for robbery in New York City and 45 percent in Washington, D.C.⁴ The American Bar Association's Special Committee on Crime Prevention and Control in 1972 estimated that one-third to one-half of all street crime in our Nation's urban centers was committed by heroin addicts.⁵ A 1975 study of the social costs of drug abuse considered \$6.3 billion annually a relatively conservative estimate of the amount of property loss resulting from crimes committed by addicts.⁶ We are dealing in large numbers: a five percent reduction in heroin addiction would result in more than \$300 million savings in drug-related property crime.

This is the reason for my present concern with the heroin addict or ex-addict placed on controlled release back to his or her community. Close supervision

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of probationers and parolees demonstrating a history of addiction, and prompt intervention as soon as daily heroin use is detected, will significantly reduce the crime on our Nation's streets. McGlothlin³ has found that, as would be expected, arrests for drug offenses are strongly related to frequency of narcotic use. But, more important to our present concern, large declines in arrests for property crimes are associated with decreasing frequency of narcotic drug use in McGlothlin's data. Arrest rates for daily narcotic users (addicts) are five times higher than for those who use narcotics on a less-than-daily basis.

What this means is that the daily heroin user is responsible for the bulk--some estimates range as high as 70 percent--of drug-related property crime. This has important policy implications for the entire Federal effort against drug abuse and against crime in our Nation's streets, since any measures "which even temporarily eliminate daily heroin-use patterns will have a favorable impact on the associated criminal behavior. One such intervention approach is . . . supervision with urine monitoring."³

The caseloads of our probation and parole officers today are generally too large to permit such careful supervision of each releasee: perhaps 150 or more clients for each probation officer and 70-90 for each parole officer. Even more critical is the fact that most probation and parole officers lack access to modern diagnostic procedures--and here I mean primarily quick-response urine testing--to identify users of heroin and other drugs.

The Operation Trip-Wire proposal is simple in concept, but--unfortunately--complex in implementation. We must provide probation and parole authorities with the means to identify releasees who have used heroin every day--that is, those who have been physically addicted to heroin--and insist that these

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releasees either stop regular heroin use or be returned to prison to serve their sentences. Those who want treatment in the community should get it. In fact, referral to drug abuse treatment should be the first-line intervention. But, with or without treatment, the condition of their continued freedom must remain the same: they must not remain addicted to heroin while on probation or parole.

Whatever the practical problems in implementing this approach--and as the former head of Washington, D.C.'s parole system, I am personally aware of the problems--nothing that does not meet this standard should be accepted. It is for the good of the community and for the ultimate good of the individual probationer and parolee.

Ten years ago, when the Federal Government first began to recognize and respond to the drug abuse problem, we all tended to overreact a bit to the spectre of heroin addiction. Our initial responses were often poorly focused. We talked as if all addicts were criminals and as if all criminals were addicts. To compound the confusion, we tended to act as if all drugs--illegal drugs--were the same. We were also preoccupied with the question of which came first, the crime or the heroin use.

Although much more still needs to be learned, we know a lot more about drug abuse now than we did ten years ago. For example, we know--as I've already pointed out--that 80 percent to 90 percent of all criminals are not heroin addicts. In fact, recent studies have generally found that over 50 percent of narcotics addicts were themselves first arrested prior to their first use of narcotics. Furthermore, we know that many drug users--and many heroin addicts among them--are not criminals, or at least they have never been arrested. NIDA's Client Oriented Data Acquisition Process (CODAP) reveals that 47 percent

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of clients reporting opiate use admitted to federally supported drug abuse treatment clinics during the first quarter of this year had not been arrested in the preceding two years. Only 15 percent of those admitted to drug abuse treatment for opiate use exhibited the history of multiple arrests (three or more within the past two years) that we usually associate with the stereotype of the addict lifestyle.

And we know that not every heroin user is an addict. Some people use heroin and never become addicted and others are able to control their heroin use for long periods of time without apparent addiction, even after having experienced earlier periods of addiction. Lee Robins' classic study of the returning Vietnam veteran drug users taught us this.⁷

But we also know that many criminals are heroin addicts and that many heroin addicts are criminals in the most menacing sense of the word. Again, McGlothlin and others^{3,5} have noted that arrests for major income-generating crime, like burglary and larceny, nearly doubles after the onset of narcotic addiction. This, whether addiction precedes arrest (as it often does) or whether arrest precedes the first use of heroin (which is also common). There can no longer be any doubt that the rate of crime (and arrest) is positively correlated with daily heroin use.

And, most importantly here, we know that heroin addiction is treatable and that heroin addiction-related crime is largely, but not completely, preventable. In fact, it may be the most preventable part of our Nation's serious crime problem.

NIDA's Client Oriented Data Acquisition Process (CODAP) indicates that only 17 percent of admissions to federally sponsored drug abuse treatment during 1976-- only about 42,000 persons--were referred from any agency of the criminal justice

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system. Therefore, there is evidence that a great number of probationers and parolees at high risk to adopting or resuming heroin addict lifestyles are not receiving adequate supervision and/or referral to drug abuse treatment and counseling resources. This lack of close supervision and timely referral to appropriate drug abuse interventions does little to reduce and in my opinion contributes to the high social costs of property crime and the high rates of recidivism traditionally associated with narcotic addiction.

I take great personal pride in the fact that the National Institute on Drug Abuse has been working since its inception to develop an effective system of drug abuse intervention facilities throughout our country. NIDA's multidisciplinary approaches to comprehensive drug abuse treatment have repeatedly demonstrated success in reducing drug use, reducing concomitant criminal activities, and hastening the individual client's return to social productivity. I am deeply concerned that the resources we have developed be used effectively to reduce drug abuse among high-risk populations, to reduce recidivism among criminally involved drug users, and to reduce the high social and staggering personal costs of drug abuse.

In the latest findings from the Drug Abuse Reporting Program (DARP) Five-Year Followup Studies, sponsored by NIDA and received just a few weeks ago, Saul Sells and his staff have once again demonstrated the effectiveness of drug abuse treatment.⁸ All treatment modalities--including methadone maintenance, therapeutic community, drug free, and detoxification--demonstrated significant reductions in opiate use one year following treatment in the DARP. Similarly, the reports of followup studies conducted with former clients of the Addiction Services Agency in New York City and the Narcotics Treatment Administration in Washington, D.C.⁹ revealed that substantial reductions in drug taking occurred

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following treatment. No evidence of substance substitution was found among those who stopped heroin use.

Furthermore, the latest NIDA-funded research findings have demonstrated the greater effectiveness of close supervision for probationers and parolees as a means of early detection and intervention of drug abuse by referral to treatment and counseling resources. McGlothlin et al., in a new seven-year Evaluation of the California Civil Addict Program,¹⁰ have found that only marginal criminal activity is associated with less-than-daily narcotic use. It is daily use (i.e., addiction) that tends to necessitate property crime as a means of generating income. This study of the California Civil Addict Program found that close supervision of ex-addict criminal offenders placed on controlled release to their communities--supervision that included urine testing for narcotic use--resulted in much lower rates of daily narcotic use, drug dealing, and criminal activity, and higher employment rates, than did supervision without testing or no supervision. In McGlothlin's evaluation, the mean length of daily narcotic use prior to interruption was six months for those on close supervision, compared to 10-13 months for probation-without-testing or no supervision.

Let me clarify what these findings mean in terms of the social costs of heroin addiction. As I have noted, not every heroin user is an addict; that is, not every heroin user needs a fix several times a day. As long as the individual can control his or her heroin use, a relatively normal and socially productive lifestyle can be maintained. In this situation, the "chipper" tends to be able to support the heroin use by income from employment or relatively low levels of property crime. As the CODAP arrest data indicate, such a chipper may remain submerged and undetected for long periods of time--perhaps throughout his or her life.

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But, when heroin use escalates to a daily "run," criminal activity also escalates dramatically, as we have seen. In order to support a \$50-a-day heroin habit, the addict must commit income-generating property crimes amounting to several times that amount. Our latest data at NIDA³ suggest that, during the time an addict is involved in crime (but not dealing), annual income exceeds \$24,000--58 percent of which (or \$14,000) is required to cover the cost of drugs. Of course, the actual value of goods stolen is generally estimated to be 3-4 times the amount obtained through fences. So we estimate that a single heroin addict may cost society up to \$100,000 a year in property loss.

Under our current practice of probation or parole without urine testing, or without close supervision, such a daily heroin run will continue for an average of 10 to 13 months before it is interrupted by rearrest. With close supervision and regular urine testing, a daily heroin run is--on the average--interrupted in six months. The resulting annual savings in terms of curtailed property loss alone could be as great as \$30,000 to \$50,000 per addict.

If even a small percentage of the 175,000-350,000 probationers and parolees at high risk to adopting or resuming daily heroin use each year are interrupted or prevented from doing so by a program like Operation Trip-Wire, the savings to our society would be tremendous. Such a savings will, I feel confident, more than make up for the cost--in terms of money and effort--required to implement this proposal.

Systematic urinalysis among criminal justice-involved populations has elsewhere proven an invaluable tool in monitoring changes in drug use trends and in contributing to national drug abuse prevention policy and planning. In 1969,

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the epidemic nature of the heroin addiction problem was surfaced as a result of a survey and urine testing project at the District of Columbia's Jail, when 45 percent of all the Jail's admissions were identified as heroin addicts.¹¹ Subsequent surveys conducted in 1971 and 1973 revealed other heroin use trends and showed a decline in heroin-positive urines from 47 percent to 22 percent.¹²

Although it was never extended to D.C.'s probation and parole authorities, a unique program of urine testing among admissions to the District of Columbia Superior Court Lock-Up was initiated in April 1970 and became the model for LEAA's "Treatment Alternatives to Street Crime" (TASC) concept. Analysis of this D.C. data demonstrated some basic relationships between heroin use and criminal activity.¹³ We learned, as I have already noted, that not all criminals are addicts and that not all addicts are criminals. We also learned that, while a smaller percentage of crimes committed by heroin users are violent crimes than the percentage committed by nonaddict criminals, addicts do nevertheless commit a substantial number of violent crimes, such as robbery and murder.

In classic followup studies of narcotic addicts, Vaillant pointed out the role of compulsory community supervision and its relationship to the treatment of addiction. In a 12-year followup of 100 addicts, Vaillant concluded that "imprisonment and parole were far more effective than long imprisonment alone.... In the treatment of addicts, the mandatory sentence, which forbids parole and thus provides less opportunity for community supervision, appears specifically contraindicated." (Emphasis added.) Besides counseling, one of the key elements of Vaillant's compulsory community supervision program was periodic urinalysis. Vaillant's program called for the swift and certain identification and punishment of the relapsing drug abuser, with repeated abuse ultimately resulting in short-term incarceration.^{14,15}

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I am pleased to say that McGlothlin's new evaluation of the California Civil Addict Program, cited earlier,¹⁰ confirms and repeats Vaillant's conclusions. Closely supervised release to the community, with periodic urine testing and short-term returns to confinement as needed, is the best treatment for the criminally involved heroin user.

And yet we have no system today to closely monitor and clearly identify the daily heroin user on probation or parole, and to get that person promptly into the drug abuse treatment system which currently provides treatment for about 250,000 people in approximately 3,000 clinics and drug abuse programs located in all parts of our country. Despite the demonstrated fact that this person is highly likely to commit further crimes to support his or her addiction. Despite the fact that we have the technology at hand (urine testing) to detect heroin use. And despite the fact that we have demonstrated effective treatment interventions available throughout the country.

But, you may ask, "Isn't a program like Operation Trip-Wire already being carried out?" The answer is a qualified "no." Some urine testing is now done, some addicts on probation and parole are referred to treatment, and a small number of chronic abusers of heroin are now returned to prison from probation and parole. But, to my knowledge, nowhere in the country is this now done on a systematic, routine, and comprehensive basis. No halfway program will work-- there are simply too many forces operating against this idea for it to work outside a systematic, tightly monitored plan.

The reasons for the resistance to this idea appear to be threefold. First, deeply rooted in the attitudes many of us bring to the drug abuse issue are doubts that addiction is related to serious crime, doubts that heroin is different

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from other drugs in terms of its relationship to crime, and (finally) doubts about the efficacy of urine testing and of drug abuse treatment. Second, to these doubts must be added the practical, bureaucratic problems of launching any new program. Particularly in the areas of probation and parole, where the workloads are already staggering. Third, there is the confusion of this idea with the idea of diversion of drug abusers out of the criminal justice system. This is often associated with the idea that drug abuse is a "medical, not a legal problem." This idea holds great attraction for many reform-minded people in both the criminal justice and the health communities.

Whatever the merits of the basic diversion concept, the key point is that this is clearly a different idea than the one I am proposing today. By diversion, I mean the substitution of treatment as an alternative to the usual criminal justice processes. For example, a prosecutor might decide not to prosecute a person charged with a crime in lieu of his or her successful participation in a drug abuse treatment program. This idea of diversion from prosecution has merit for those jurisdictions which still treat the marihuana possession offense as a criminal problem--although most people charged with marihuana possession do not need treatment any more than they need prison. On the other hand, whether charged with possession or sale of heroin or with burglary or robbery, diverting the criminal heroin addict out of the criminal justice processes seems to me to be unwise.

Here we have a semantic problem of major proportions, because the federally sponsored Treatment Alternatives to Street Crime (TASC) Program is sometimes presented as a "diversion" program. It is not a diversion program under the definition I have used here. TASC provides an effective means of adding urine

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testing, treatment referral, and tracking to the usual criminal justice processes. That is, either pretrial or post-conviction, the agencies of the criminal justice system may use TASC to compel urine testing and/or treatment as a condition of release to the community. This is an important reform and one which I have supported for many years.

But TASC does not relieve the person charged with a crime from the usual processes of the criminal justice system. TASC is related to Operation Trip-Wire in the sense that TASC provides the capability to identify, refer, and track drug abusers in the criminal justice system. It differs from Operation Trip-Wire in that it is not specifically focused on probation and parole, it is not focused on the addictive use of heroin but relates to all drug use, and it is not universal in its coverage. Operation Trip-Wire is a focused, comprehensive extension of TASC. Like TASC, Operation Trip-Wire does not take people off of pretrial release programs, it does not remove them from probation or parole. It does, again like TASC, add a significant new dimension to those programs by effectively linking them with drug abuse treatment through the use of urine testing, referral, and tracking.

What I am proposing is a way for the criminal justice process to work better in dealing with one particular problem, so as to insure that the convicted criminal released to his or her community does not sustain a heroin habit while on probation or parole. I am convinced that the controversy in the drug abuse area, the doubts many people have, and the confusion with the concept of diversion can all be overcome. We now have the sophistication and the knowledge and the technology to simply get on with the task.

As I envision it, Operation Trip-Wire would operate as follows:

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- A thorough review of past records, examination, and urine testing would be a mandatory part of the criminal justice system's report to the court advising on any offender's suitability for probation or parole. This screening would pay particular attention to the presence or absence of needle marks that would indicate a past history of heroin addiction. It would thus provide the foundation for a recommendation of referral to treatment or close supervision upon controlled release to the community.
- Periodic urine testing (perhaps monthly) would be indicated for any offender exhibiting evidence of a past history of heroin use--that estimated 10-20 percent of the probation and parole populations. Furthermore, reduced caseloads would be indicated for probation and parole officers dealing with such offenders. Although expensive to implement, such special caseload arrangements have proven effective in providing the supervising officer the time and specific knowledge necessary to identify the onset of drug taking and manage the associated problems.
- If a probationer or parolee produces a dirty urine test--a urinalysis positive for heroin or its metabolites--supervision would be intensified to include more contact and weekly or more frequent urine testing would be begun.
- If urine tests remained positive on repeated testing, the alternatives become compulsory referral to drug abuse treatment or (if the individual refuses treatment, or fails in treatment)

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prompt reincarceration. Any reincarceration, however, would be for the short term--say, three to six months--with an ultimate return to controlled release with frequent urine testing.

- If, on the other hand, the urine test results cleaned up promptly, daily narcotic use would not have been proven and the offender would be returned to a routine schedule of periodic testing. No disciplinary action would be taken at this time. However, a second, later experience of dirty urine--after a period of clean tests--would require return to closer supervision.

Some heroin addicted offenders will be able to refrain from regular heroin use as a result of close supervision, even without treatment. These people are successes. Others will require the help of treatment programs to break their heroin habits before they, too, can succeed. Still others will refuse treatment or fail at treatment. These failures should be returned to prison before having another chance at controlled release.

For those who are sent to treatment, a variety of alternative treatments should be offered. On both scientific and humanitarian grounds, these people should not be compelled into any one modality of treatment, either drug free or methadone. The weight of the criminal justice system can, and must, enforce freedom from daily heroin use, but it should not be used to compel involuntary participation in a specific modality of treatment.

It will be neither easy nor inexpensive to deploy a program like Operation Trip-Wire. Urinalysis devices would have to be made available to each probation

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and parole office, staff would have to be trained on the operation and analysis of the testing procedures, and an explicit system of identification, tracking, and management would have to be developed. We must work to overcome jurisdictional and attitudinal problems, as well, since probation and parole authorities reside with the State in some localities and with county and local governments in others, and since drug abuse excites much controversy.

The National Institute on Drug Abuse is currently developing a pilot study of Operation Trip-Wire in selected areas. We are working with the Law Enforcement Assistance Administration (LEAA) and we welcome the advice, cooperation, and participation of you and of representatives of other Federal, State, and local agencies. I currently envision the Single State Agencies for Drug Abuse Prevention (SSAs) and the State Planning Authorities for Law Enforcement Assistance (SPAs) as the principal vehicles for this pilot test. These State agencies have shown increasing sophistication and effectiveness in managing such programs.

I foresee no legal problems, as such, in the implementation of Operation Trip-Wire, since the U.S. Supreme Court ruled in Schmerber v. California (1966: 381 U.S. 757) in favor of the unconsenting taking of bodily fluids for self-validating tests of incrimination. However, new legislation providing for mandatory urine testing of probationers and parolees may be required in some States, and would be perhaps more easily achieved at the Federal level. I know this is an area in which Representative Peter Rodino of New Jersey, Chairperson of the House Judiciary Committee, and Representative Donald Edwards of California, Chairperson of that Committee's Civil and Constitutional Rights Subcommittee, have been interested for several years.

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At a minimum, Operation Trip-Wire could cost \$14 million for the equipment and an additional \$12 million per year for the actual testing when fully implemented. Additional costs for urinalysis technicians, special reduced addict caseloads, and new training would have to be added to these initial costs. But providing urinalysis as a resource to probation and parole officers involved in supervising that portion of the criminal justice population at highest risk of heroin addiction is one of the most cost-effective expenditures we can propose: it would pay for itself immediately in reduced property crime and reduced criminal recidivism.

There are many who are frustrated that we, as a Nation, have not done enough to reduce crime and to "get the addicts off our streets." Some have called for massive civil commitment programs, to sweep all addicts out of our communities. Others have called for giving the addicts the drugs they want, e.g., heroin maintenance. Operation Trip-Wire is, I believe, a far more practical, effective, and focused new approach to the problem.

We know that those convicted criminals who are narcotic addicts (not chippers, but addicted daily users of heroin) are: 1) relatively easy to identify; 2) a great risk to their community; and 3) treatable. We must now make the commitment to use the technology available to us to identify, provide intensive supervision, and treat these individuals. We owe it to the heroin addicts--to provide them with the supervision and motivation they require--and we owe it most of all to ourselves, the victims of drug-related property crime.

I thank you for your interest and attention.

ENDNOTES

- ¹These sources include the 1975 FBI Uniform Crime Reports, the LEAA/U.S. Bureau of the Census Survey of Jail Inmates, the National Council on Crime and Delinquency's National Prisoner Statistics, the Johnson Crime Commission's National Survey on Corrections.
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- ¹⁴Vaillant, G.E. A twelve year followup of New York narcotic addicts: I. The relation of treatment to outcome. American Journal of Psychiatry, 1966, 122, 727-737.
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Mr. SCHUMER. Dr. DuPont, we understand your time constraints, so we will probably still have a few questions. Just feel free to leave when you have to.

I would first say that all three statements were outstanding and Dr. Wish, these numbers are incredible, and I am surprised they haven't gotten much attention. I know they have been published in your DUF reports, but nowhere else. They would reorient the whole way we think about drug use in this country and crime-fighting in this country, I think.

Before I get into my questions, I was wondering if either of my colleagues had an opening statement, since they weren't here when we started?

Mr. Gekas.

Mr. GEKAS. I thank the Chair.

The opening statement that I would have made would have been in anticipation of the excellent display of numbers that we have had so far and the correlation between the criminal justice system and the overall problem.

What I wish to further develop and my questions will lean that way, is the chicken-and-the-egg question and how we are going to deal with it. Which breeds which or isn't it clear? Do criminals commit crimes to get at more drugs or because they are in an element to start with, is drug use a syndrome of being a criminal and, thus, are they just more violent and more criminal because they use more drugs.

So the questions will encourage more questions and I am very much interested in the totality of the testimony.

Mr. SCHUMER. Mr. Sangmeister.

Mr. SANGMEISTER. No statement, Mr. Chairman.

Mr. SCHUMER. Thank you.

Let me ask a couple of things first and then we will get into some specifics. Last year, after the household survey was released, Secretary Bennett said we are making real progress in this war, and that we have turned the corner.

In light of the DUF numbers, can we really say that we are making progress? This is for the whole panel.

Dr. SCHUSTER. If I may answer, I would say the answer to that is yes. I think that what we have stated is that the norm of acceptability of illicit drug use is changing in the general population. I think that as Dr. DuPont remarked, that is basically what we have to do. Tragically, however, that doesn't extend into these populations who are deviant in other ways, deviant both in terms of their criminal behavior, and those affected with mental disorders. Those who are afflicted with mental disorders show an extremely high rate of illicit drug use, a very high rate, so that the commingling of schizophrenia and depression and illicit drug use is equally as high as it is amongst the criminal population.

Basically, what I am saying is that those who are deviant in other ways are the ones who have the highest rates of illicit drug use, which is, as you have said, another expression of their deviancy.

Mr. SCHUMER. Dr. Wish.

Dr. WISH. The White House strategy, I think, of 1989, noted that we are fighting two wars on drugs, one among the middle class

casual user and the other one in the hardcore, oftentimes innercity user, much that I think DUF represents.

It looks like we are making considerable progress in the former, that is, the general population, the middle-class population, and again, it still looks like things are going strong in the innercity.

Mr. SCHUMER. Anything further to add, Dr. DuPont?

Dr. DUPONT. I would just add a few thoughts of hope. There are many ways in which our society impacts on the lives of the lower classes, the people who are suffering most horribly in urban areas from the crack cocaine epidemic. These communities are also most subject to the criminal system as it impacts the hardcore drug problem.

I am deeply disturbed that we have enabling social systems that actually permit heavy drug use to go on and which stop interventions in these communities which could dramatically reduce drug abuse in low income communities. I would call your attention to two of those agencies in particular.

First is the public assistance program or welfare system and second is public housing. The fact is that large amounts of public funds now are devoted to those programs, and that no urine testing for drug abuse is done for people in public housing, no drug testing is done for people receiving public welfare. Testing must be done in the spirit of trying to help these people—recipients of public aid—including the children receiving support through these programs. People who are resisting such drug testing think they are helping those in need of aid, but instead they are providing breeding grounds for this kind of desperately serious drug problem that now confront the criminal justice system.

We have well-meaning social agencies that are actually enabling the drug problem in poverty communities to perpetuate in a very severe form.

Mr. SCHUMER. I guess what all three of you are saying is that we are making progress among some of the population, but not among other parts of the population, and the part of the population we are not making progress with is the part that has been most involved in the nexus between crime and drugs. Is that—

Dr. DUPONT. And poverty.

Mr. SCHUMER [continuing]. And poverty. OK.

The only other question I have for all three on the panel—sort of a parochial question, but one that I am interested in.

Why is New York so much higher in terms of cocaine use? One of the charts that you showed showed that if you took away all the people who tested positive for cocaine in the last 1 to 3 days, the crime rates in New York would dramatically plummet. Now, obviously—and this relates to the chicken and egg that George asked about—they might be using some other drug or still committing crime, but why in New York is the link between cocaine use and crime greater than it is anywhere else?

Do you have any guesses? It clearly is from these figures.

Dr. DUPONT. I could just take one thing, Mr. Chairman. When I was the Director of the National Institute of Drug Abuse [NIDA], it used to be said by people from New York that 60 to 70 percent of the total drug problem in the entire country was in New York City.

Mr. SCHUMER. That is clearly not so.

Dr. DuPONT. No, it is not true today, but it was more true then. My point is that New York has traditionally had a very large percentage of the total serious drug problem of the country since the early 1970's. Patterns of serious drug abuse that were characteristic of New York City have become national patterns.

New York spends more money for drug abuse services of all kinds—law enforcement and treatment—than any other part of the country. New York does not lack for public spending on drug abuse. There are many factors which cause New York City to suffer especially from drug abuse despite spending more per capita on social programs, drug abuse treatment, and law enforcement than any other area in the world.

Mr. SCHUMER. Let me ask Dr. Wish a question, and I do want to get to some of Dr. DuPont's questions and then come back, but in your testimony, you stated that the arrestee population in the 61 largest cities contains about as many cocaine users as is estimated to exist in the entire U.S. population, based on the household survey. That is an astounding statement.

Can you elaborate or explain it a little further?

Dr. WISH. I think it still goes back to the household survey which does not include this high-risk part of the population in its samples.

Mr. SCHUMER. But it has to include some of it, wouldn't it?

Dr. WISH. We don't really know how much overlap there is at this point.

Dr. SCHUSTER. Let me just say that beginning this year, we are doing 14 studies in the metropolitan district, namely Washington, DC, which will help us to understand the relationship. We will be doing a household survey. We will be doing a survey on the homeless. We will be doing a survey—in the prisons, we will be doing a survey, working with the National Institute of Justice on DUF so that we will better understand the relationships of all these measures.

In addition, we hope to be able to incorporate in a special test study some of the kinds of things that Dr. DuPont and Dr. Wish are talking about, and that is verification with urine and hair testing of the verbal reports.

Mr. SCHUMER. Anything further on that, Dr. DuPont? OK.

Dr. DuPont, you advocate hair testing as an analysis tool for the most accurate history of drug use, and the main reason you cited was longevity. It is not a 1- to 3-day situation. Would hair testing tell us other things that we would need to know that urine analysis doesn't? Is hair testing more expensive and—

Dr. DuPONT. Hair testing is more expensive per test, but not more expensive for the time covered. A simple way to think about cost is that a hair test for the five standard drugs cost about \$45 and a urine test for the same five drugs cost something like \$20. Both prices are subject to negotiation depending on volume. A urine test covers 3 days and a hair test covers 3 months. In a recent study of 112 probationers one hair test covered a 3-month time period which was also covered by an average of 15 random urine tests. The hair tests of the same probationers over the same time period identified 41 positive time period for cocaine compared to 11 for urine tests, 15 positive periods for heroin, morphine, com-

pared to 11 for urine, and 8 positive periods of time for PCP compared to 2 for repeated random urine tests. Which is more expensive? It is hard for me to see this data and conclude that hair testing is more expensive than urine testing.

Hair testing is not going to replace urine testing. Urine testing has many very important roles in the criminal justice system and elsewhere. Think about Dr. Schuster talking about the national survey. When you are doing a survey of whether a person has used a drug, it is very useful to know about the subjects drug use in a time period longer than just 3 days. That is another wonderful example of where a 90-day surveillance window is terribly important: Hair testing of survey research subjects to check the reliability of their answers.

Another advantage of hair testing relates to the major controversy about random testing in the workplace. Collecting a urine sample in the workplace is very difficult because of privacy concerns that are not significant when you are using a hair test.

Mr. SCHUMER. Some might feel that the hair test is more intrusive. I think you can argue it either way. Those of us who are balding—I don't want to give up what is left.

Dr. DUPONT. The hair test uses very little hair. Once you see how little hair is needed it is no problem even for people who are balding. I didn't know about hair testing until 2 years ago. People in our staff who have very little hair are happy to be hair tested because it uses so few hairs. The test only uses about 40 hairs.

Mr. SCHUMER. Forty?

Dr. DUPONT. You don't realize how many hairs you have—

Mr. SCHUMER. I see two or three on the brush and I get upset.

Dr. DUPONT. These grow back. Forty hairs is about the size of—if you roll it up—of a pencil lead.

Mr. SCHUMER. Dr. Schuster.

Dr. SCHUSTER. Let me just point out that there is one case in which clearly urine testing and blood testing is called for and that is for-cause testing, post-accidents, because it takes 2 to 3 days for the drug to show up in the hair.

Mr. SCHUMER. OK.

Maybe, George—do you have any questions of Dr. DuPont, and then we will go back to—

Mr. GEKAS. Yes, I have one for the panel that would overlap a little bit.

I noticed that among the recommendations that were part of the report of Dr. Wish that none of them approach legalization of illicit drugs. I don't know if that is a conclusion that I am drawing because I oppose the legalization of drugs almost viscerally, or because of the correlation between those who commit crimes and the users. At least the numbers didn't run into each other that much for me to indicate that some of the crimes, or a majority of the crimes were not those associated with the use of drugs; that is, illegal possession of drugs as being a crime, but rather, burglary, rape, et cetera, that correlated between the crime and the user.

Am I correct in concluding that because of the compendium of thought and statistics that you have put together that you do not see any efficacy or benefit to legalization of illicit drugs?

Mr. YOUNG. I would just say in summary before Dr. Schuster gets started that there are no experts in drug treatment, almost none, who favor legalization. I would be interested if you have anybody on any of your panels. It is such a preposterous notion that it has virtually no support. It will play well on PBS. It will—you know, the media will like it. It has no political currency in the United States. The surveys have made that very clear. In drug treatment and drug research experts, it is few and far between to find any who will support legalization.

Dr. SCHUSTER. I think that there is a danger. I think that there is no question that a lot of the crime that is found in these people is associated with acts of violence either in competition over distribution networks or as a consequence of crimes that are necessary in order to obtain the money to get drugs, even though they were not arrested for a drug possession or on a drug charge.

So I think it is dangerous to argue that Dr. Wish's data would oppose legalization, but there is ample reason for opposing legalization. Let me give you one scientifically based fact.

If you take a cocaine user under controlled laboratory conditions and ask them, when they wake up in the morning, how much do you crave cocaine on a scale of 0 to 10, they will say 2, 3. Now, you give them an injection of cocaine and 15 minutes later ask them how much they crave cocaine, it will be off the scale. It will be 10-plus because, unlike other drugs, cocaine stimulates its own craving. The more you get, the more you want.

So I would ask you, how would you legalize a drug like that? Who would determine how much you give? Who would determine at what point you stop? Do you stop before they have cardiac arrest? It just won't work with a drug like cocaine. Absolutely not, and anybody who knows his pharmacology would agree with that. So there is ample reason for disagreeing with the legalization.

But I think that it is true that a lot of the crime that is associated with drug use is because of the need to obtain the money to obtain the drug or in association with competition over distribution networks.

Dr. WISH. There are very visible costs of our current policy of prohibiting drugs. You have the law enforcement costs and the crime costs. It is tempting because they are so visible to say, OK, we will legalize it and those will disappear.

But the point is, there are other costs that perhaps are less visible now during the period of prohibition of drugs and that is both the welfare costs and the moral costs. What I mean by that is that if you take these extremely dependence-producing drugs and make them available to the population, use is going to go up. How high, we cannot totally estimate now, but that is going to mean more people who are dependent, more people who run into psychological and behavioral problems as a result of their drug use, more people who just are sort of laying around getting high and we don't want to bear those costs.

Furthermore, we have a moral cost here that would increase, and that is, do we want to live in a society being surrounded by people who are basically high—a lot of people who are high on drugs a lot of the time? Do we want a society like that?

Finally, I think the DUF data show you that, for whatever reasons, the drug problem is heavily found and concentrated in the most disadvantaged part of the population. Would we want to all of sudden take the drugs and make them more available to this part of the population?

Mr. GEKAS. I thank you for your testimony. I think for the remaining time that I spend in Congress, I will refer back to this testimony as solidifying my position on that subject. I think it is very important.

One other question now. Your figures on the graphs, Dr. Wish, and your's, Dr. Schuster—indicated a bigger problem with addicts, than with users. All addicts are users, but not all users are addicts.

So that the severity of the problem that still exists in that hard core of users are really addicts. They are now categorized fully as addicts. The numbers that are dwindling, though, are only those of use, not of addicts.

Is that correct or am I making a false—

Dr. SCHUSTER. That is, I believe, the case. You have to understand that during the era of acceptability or relative acceptability of experimentation with illicit drugs in this country, lots of people try drugs once or twice. What we don't fully understand is why it is that some individuals are more vulnerable to go on from experimentation to heavy use and addiction.

We are investigating that. We know in the case of alcohol, for example, that—at least in certain types of alcoholism, there is a genetic predisposition. We are currently investigating whether that may even exist in the case of other illicit drugs.

We know that social deprivation and other—lack of alternatives can also be a factor that—alternative sources of engagement and so forth and satisfaction can be a setting factor for being more vulnerable. So we are investigating that because we want to identify those groups that are most at risk from going on from experimentation to addiction. That is where our prevention efforts have to be really concentrated in the future.

Dr. WISH. I just want to add that you are accurate that a lot of the people, at least in the arrestee population, are more than just casual users. I didn't show you the slide, but roughly a fourth of all male arrestees and a third of female arrestees indicate that they have injected drugs in their lifetime.

Mr. GEKAS. I have no further questions, thank you.

Mr. SCHUMER. Thank you. I will go back to mine and try to move it along so Mike has time because I have been told we have a vote fairly soon.

I guess what one could say, though, and I would ask you, to base our prognostication on drug use now just on the household survey would be incorrect. Is that fair to say?

The record will show that both witnesses are saying yes. We would have to have a kind of survey—well, Dr. Wish's survey covers one sample; Dr. Schuster's another, and then there is that third group of 11 million people that we don't know much about at all.

What is your guess? Would those people have serious drug problems?

Dr. WISH. Absolutely. We have done other studies. There are surveys of prisoners and there have been studies of probationers. We are talking out of that 11 million another 3 to 5 million.

Mr. SCHUMER. Dr. Schuster, you note in your statement that based on a survey conducted in New York City, drug-related violence results more from drug trafficking than it does from drug-induced behavior. It is an interesting observation especially in light of the DUF numbers. Eighty percent of all arrestees are testing positive for drug use in New York City.

Is there any contradiction in that?

Dr. SCHUSTER. No, I don't think so. First of all, this was an interview of a sample of only approximately 280 to 300 people. They reported that most of the violence that they engaged in was not because the drug incited them to violence, per se, but rather in association with turf warfare and so forth.

But let me just say that we do know that cocaine is a drug that produces, at high doses, a form of paranoid psychosis with delusions of persecution and I can tell you this, that such people, under those circumstances, if they are also prone to violence because of social factors, are extremely dangerous.

Mr. SCHUMER. OK. Another question I guess, for Dr. Schuster. The household survey is collected on computer tapes, as I understand it, and I have gotten complaints from other researchers that NIDA doesn't make those tapes available for further research. Is that the case? What can be done to change it? It seems to me that there is so little research for such a huge problem that we ought to be sharing knowledge as much as possible.

Dr. SCHUSTER. Absolutely. I agree with that. Let me say that these tapes will be made available to researchers outside the National Institute on Drug Abuse, as soon as we complete our basic analyses and finish formatting the tapes and preparing adequate documentation to accompany the tapes. It is really much more a problem how to make them widely available and we are working out a method now for doing that.

There is a lot of data in there that I haven't talked about, a lot of secondary analysis that is very useful and actually does overlap with some of the findings of Dr. Wish's study.

Mr. SCHUMER. So they will be more widely available in the future.

Dr. SCHUSTER. Absolutely, yes.

Mr. SCHUMER. OK. The next question I have is, again, second hand, is when the next household survey is scheduled to be completed? There are all these rumors that the timing is going to depend on the numbers before election or whatever—

Dr. SCHUSTER. No.

Mr. SCHUMER. I said they are rumors and one of the leading political figures in my district said there is a committee on rumors that works 24 hours a day, 7 days a week. But can you give us a date when these will be released?

Dr. SCHUSTER. Yes. Next December.

Mr. SCHUMER. December.

Dr. SCHUSTER. Next December. It will be done on a yearly basis. In addition—

Mr. SCHUMER. Every December?

Dr. SCHUSTER. Every December. Second, let me point out that we are increasing the sample size to pick up the rarer events. Third, however, we are beginning to do a six-city oversample so that we will begin to get at the kinds of inner-city populations in which the drug use problem is most prevalent so that we can begin to look at trends over time in those people as well.

So I guarantee the household survey will be completed by next December, independent of any political considerations; the reports to the press and the public should be available by February.

Mr. SCHUMER. OK. This question is for Dr. Wish. You have answered a lot of my questions in your testimony. The two I have are, first, the numbers from the D.C. program show the only decline in drug use. Now, you said it is premature to make a judgment on that because it is the first drop and you would have to see some others, but do you have any explanation as to why there should be such a significant drop, and can we extrapolate that to any other cities?

Dr. WISH. We only have sort of a guess on this and it is that we don't think the people are just going to—that the demand is just going to dry up like that. We think that probably there was some change in the supply of drugs and it may have been the result of the disruption of the Rayful Edmund drug distribution network.

Mr. SCHUMER. That would mean it would be a temporary drop?

Dr. WISH. Perhaps, right, until new ones come in.

Mr. SCHUMER. Since they always seem to find a new one.

Dr. WISH. Right.

Mr. SCHUMER. Finally, are there any other early warning signals of coming drug abuse that you can glean from the DUF testing survey?

Dr. WISH. One of the more interesting questions in the interview asks the arrestee what new drugs are coming available on the street in the area and what have they heard and we ask them to describe them. A lot of people have been mentioning "ice," which, as I said, is methamphetamine, and it is interesting that very few people across the country indicate that they have actually used the drug, so when we ask them how did they hear about it, they tell us, well, we read about it in the newspaper; we heard about it on TV. Basically, it looks like the media is doing a job. It is advertising the next drug epidemic to these people and they are looking for the drug and they know what the effects are.

I don't mean to be facetious here, but it does look like there is a lot more talk about it than evidence right now of a serious problem with "ice" in the country.

That may turn around in months to come and we will find it in the DUF Program because of these questions, but right now, there is no evidence in the country of any rising trend in methamphetamine use.

Furthermore, there is some talk about people going on smoking heroin and again, in the cities where there has been a heroin problem, it looks, for the most part, like the percent testing positive for heroin is at the lowest levels it has been in a long time, so there is no evidence there yet of an increasing trend toward heroin use.

That is it.

Mr. SCHUMER. Congressman DeWine.

Mr. DEWINE. Thank you, Mr. Chairman.

Dr. Wish, you talk about a change—a reduction in the use of the middle class, upper class, but you talk about a continuation of the drug problem, maybe even an increase, among the lower class. You make reference to criminal behavior.

Given that fact, is it your opinion that this statistic or this fact or this finding makes it more or less likely that general drug education in schools, kindergarten through 12th grade, will be more helpful or less helpful?

Does it have anything to do with that?

Dr. WISH. I think that we are having—

Mr. DEWINE. Is it going to be tougher to deal with it from that point of view, an education point of view?

Dr. WISH. For the large middle-class population, general population, your education and prevention programs apparently are somewhat effective. You are finding this decline there. The problem is the type of people we are talking about in DUF are basically—run into problems at a very early age. They don't stay in school. They get into trouble with the law early. They may not even be reached by a lot of these education and prevention programs. That is why I think it is so important that when they do get detained by the criminal justice system that we identify their drug use and institute programs then to reduce it.

Does that answer your question?

Mr. DEWINE. Yes.

Dr. SCHUSTER. Mr. DeWine, if I may comment, we have some data that indicates that children who fail to learn to read in the first grade—this is true in males—as well as show two other characteristics of hyperaggressiveness—these are the kids who lash out with violence—accompanied by shyness—that is, failure to interact well with other children—these children have a high propensity to going on to becoming drug abusers in adolescence. So in our studies in Baltimore City, where we have worked—our grantees are working with the school system, we have special intervention programs in the experimental schools there to ensure that they learn to read in the first grade, to decrease their aggressiveness and shyness through group interaction processes.

We believe that we can identify as early as the first grade these children in the inner city who are more vulnerable and more prone to going on to drug abuse and we hope that these interventions that we are developing now will be effective.

We won't know that for a number of years, but we do know we can identify them.

Mr. DEWINE. What city is that, Doctor? Where is that taking place?

Dr. SCHUSTER. It is through the Johns Hopkins Prevention Center in Baltimore City.

Mr. DEWINE. Dr. Wish, you talked about testing and other programs within the criminal justice system. Are there any good models that we could look at? Are there any States that are doing a good job and cities that are doing a particularly good job in that area that you are aware of?

Dr. SCHUSTER. One of the best models for pretrial testing is the District of Columbia. They have had the longest history of it. In

fact, it was Dr. DuPont who actually established that program in 1970.

There are some other cities that are testing now, but they haven't had that much experience with it. Interestingly enough, there seems to be more movement toward testing now in the Federal system where there are several jurisdictions that are trying out testing there and I think there has recently been some congressional testimony on the idea of expanding that to testing everyone coming through the Federal system. The thing is that I think the drug—the early statistics so far show that the drug use in the Federal offender may be a little less than what we find in DUF, and so it really makes sense to focus on the State and local offenders.

There have been—I think the Federal probation system has been doing some testing, but for the most part across the country, people do testing sporadically when they think that someone is using drugs sometimes if they have the money, but in general, they don't—they miss a large number of drug users, as I was showing with my statistics. They just miss them and don't test them, so basically people come through the system and out without their drug abuse being identified.

Mr. DEWINE. Thank you, Mr. Chairman.

Mr. SCHUMER. Thank you.

Mr. Coble, do you have any questions?

Mr. COBLE. No questions.

Mr. SCHUMER. OK. Thank you.

I want to thank this panel for very enlightening testimony and I think, as George Gekas said, we are going to be coming back to these numbers all the time and probably be having you back.

Thank you.

Dr. WISH. Thank you.

Mr. SCHUMER. OK. Our next panel will include Jay Carver. He is the Director of the District of Columbia's Pretrial Service Agency; and Mark Kleiman, who is a professor from Harvard University's Kennedy School of Government, also a well-known specialist in criminal justice policy and management.

We want to thank both of you for coming. The only thing is we have a logistical problem here in the sense that I don't know when the votes will start. We will have 15 minutes for the first vote and then 5 minutes for each subsequent vote. So that rules out going back and forth between the votes.

So once the bells ring and we have to leave, we will have to take—it will probably end up being a half hour break, which I apologize for. I don't see much choice in doing it any other way.

Gentlemen, both of your statements will be read entirely into the record, as with the previous witnesses, so you may, with the assurance that your words will be in the record, proceed as you wish. You may summarize or read it, whatever you think is appropriate. We will start off with Mr. Carver.

**STATEMENT OF JOHN A. CARVER, ESQ., DIRECTOR, DISTRICT OF
COLUMBIA PRETRIAL SERVICES AGENCY**

Mr. CARVER. Thank you, Mr. Chairman.

It is a real privilege and honor to be here before the committee today. I think what I will do is just summarize the highlights of my prepared testimony and leave plenty of time for questioning.

Like many cities, Washington, DC, is struggling with enormous drug problems. We are swamped by the sheer numbers of cases coming into the system. In the cases we do see, we are often struck by the seriousness of the charges and the extensiveness of the prior criminal records of a lot of these people.

Five or 6 years ago, two out of every three cases were misdemeanors. Now, two out of every three is a felony. The people we are seeing today are a much harder core group of arrestees.

At the same time, we are facing these tremendous demands on the justice system, we are also facing very serious resource problems. We are up against some hard realities here and I think when you look at State and local budgets anywhere in the country, you will see that the public safety sector of local budgets is growing at a much faster rate than any other sector, and still is not growing fast enough to enable us to keep up with the demands on our system.

There is a very serious shortage of treatment slots for drug-using defendants coming through the criminal justice system and in every jurisdiction, local communities are faced with severe jail crowding.

While I don't have any magic solutions to these problems, I am convinced that we can deal with them more effectively. I think one means of dealing with this drug-crime problem is through the technology of urine testing. The previous witnesses discussed it in a research context. We have been using it in an operational context, really, since 1970, when, as Dr. DuPont indicated, the District of Columbia adopted a program of pretrial urine testing.

In 1984, my agency, the District of Columbia Pretrial Services Agency, significantly expanded the program of arrestee drug testing begun in 1970 by Dr. DuPont. Basically, what we did was to incorporate it into the functions of the agency to assist us in risk assessment and to use it as a means of monitoring release conditions. I will briefly describe how the program was set up and then go over the impact of the program as it has operated since 1984.

The role of the Pretrial Services Agency is really to serve as an information-gathering arm for the court. Beginning early morning every day, the staff of the agency goes into the cell block, interviews arrestees on such pieces of information as their community ties, their employment, and whether they are using drugs. Since 1984, we have been collecting urine samples in the cell block and doing drug testing in the courthouse so this information, too, can be incorporated into what we call the bail report. This report is available in "arraignment" court and is used by the bail-setting judge in setting conditions of release.

Once the conditions of release are set, defendants who have been identified through this test as having a drug-use problem either through a positive test or an admission, are generally placed into a form of supervised release whereby they will either be tested on an ongoing basis as a condition of release or possibly referred to a treatment program, or both.

When we set this program up, we built in a number of protections. First of all, the drug test result cannot be used on the issue of guilt on the underlying charge. Second, the results of the test are used only to set conditions of release, rather than to decide whether release will be granted in the first place. That is basically how the program operates.

We do feed back the information to the court. Our operation is completely computerized such that every time the defendant has a court appearance, we are able to provide the judge with a report generated by the computer which summarizes the record of compliance with that court-ordered, drug-testing condition, whether the defendant showed up, whether he tested positive or negative, and whether he was referred to treatment.

I would like to turn now to the impact of the program. The first impact of the program was felt within 2 weeks of its implementation in 1984. Just as this committee was stunned, I think, by the numbers that Dr. Wish presented, so, too, were our local policy-makers stunned when I prepared a report after the first week of operation and then the second week of operation as to what kind of drug-use patterns were showing up in the arrestee population. Up until that time, nobody had tested for PCP. We added PCP to our five drug screen and suddenly discovered, to everyone's amazement, that the drug of choice was not heroin, as had been assumed, but was PCP. It eventually got to the point where 45 percent of all drug users coming into the system were PCP-positive.

Well, to make a long story short, just that knowledge sparked a process which was really headed by the Chief Judge that eventually led to expanded treatment and, for that matter, a redirection of treatment resources into various other modalities and not exclusively for heroin addiction, where up until that time, almost all the treatment resources had been directed.

The program was also the subject of an outside evaluation sponsored by the U.S. Department of Justice. That evaluation examined two broad research questions. First, can the drug test result enhance the agency's role in pretrial risk classification? That is, are drug users more likely to be rearrested on subsequent offenses and are they more likely to miss court appearances? Well, the answer to that question was yes. You have seen some data from some other studies that Dr. Wish presented. The data in Washington was substantially similar.

The second question dealt with the effectiveness of urine monitoring as a condition of release as measured by rearrests and failures to appear for court dates. We actually did a controlled experiment where drug-positive releasees were randomly assigned to a treatment group where they were referred to traditional treatment, a control group and a urine-surveillance group. The urine-surveillance group did slightly better than the other two groups in terms of failure-to-appear rates and rearrest rates. Perhaps more important, the urine-surveillance group quickly divided itself into two subgroups—the group that basically complied with their release conditions, showed up and gave their urine tests versus the group that dropped out or never showed up in the first place. When you looked at the rates of pretrial misconduct for those two groups, the dropout group had a rearrest rate twice that of the

other group and the failure-to-appear rate, likewise, was twice as high as for the other group.

So basically, what this enables the court to do is to release more individuals with conditions designed to address drug use and then make--what you might call midcourse corrections based on the defendant's own track record with respect to how they comply with the condition.

We have used this principle to expand the concept. We have developed an intensive pretrial supervision program that actually targets people in jail that can, through a bond-review process, be released to a number of different highly structured supervision options, including a temporary stay in a halfway house and social services and referral to treatment. The most important part of that intensive-supervision program is the drug testing. Through this program, we have been able to save tens of thousands of jail bed days for the city and I think just as significant is the fact that defendants released to this program, with the highly structured monitoring, have a rearrest rate of only 2 percent, which is substantially lower than for any other group of releasees coming through the system.

I think this illustrates the potential value of this technology in that it improves judicial decisionmaking; it enhances risk assessment and it gives us the tools to create release options which can simultaneously address community safety concerns, and jail crowding.

This, Mr. Chairman, I think is the hopeful sign of this program. In your opening remarks, you said that the people are looking for some sign of hope from the criminal justice system and I think an intelligent use of this technology is a hopeful sign. It is not going to solve the problems, but at least it is a way of making more intelligent decisions so that our scarce treatment resources and our scarce jail space, for that matter, can be allocated more efficiently, based on objective information and, to a large extent, based on the defendant's own track record as to how he complies with the release conditions.

With that, I will conclude.

Mr. SCHUMER. Thank you, Mr. Carver. I couldn't agree with you more. I think there are so many things that can be done and they are sort of hidden away in little corners around and one of the jobs of this subcommittee is going to be to get them unhidden.

[The prepared statement of Mr. Carver follows.]

PREPARED STATEMENT OF JOHN A. CARVER, ESQ., DIRECTOR, DISTRICT OF COLUMBIA
PRETRIAL SERVICES AGENCY

Mr. Chairman, members of the Committee, it is a pleasure to appear today before the Subcommittee on Criminal Justice of the House Judiciary Committee as you take up the topic of emerging criminal justice issues: drug use and the pretrial population.

Like many cities, Washington, D.C. is struggling with enormous drug problems. These problems are particularly acute in the Criminal Justice System, where seriously dysfunctional drug abusers often end up. We are swamped with sheer numbers of cases, and we are seeing increasingly serious charges and prior records among the individuals flooding the system. Let me give you a few background figures on arrests. According to data from the United States Attorney's Office, adult drug arrests have increased from 3,857 in 1979 to 12,588 in 1988. As a percentage of all arrests, drug charges have increased from 20% to over 47% in the same period. When one looks just at drug *distribution* charges, one sees a thirteen-fold increase over this time period.

As dramatic as the rise in drug arrests is, it understates the magnitude of the problem. Drugs are a factor in many, if not most, of the serious non-drug felonies coming into the criminal justice system as can be seen in our well-publicized homicide epidemic. Most arrestees, regardless of charge, are drug positive when they come into the system -- a phenomenon now well documented in over twenty cities by the Drug Use Forecasting System of the National Institute of Justice.

At a time of tremendous demands on the justice system, we are also facing serious resource problems. The public safety sector of state and local budgets is growing at a much faster rate than can be supported by available revenues. There is serious jail crowding everywhere. There is also a serious shortage of drug treatment, especially residential treatment, for the drug-dependent individual we see so often in the criminal justice system.

I am not here to propose an "answer" to these pressing problems. In the final analysis, the problem of drug abuse in our society will never be "solved" by the criminal justice system. In the Courts, we only deal with the cases and individuals that come before us. Yet we can, I am convinced, deal with these problems more effectively than we have. And one means of addressing the drug/crime problem is through the technology of urine testing. This technology has been used routinely in the District of Columbia since 1970, and was significantly expanded in 1984 by the D.C. Pretrial Services Agency. Urine testing technology has been incorporated into the functions of the agency -- screening, risk assessment, and pretrial monitoring. When implemented carefully, it can enhance judicial

decision-making, and address the dual concerns of community safety and jail crowding. I would like to describe how the program was set up, how it operates, and review the impact it has had.

Pretrial Urine Testing in the District of Columbia

While routine, pre-arraignment urine testing has existed in the District of Columbia since 1970, the concept was significantly expanded in 1984 when the D.C. Pretrial Services Agency, with funding from the National Institute of Justice, established a comprehensive pretrial drug testing and monitoring program. Two years later, the program was expanded to the Juvenile Justice system. It also became a key component in an Intensive Pretrial Supervision program, designed for high-risk, detained individuals. The program is now entirely funded through the City government.

How the Program Operates

The Pretrial Services Agency assists the Court by gathering pertinent information on each individual charged with a criminal offense. Beginning each morning, agency staff interview defendants, asking about residence, employment, prior criminal history, drug and alcohol use, and any pending case. After verifying the information, a risk assessment instrument is applied and a written report prepared summarizing the data. This "bail report" includes a recommendation regarding appropriate release conditions.

Establishing a drug testing facility in the courthouse enhanced the role of the Agency in two important ways. First, it enabled the Agency to provide more reliable and more objective information to the Court on whether the defendant had recently used drugs, thus improving the risk assessment process. Second, it enabled the Agency to offer the Court another release option -- periodic urine testing -- for the large number of drug-positive arrestees.

Building on a long tradition of reliance on non-financial conditions of release, urine testing was carefully implemented in such a way as to enhance the purposes of the Agency. Positive drug tests cannot be used as evidence on the issue of guilt in the underlying case. During initial case processing, drug test results are used only to set conditions of release -- not to decide whether release will be granted. Thus, very few arrestees refuse to give a sample.

Defendants who test positive at the initial or "lockup" screening phase of the process may be ordered by the Court into weekly urine testing, or drug treatment, or both. Throughout the pretrial period, judges are provided with reports summarizing the defendant's compliance with release conditions. These reports are generated by computer several days before every court appearance, and include such information as whether the person reported for drug testing as required, the test results, treatment referrals, as well as any progress reports from the treatment program.

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Violations of court-ordered release conditions are dealt with in a variety of ways. Responses may include more frequent testing, referral to treatment, or a "show cause" hearing where the defendant is ordered to show cause why he should not be held in contempt of court for violating a release condition. While sanctions are a matter of judicial discretion, the Agency has stressed the value of swift and certain, if not necessarily harsh responses. Specifically, a three to five day jail term, followed by re-release on more restrictive conditions, may be more effective than outright revocation.

Apart from the periodic urine testing just described, the on-site facility permits a judge to request a "one test" urinalysis at any point when the defendant is before the Court. The urine sample can be collected, analyzed, and the results delivered to the Courtroom, generally within 20 minutes. If positive, the judge may order the defendant into the testing program, or into treatment.

Major Findings and Impact

The immediate impact of this program was felt within two weeks of its implementation in March of 1984. Comprehensive testing using a five drug screen (opiates, cocaine, PCP, methadone, and amphetamines) quickly shattered the conventional wisdom about the nature and extent of drug use in the arrestee population. The sudden realization that over half of the arrestee population was on drugs, primarily PCP, sparked a process which eventually led to more treatment capacity, and to a re-direction of resources away from treatment modalities aimed almost exclusively at heroin addiction.

An outside evaluation of the program, commissioned by the National Institute of Justice and carried out by the research firm of Toborg Associates, looked at two broad questions. The first question analyzed was whether the knowledge of an arrestee's test result improves pretrial risk classification. Simply stated, are drug-positive arrestees more likely to miss court appearances or be rearrested on new charges than drug-negative arrestees? The analyses performed indicated that the urine test results did in fact make a consistent and significant contribution to risk assessment for arrestees.

The second major research question dealt with the effectiveness of urine monitoring as a condition of release. To answer this question, the Agency conducted a controlled experiment using random assignment for almost a year. Drug-positive releasees were randomly assigned to one of three groups. One group was given a referral to one of the City's treatment programs. Another group was placed in weekly urine monitoring. A third group was established as a "control" group with no further intervention. The outcomes to be measured were pretrial rearrest rates, failure to appear rates, and a composite of the two dubbed "pretrial misconduct" rate. Defendants in urine monitoring group had slightly lower rates of pretrial misconduct than defendants assigned to the other two groups. More significant was the finding that within the group of defendants undergoing weekly drug testing, there were substantial differences between the sub group that complied with the requirement, and the sub group that did not. Those that dropped out of the urine

monitoring program had failure to appear rates and rearrest rates fully twice that of those that complied with the release condition. This finding suggests that urine testing as a condition of release operates as an effective signalling mechanism or an "early warning" system. Larger numbers of defendants can be released with the requirement of on-going testing. Those who comply with the requirement are relatively good risks. Those posing greater risks in effect "signal" that fact through their lack of participation. Having the drug test information enables the Court to take a variety of "corrective actions" during the course of pretrial supervision.

One frequently-expressed concern is the potential impact of comprehensive drug testing on the already crowded jails. There is an understandable fear that the knowledge that a defendant is "on drugs" will result in his being locked up. While such a possibility is real, that was not the experience in the District of Columbia. Release rates went up after the implementation of comprehensive drug testing and monitoring -- from 68% in 1984 to 70% in 1985 to 72% in 1986. The key has been the utilization of the technology of drug testing to create a more effective release option (weekly or twice weekly drug monitoring) designed to deal with the higher risks associated with active drug use.

Another impact of urine testing technology has been its role in the implementation of an intensive pretrial supervision program, aimed at providing a *safe* release option for high risk defendants who remain incarcerated after their initial bail hearing. While the program utilizes a variety of resources including a short "transition" stay in a half way house, close contact, and social services, it has been the drug testing component that has been the key to its success. During the first two and a half years of operation, 798 pretrial detainees were released to the program by D.C. Superior Court judges. Of those, 444 reached final disposition with no violations of their release conditions. Only 15 individuals, or 2% of releasees, were rearrested while under the supervision of the program. The "jail days" saved the City was 51,256. The D.C. Department of Corrections estimates the per day cost of a jail bed at \$60.00, and the City is currently contracting for jail space all over the country. Thus, the 51,000 jail days saved represent real savings in the range of three million dollars. Just as important, it has also been shown to be a *safe* alternative to incarceration, given the heavy dose of supervision and support services. This cost effective program could not operate without the drug testing component. The "track record" of the program in responsibly addressing both public safety concerns and jail crowding demonstrates, in my view, the real value of drug monitoring.

Policy Implications and Directions for the Future

We now know a great deal about the association between drug use and violent crime. We know, for example, that among offender populations, multiple drug use is often associated with high rates of criminal activity. We also know that drug addiction tends to be a long term, episodic phenomenon, where periods of relative abstinence from drugs are associated with lowered rates of criminal activity, and vice versa. Finally, we know that court-mandated treatment is more effective in reducing drug dependence (and lowering rates

of criminality) than is voluntary treatment, and that when court-ordered treatment is enforced with regular urine monitoring, the results are even more favorable.

On the surface, this might suggest we either "incapacitate" drug users by locking them up, or send them all to quality treatment programs, and insist they stay there. On closer examination, however, it becomes evident that no matter how one feels about these options, the system simply does not have the capacity to incarcerate or treat more than a small percentage of the problem. The fact of the matter is that an average of 100 new cases *every day* are coming in to Washington's court system. With 60 to 75 of those cases known to be drug (primarily "crack") users, it is unrealistic to expect to find either a jail cell or a treatment slot for such a high volume.

What is needed to avoid a complete collapse of the system is, first, to re-think our way of doing things. Traditionally, we have used an "all or nothing" approach. At the various release points throughout the system, the alternatives are to release or detain. If released, the alternatives tend to be "do nothing" or revoke release. When confronted with the magnitude of the drug abuse problem, we can no longer afford to use our scarce resources in such an inefficient manner.

The experience of the D.C. Pretrial Services Agency in the monitoring of pretrial releasees through drug testing offers encouragement to the approach of drug monitoring *as a condition of release*. Monitoring alone, when set up to include quick responses to violations has proven at least as effective as treatment for many, when one looks at overall rates of pretrial misconduct. I am not suggesting that monitoring be viewed as a *substitute* for treatment. Rather, I am suggesting that both jail space and quality treatment are expensive, scarce commodities. We should begin to look for ways to allocate them more effectively. Ongoing drug abuse monitoring is perhaps the best means of selecting those who really need treatment or jail. It also is a workable means of supervising vast numbers of releasees.

As useful as the D.C. program of drug testing has been, I think there is still room for improvement. We plan to run a pilot program where defendants who report for testing as a condition of release are provided *immediate feedback* as to the results. I think we can do more in the area of graduated sanctions -- creative and escalating responses to continued drug use, and perhaps a lessening of restrictions as a "reward" for compliance.

When carefully implemented, criminal justice drug testing serves important goals of the judicial system. It enhances judicial decision-making by providing better, objective information. It can lead to more effective supervision options that yield significant benefits in terms of public safety. When used intelligently, it can contribute to a more rational process for allocating our scarce treatment capacity, and our scarce jail capacity. While not cheap, and certainly not self-implementing, it is *potentially* more cost effective than any of the alternatives.

Thank you for the opportunity to appear before this Committee today. I will be happy to answer any questions.

Mr. SCHUMER. Mr. Kleiman, we will have to leave to vote in about 5 minutes. Would you like to summarize your testimony in 5 or would you want us—why don't you start anyway and let's see how far we go. I am just telling you that I will leave in 5 minutes and then come back a half hour later.

Mr. KLEIMAN. Actually, maybe it makes more sense to suspend and do it in one lump if we are going to come back anyway.

Mr. SCHUMER. Either way. I am just concerned about your time constraints. "I am chairman of the board. Time is all I have," you know, as they say in "Citizen Kane."

OK, then why don't we break and I cannot tell you—it depends how long each 5-minute vote actually takes, but what we will do is we will resume 5 minutes after the fourth set of bells, which should be approximately at 5 o'clock or 5:05.

Thank you. The subcommittee is in recess.

[Recess.]

Mr. SCHUMER. The hearing will come to order and before we broke, Mr. Kleiman was about to testify so, again, like every other witness, your statement will be read into the record and you may proceed as you wish.

STATEMENT OF MARK A.R. KLEIMAN, KENNEDY SCHOOL OF GOVERNMENT, HARVARD UNIVERSITY

Mr. KLEIMAN. Thank you, Mr. Chairman.

It seems to me there have been two questions addressed today. One is the statistical question of how many hardcore drug users there are, and the second question is what to do about that subset of the hardcore drug users who are also property or violent offenders or drug dealers? I don't have a lot to add to the statistical question except to make two points.

One is that I think what we have heard today ought to thoroughly discredit the household survey as a valid scorecard for national drug policy. I think it is very distressing that five out of the nine targets that Mr. Bennett has set for us are based on that survey.

Not only do we have the sample—what the statisticians call the sample bias issue—that is to say, we are not catching people who are users in that survey—and that is not—it has always been true, but it gets more true as the social status of drug use falls in the society.

The drug users fall below our radar horizon, drop off our scope, and therefore, it is not just that the household survey isn't a very good measure, it is a less and less good measure over time.

The second issue is a response issue. Twenty to 25 percent of the people who are asked to participate in the household survey refused. It seems very implausible that the rate of refusal is uncorrelated with the rate of drug use.

In addition, since we don't take urine, hair, or lie detector tests, we have to assume a certain amount of underreporting even by those who do participate. I would expect that that rate of underreporting would increase with increasing intolerance, that is, the 1988 household survey was in the field when Judge Ginsburg was being denied a seat on the Supreme Court for once having smoked a joint. My guess is that the fraction of people who were marijuana

smokers who would admit that to the nice man from the Government who knocked on their door decreased between 1985 and 1988 and, therefore, any estimate of the actual number of marijuana users in the population is very hard to reach.

That much on that question, I want to concentrate on the other question which is what to do with those people who are heavy drug users and also assailants, thieves or drug dealers. Now, that is often confused with the question of drug testing for the wider population, some of the things that Dr. DuPont was talking about.

Those are very different propositions. I think one of the reasons there is some resistance to drug testing of offenders is that it becomes conflated with the question of drug testing employees or, as we heard from Dr. DuPont, tenants of housing projects or recipients of welfare. I think there is a big difference between the proposition that says somebody who is using his unit in a housing project to be a crack dealer ought to be kicked out for the benefit of all of the other people in the housing project—it seems to be very plausible—and the proposition that we ought to go through all our housing projects and kick out anybody who has ever used marijuana, which seems to me a lot less plausible.

It seems to me that there ought to be distinctions between drug users who get in other people's face and drug users who don't. I have a long calculation in my testimony, which you can review if you like, about the—one reason to pay serious attention to the offender population, compared to the school teacher population, is because we care a lot more. They do a lot of damage.

The second reason is the problem of false positives. The problem of false positives within the offender population is relatively slight because the true positives are sufficiently numerous. The problem with false positives—we heard that there were 100-and-something positives among 22,000 Transportation Department employees. That number alone casts some doubt among the validity of even those positive findings.

So that is the reason I want to focus on testing offenders and not follow everybody around with a urine bottle.

So, let's think about the design of an ideal testing program. First off, we identify people at intake. If there are constitutional problems with—as I gather Mr. Carver has found that there haven't been—but if there were constitutional problems with requiring people to take a test as a condition of bail, you could say, OK, you can take a test voluntarily or we will assume what the result was. So everybody who flunks the test or refuses the test, plus everybody who had already been arrested for possession, plus everybody who has tracks, is now in the monitoring group. So that is step one.

Step two is everybody who is on conditional release, bail, probation, parole, supervised early release under a prison undercrowding system, is subject to urine testing on a randomized day basis. It is not that your day is Friday; it is that you call in every day and your number came up or it didn't come up. If it came up, you come in and you are tested. How frequently ought to vary from offender to offender based on criminal history, drug history and testing history. Somebody who submits 52 consecutive weekly samples can probably be backed off. One of the sanctions for testing positive or

missing a test ought to be more frequent testing. So that is the second issue, sanctions.

They have to be automatic and they have to be progressive, not nothing, nothing, nothing, nothing, OK, we are now going to revoke your parole and send you back to prison for 5 years, and having nothing to do with the ability of the offender to talk his way out of the problem. Either there is a mistake on the test—for example, a known cross-reaction, or it was positive or missed and if it was positive or missed, no, we are not interested in excuses. These guys are going to test us and the system has to pass. It just has to be automatic and I think that will make life easier for everybody.

A fully working system could help relieve prison and jail crowding, just as Mr. Carver indicated, by letting judges be looser in letting people out. Instead of the judge trying to guess whether somebody is going to behave, assume that everybody will behave until proven otherwise.

Santa Cruz County, CA, has such a system. They claim it is working well, despite a countywide lack of drug treatment capacity. There have been other studies with probation testing systems that have reported substantially less cheerful results. Somebody ought to do a formal evaluation of Santa Cruz.

We have talked a fair amount at this hearing and in the newspapers and socially, generally, about testing probationers and parolees. Very little is said about testing in prison. There was something said earlier today about treatment in prison. All prisoners ought to be tested for drugs. There is no reason that anybody should come out of prison with an existing drug habit. No technical problem. There is no constitutional problem. There is a problem of the will and the resources on the part of the warden. If they do the tests, they will know the answers. If they know the answers, they will have to do something about it. They don't have the capacity.

In particular, the investigations of how the drugs got into the prisons would be quite uncomfortable. All of the people in the corrections management business will tell you that it is lawyers and visitors who bring drugs. All of the people in the prison reform movement will tell you it is guards who bring drugs. I am sure they are both right. I think that the Federal prison system, which has a much higher ratio of management capacity to its problem than anybody else ought to be told, you start, you show us, you show the country how to keep drugs out of prisons.

We have talked about illicit drugs. We haven't talked about alcohol. I think that is a mistake. The role of alcohol in street crime, in domestic violence and, of course, in highway carnage, is well known. I think that somebody who gets drunk and beats people up ought to be put on alcohol testing, just as somebody who uses heroin and breaks into people's houses ought to be put on heroin testing.

If one of the penalties for drunken brawling were losing one's right to drink, I think the frequency of drunken brawls would drop substantially. There are some technical issues about testing for alcohol—it is not quite as easy as testing for the other drugs, but there are ways to do it, and they ought to be developed. Let's not forget that first chart that Dr. Schuster showed, alcohol is the most

widely used drug, the most widely abused drug, the drug that has the strongest link to violence of all psychoactives on the market.

The legal distinction between licit and illicit drugs is important, but it is not all-important. Let's not forget alcohol.

OK, so, I have defined what I think is a reasonable system. Why don't we do it? Some legal issues are with respect to bailees, which I am not really competent to comment on. Most of the reasons are resource and management issues.

The tests cost money. I roughly calculate that a national testing program of the kind I would like would cost about \$2 billion a year just for the tests. There are 3 million people on probation or parole and another million, I guess, on bail at any one time. Figure that half of those are going to be screened in, given a test a week at \$15, you work it out.

But if you gave the tests away for free, we still couldn't do anything with them at the moment because we have such a lack of sanctioning capacity. I think the evaluation study of the D.C. program is an example of the problem we face. Here you had a sample of people who complied and a sample of people who didn't comply and you are able to follow them on the street and see how many recidivated or failed to appear.

Now, where were you able to follow on the street a bunch of people who had defied a court order to abstain from drugs and verify that by urine testing, and the answer was because there was no capacity in the system to say, OK, you broke a court order; you are now going back inside. Multiply that by five for the post-trial. We need more prison capacity. We need more intermediate sanction capacity, labor, home confinement, you name it.

The alternatives, which are quite popular now, people are thinking about a lot, run into a problem, that they are all voluntary. They all rely on the willingness of somebody to comply with the sanction and that willingness is likely to be forthcoming only if a sanction is worth coming in the absence of that compliance. Convincing a judge who has just had to turn a second-time burglar loose on probation that he ought to put somebody in for "only" a missed urine test is very hard. It is alligators in the swamp. No matter where you start thinking about this problem, but the problem of crime and drug-dealing, you get back to the lack of sanctions capacity.

We spend about \$16 billion a year in this country on the whole corrections system, Federal, State, and local, including prisons and the alternatives. That is about a quarter of the criminal justice budget. It is about 1 percent of the GNP and, with all due respect to the late Senator Dirksen, that is not real money.

We can afford to have a real corrections system much better than we can afford not to have a real corrections system. Within that real corrections system, urine testing has an enormous role to play, but while we remain assured of corrections capacity as we now have, its potential is quite limited.

Thank you.

Mr. SCHUMER. Thank you, Professor Kleiman, that was really great testimony and you and I are going to be talking a lot in the future. I think we have sort of similar outlooks.

[The prepared statement of Mr. Kleiman follows:]

PREPARED STATEMENT OF MARK A.R. KLEIMAN, KENNEDY SCHOOL OF GOVERNMENT,
HARVARD UNIVERSITY

Mr. Chairman and Members of the Committee:

It is an honor to testify before this committee and to do so in such distinguished company. There seems little prospect of my adding anything substantial to what has already been said with respect to the statistical problem of measuring the number of hard-core cocaine users who are also thieves, assailants, and drug dealers.

I would like instead to concentrate on a distinct, though related, question: how best to exert social control over that population, whatever its precise size. This question, in turn, is sometimes confused with the question of monitoring and sanctioning drug use among employees, students, drivers, and so forth.

TESTING OFFENDERS VERSUS TESTING EMPLOYEES

But it seems to me that testing offenders is completely unlike, for example, testing schoolteachers, in three important respects.

Controlling offenders' drug use is far more important, because it contributes to controlling their predatory criminal activity. All of the studies I have ever seen strongly suggest that drug-involved offenders commit crimes at higher rates than other offenders, and that if their drug use continues their offending is likely to continue also.

Testing offenders is far more practicable than testing schoolteachers, because the rate of false positive results and all positive results will be much lower. Let me give an example using hypothetical but plausible numbers. Take a cocaine test.

or series of tests, with 99.5% specificity; that is, it will give an incorrect result on only one non-user in 200. That is all-source error: cross-reactions with other chemicals, equipment failure, computer failure, human error. If that test is applied to an arrestee population which is 60% cocaine positive, out of 10,000 testees it will find 6000 true positives (assuming it is completely sensitive) and 1/2 of 1% of 4000, or 20, false positives. Thus if someone tests positive, the chances of his actually having used cocaine will be 6000 out of 6020, or 99.67%; a figure I would take to be proof beyond reasonable doubt.

Now apply that same test to 10,000 schoolteachers. Let me assume that about 1% of schoolteachers will have actually used cocaine in the past forty-eight hours; based on the household survey self-report data, I would expect the real rate may be much lower. Thus the test will produce only 100 true positives, and 1/2 of 1% of 9900, or 49, false positives. Of the teachers found to be positive by this 99.5% specific test, fully a third are innocent. Thus this test, which was pretty close to perfect in identifying drug-using offenders, makes what seems to me an unacceptable number of mistakes in testing schoolteachers.

But the third big reason for putting our efforts into testing offenders instead of ordinary citizens is that the offenders have, by violating the rights of others, nominated themselves for intrusive scrutiny. The ordinary citizens have not. At some point, surveillance without reasonable suspicion becomes an unreasonable intrusion. Having to urinate in public to keep your job seems to me to be well beyond that point.

AN IDEAL OFFENDER DRUG-TESTING SYSTEM

Consider, if you will, the design of an ideal drug-testing system aimed at criminal offenders. It would start by identifying a group of offenders at high risk of continued drug use: those testing positive on, or refusing to take, a drug screen at arrest; those with previous convictions for drug-related offenses; and those who show physical stigmata of chronic drug use.

Whenever a person from any of these categories is free on the street but still under court jurisdiction -- on bail, on probation, or on parole or other early release from prison -- he or she would be required to submit urine specimens on a randomized-day basis: calling in at a specified time each day to be told whether his or her number had come up that day. The frequency of tests would vary with the offender's criminal history, drug history, and testing history: one of the rewards for a long series of negative tests would be reduced frequency.

Sanctions for confirmed positive tests not explained by cross-reactions would be progressive and automatic. A first missed or "dirty" test would lead to increased test frequency and some other relatively mild sanction: perhaps a curfew (enforced by electronic monitoring) or a few dozen hours of compulsory unpaid labor. (I dislike the euphemism "community service;" that honorable phrase ought to be reserved for voluntary activity.) A second failure within a month, or non-compliance with the penalty for the first, would lead to a few days of confinement, perhaps at home or perhaps in jail. Sanctions for subsequent failures

would escalate, leading eventually to a revocation of conditional-release status and a return to jail or prison.

The precise sequence of sanctions is relatively unimportant. What is crucial is that they be progressive and fixed in advance, not subject to discretion or wheedling. Offenders will test the system, as it tests them; the system must pass those tests or it becomes worthless.

Note that a fully-working system of this type could actually help relieve prison and jail crowding by giving sentencing judges some real intermediate terms between hard time and a walk. Some offenders will prove unwilling or unable to control their drug use outside of prison walls; a testing system will quickly identify them and give them the custody they demand. But others will succeed, with great benefits for themselves and reduced expenses for the rest of us.

Santa Cruz County, California, has a functioning probationer-testing system on this model, and officials there report very high rates of successful drug abstinence, even among long-term heroin users, despite a county-wide lack of drug treatment capacity. Particularly in light of less encouraging results from similar programs elsewhere, the Santa Cruz program cries out for a formal evaluation.

TESTING IN PRISON

Ironically, we seem to be making more progress in testing our probationers and parolees than in testing those actually in prison or jail. It is well-known that drug use is common in correctional settings. How common is not known, because

corrections administrators have been careful not to find out. The reason, I think, is that the prospect of having to sanction prisoners' drug use and investigate the mechanisms by which the drugs enter the facilities is simply too daunting. But this lapse, though understandable, is no longer tolerable. The federal system, with more than its share of management capacity, would be a good place to start to remedy it.

TESTING FOR ALCOHOL

What I have said so far has been directed at offenders using illicit drugs. But we should not forget the role of alcohol in street crime, in domestic violence, and in the carnage on our highways. Though the technology of testing is different, I see no reason why drunken assailants and drunken drivers should not be brought under the same system as heroin-using burglars. If one of the penalties for drunken brawling were losing one's right to drink, the frequency of drunken brawls might decrease substantially. The effect on drunken driving might be even more dramatic.

BARRIERS TO PROGRESS

Given that the technology of urine testing is well developed, that persons on probation and parole may legally be required to produce specimens on demand and sanctioned for failure to abstain from use of illicit drugs, what stands between us and a comprehensive system of drug testing for those on probation, and parole?

With respect to those on bail, there are some legal questions, which I am not qualified to discuss. But for probation and parole populations, all of the problems are resource and management problems.

The resource requirements of administering the actual tests would be significant: by my rough calculations, a few billion dollars per year, and well worth it. But even if the tests themselves were free, we face a terrible shortage of all of the kinds of capacity required to punish missed or dirty drug tests. The prisons and jails are crowded, and the total capacity of the punitive-labor and home-confinement systems does not reach 50,000 persons compared with the three million who at any one time are on bail, probation, or parole.

The fact that intermediate sanctions backed up by a convincing threat of prison for noncompliance could help to relieve prison crowding does not make it any easier to convince a judge to fill a prison cell with someone who is "only" cocaine-positive for the third time when that same judge just had to release a second-offense burglar on probation. It's the old problem of the alligators and the swamp.

Wherever you start to think about the problems of crime control, eventually you come around to the imbalance between the number of people who are getting caught breaking our laws and the number of slots we have to punish them. Our current total spending on corrections is about \$16 billion per year: about a quarter of total criminal-justice spending, and about a quarter of one percent of our gross national product. With all respect

to the late Senator Dirksen, that's not real money: not when predatory crime and drug dealing consistently lead the list of domestic social problems. If we needed to add fifty percent to our corrections capacity in order to begin to get a handle on our problems -- even if we had to double it -- we can far better afford to do it than we can not to do it.

Within the context of an adequate-sized corrections system, featuring a full range of alternatives between freedom and four walls with bars, drug-testing of offenders has an important role to play. But without more corrections capacity of all kinds, its potential is sadly limited.

Mr. SCHUMER. Let me ask both of you a question just related to the professor's testimony, and then I have a few others. It relates really to George Gekas' statement much earlier, chicken and egg. Let's assume that we do the system that you have begun to try to work toward in D.C. and Professor Kleiman theoretically talks about, and it worked. In other words, we did testing of people. Let's say they are out on probation or parole or let's say we didn't send them to jail first and spend the enormous money it takes there, but instead, we tested them, but they knew if they didn't show up for the test, there would be enough capacity for them.

These people—I don't know if either of you—but you are more competent than me to answer—would they stop committing crimes? In other words—

Mr. KLEIMAN. If we scared them away from the drug use?

Mr. SCHUMER. Yes. Let's say it was successful, too. We are interested in the Georgia system, which is just what you are talking about, leveraging.

But, we have a ways to go. I am going to try to help move the country in that direction over the next few years.

Mr. KLEIMAN. Mr. Chairman, I would go for the new—I would actually be prepared to cancel a program I liked.

Mr. SCHUMER. Yes. How do you know I don't like it?

[Laughter.]

Mr. SCHUMER. But anyway, let's say we kept people drug free or at least there was a pretty significant sanction. You skip your test, you are tested positive, boom. Would they commit fewer crimes?

Mr. KLEIMAN. Yes.

Mr. SCHUMER. Many fewer?

Mr. KLEIMAN. Yes. There are two pieces of evidence on this. Unfortunately, we know a hell of a lot about heroin and—

Mr. SCHUMER. You look at Dr. Wish's survey, and you say, gee, if there only wasn't crack, things would really start working and I talked to the New York corrections commissioner and he says the same thing. In the mid-1980's, we began to really get a handle on the crime problem until crack came in. Then I thought to myself, but wait a second, maybe those same populations that Professor DuPont correctly reminds us are in terrible shape in terms of just their own self-worth, their ability to accomplish anything for themselves, you know, maybe it is dual causality. Their bad position in society leads them both to take drugs and commit crime and they would still do the one without the other.

Mr. KLEIMAN. I think we know for sure that if all of the current crack-using offenders stopped using crack, they would not commit any crime. They were committing crime before they were using crack.

Mr. SCHUMER. Right.

Mr. KLEIMAN. But I think we have good reason to believe—I mean, I would bet any amount of money that they would commit noticeably less crime, at least a third less crime—

Mr. SCHUMER. At least a third?

Mr. KLEIMAN [continuing]. At least a third less crime than they now commit and that is based upon studies of heroin users who get into methadone programs.

—Mr. SCHUMER. Right.

Mr. KLEIMAN. OK, not a perfect match, but it just—if you include in crime selling crack, but—

Mr. SCHUMER. No, let's leave that—I mean, that is what I liked about Dr. Wish's survey.

Mr. KLEIMAN. Yes, except that a lot of the ordinary crime is now deeply linked with the crack-dealing. Somebody is paying for pretty expensive habits. I think there is some evidence that—it is actually amazing if you think about it, given the explosion in crack use dwarfs anything heroin ever was in dollar terms.

Mr. SCHUMER. In dollar terms as well?

Mr. KLEIMAN. Oh, yes. Heroin was an \$8 billion a year industry, at one point, maybe 12. I am doing this all in constant dollars, in today's dollars. I think crack is probably a \$20 billion industry.

Yet, that has been financed without an increase in property crime. There has not been an increase in property crime in the 1980's. It looks to me like heavy crack use, crack use by the sort of people who used to be heroin addicts, is largely financed by crack-dealing.

But then you get all of the violent backlash from crack-dealing. I don't think there is any doubt that—

Mr. SCHUMER. In my neighborhood, since crack came in, and I represent a middle-class area at the southern part of Brooklyn, crime has gone way up, and the two crimes we see that have gone up, one is mugging people; the other is not stealing cars, but vandalizing them and trying to take out the radio, looking through the glove compartment, taking out my daughter's car seat—

Mr. KLEIMAN. Something you can sell for \$5 to get another rock.

Mr. SCHUMER. Right. Get quickly. It doesn't take a lot of planning.

Mr. KLEIMAN. If you think about how valuable \$5 is to somebody who would like another rock of crack, it seems very impossible that that doesn't generate some additional criminal activity.

Mr. SCHUMER. Right.

Mr. KLEIMAN. Those folks are not going to turn into Rotarians when they get off crack.

Mr. SCHUMER. Right.

Mr. KLEIMAN. But they are going to commit fewer crimes, even if they switched to alcohol. The pharmacological crime may be no less, but the economic crime will be less.

Mr. SCHUMER. Do you have something to say on that question, Mr. Carver?

Mr. CARVER. I agree with Professor Kleiman. I am familiar with some of the long-term heroin studies. Again, I share the skepticism that Dr. Kleiman mentioned about the generalizability of heroin studies to the crack problem but the long-term studies show that if, through the coercive power of the court, you can keep people off drugs through whatever method, fear or whatever, the associated rates of crime do go down.

I don't know if that really answers the question of which comes first, but from a practitioner point of view, it is useful. I also share Dr. Kleiman's concern about sanctioning philosophy. I think that is the key issue. It is something that I have given a lot of thought to.

In the District of Columbia, we have tried to encourage a system of swift and certain sanctions and even thinking in terms of jail, I

think that there are ways to use jail as kind of a short-term proposition, as kind of an intermediate sanction and then, from there, use increasingly lengthy terms of jail for repeated violations. That is one of the reasons that we have encouraged the judges in our jurisdiction, through our recommendations at violation hearings, not simply to revoke release, because what happens when you revoke release? They have to set a money bond. If the guy has the money, he is back out and there is no sanction. Rather, we have encouraged the judges to use their contempt powers. After a due-process hearing, people can be held in contempt if the evidence warrants that and sentenced to a short, but certain jail term, followed by rerelease.

I think that even with the ultimate sanction of jail, we can use that sanction more efficiently than certainly we are accustomed to up to this point.

Mr. SCHUMER. Two other questions for Mr. Carver spurred by Professor Kleiman's testimony. Number one, how did you convince whoever to pay for this, because it is expensive when you figure it, and second, you only test them right at the beginning, correct? You don't test them throughout?

Mr. CARVER. We test them throughout the pretrial period—

Mr. SCHUMER. But just the pretrial—

Mr. CARVER [continuing]. And we also test juveniles and we test juveniles throughout the preadjudication period, as well as probation. We do not test adult probationers, no.

Mr. SCHUMER. OK.

But how much does the pretrial cost and, second, is it really cost-effective? How did you sell it to a system starved for resources?

Mr. CARVER. First of all, we had the benefit of some Federal seed money to get it up and running initially. Second, when it came time to sell it, it collected kind of an interesting coalition of interests. On one side of the spectrum, you have what you might call the prosecutorial types who view any method of control as a plus. On the other side, we really were using it as a means of creating release options that had not existed up until that point and, as a result, we were able to document the fact that the overall release rates actually increased. In 1984, it was at 68 percent; in 1985, it was at 70 percent; in 1986, it was at 72 percent. So it came to be seen by our legislators, the D.C. Council, as an effective alternative to building more jails and, for that matter, we were able to document the effect of monitoring on the whole community safety issue.

I think the combinations of those things made a very strong argument for funding it and, in fact, when Federal funding expired, this program was picked up lock, stock and barrel at a time when everybody else was being cut.

Mr. SCHUMER. How much is it a year?

Mr. CARVER. We are spending now probably \$700,000 or \$800,000 just on the drug-testing component. The budget of the agency is about \$3.5 million, so this is a fairly substantial piece of our overall operation.

Mr. SCHUMER. Right.

One other question for Professor Kleiman. I agree with the way you ended your testimony, but you do get in society—and this is not just from your knee-jerk liberals—the view, gee, isn't it a terri-

ble commentary that we will have such a high percentage of our population in prison or in the criminal justice system, even? How do you answer—I mean, there is something that does rub against the American grain. I know the alternative is worse, but still, what the other side would argue would be, well, figure out how to make sure that not that many people end up in the criminal justice system to begin with.

Mr. KLEIMAN. It is certainly a terrible commentary on our society that such a large fraction of our population is prepared to do something that is forbidden by the law.

Mr. SCHUMER. Right.

Mr. KLEIMAN. Why that is so, I think is complicated. I think actually some of the features of American society that we are proud of, geographic and social mobility, the lack of a truly hereditary class structure, make income-producing crime far more attractive here than it would be in other societies. But still, it is a terrible commentary and it is certainly not a good result to have an increasing fraction of our population under correctional control.

Two things to say about that. One is that I think that the enormous crime rate now has something to do with the failure of delivery on our correctional promises in the past, and I think that if the probability of some sort of punishment for a crime were higher than it is now, the numbers of crimes would be less. Therefore, it is not obvious to me, if we had the amount of capacity that I think we need to have today, that in the long run, we would wind up using it. Maybe in the long run, the consequences of having adequate capacity is not needing it. That is fine. We can turn the prisons back into military bases. Particularly, if a lot of the capacity we build is for intermediate sanctions, that doesn't physically exist at all.

The second thing to say is that if you take seriously the question, how could we regenerate the social and economic conditions in underclass neighborhoods, I think the answer has to start with controlling drug-dealing and predatory crime. How could you conceive of regenerating Detroit without getting a handle on the crime problem? I don't think factories are going to move back into the innercities.

If you think about places you would like to build——

Mr. SCHUMER. Education and job training and things like that.

Mr. KLEIMAN. All useful things, but I doubt that you could run a very good education system if there is a crack dealer on every street corner going away from the school, and even if you had a well-educated work force and good transportation connections and an infrastructure already built—I just described the South Bronx. I don't see factories moving in to what ought to be the world's most valuable industrial park.

So I think that the analysis that says if we work on crime control directly, we will have to put too many people in prison—let's work on social and economic conditions as a way of getting at crime control—I think you come back to the fact that you need crime control as a way of getting at those social and economic conditions.

If you look at the fraction of people who are in the prison system, who themselves have been victims of serious crime, it is—I think that that turns out to be the answer.

Mr. SCHUMER. OK. I want to thank both of you gentlemen. This was excellent testimony.

This was a great hearing, I think, and it was a good start for our committee as we look at this system. We are going to be wanting to talk to both of you again, both as witnesses, but also just privately, so I hope you will make yourself available.

I want to thank our court stenographer, who bore with us and is here later than I guess he thought he would be, Mr. Larry Teter, and all the staff and everyone else for their help.

The hearing is adjourned.

[Whereupon, at 5:50 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

**OVERSIGHT HEARINGS ON EMERGING
CRIMINAL JUSTICE ISSUES
(Statistics—The Policy Implications of What We
Don't Know)**

THURSDAY, APRIL 19, 1990

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIMINAL JUSTICE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:32 a.m., in room B-352, Rayburn House Office Building, Hon. Charles E. Schumer (chairman of the subcommittee) presiding.

Present: Representatives Charles E. Schumer, George E. Sangmeister, and Michael DeWine.

Also present: Don Goldberg, professional staff member; Teresa Faunce, clerk; and Raymond V. Smietanka, minority counsel.

Mr. SCHUMER. The hearing will come to order.

Let me say I wish everyone good morning and welcome you to the second in our series of hearings on emerging criminal justice issues. This one we have given the title "Statistics—The Policy Implications of What We Don't Know." The genesis of this hearing occurred when I simply asked my staff to calculate some statistics on what I considered very rudimentary things that I ought to know as the new chairman of the Criminal Justice Subcommittee, things, it seemed to me, one would have to know.

For example, I wanted to know what the average punishment was for a crime in my district versus, say, a crime in a small, up-state community of New York or another State. I wanted to know how many. I simply asked if a chart could be composed: In various States and various localities, how many crimes committed, how many people arrested, how many people indicted, how many people convicted, with trial, without trial, how many people went to prison. It seems me that is the guts of what we are talking about when we talk about the criminal justice system.

I asked CRS to do this—I didn't think it was a major research project but just a compilation of statistics—and they came back and said, "We don't have those kinds of statistics." Now that, to me, is utterly amazing. Detailed statistical data on crime rates, convictions, sentences, recidivism, and other useful categories are not available. No wonder we can't win the war on crime. We don't know what is happening out there in any kind of broad way. Even

what is available, because there is such rudimentary knowledge, seems to be inconsistent.

As we learned at our first hearing, estimates of drug use in the population measured by two different Federal agencies are different. One says they are going up; one says they are going down. The National Institute of Drug Abuse shows drug use going down among the general population, while the National Institute of Justice forecasts a much higher amount of drug use, at least in the criminal justice system.

Likewise, uniform crime reports collected by the FBI, which is a census of reported crimes, show a different trend than the victimization surveys conducted by the Bureau of Justice Statistics. There may well be reasons for these differences, statistics are not always consistent, but they don't make the policymakers' job any easier.

As an aside, the policymakers aren't the only ones who have been confused. I have been told that the annual NNICC report—the National Narcotics Intelligence Consumers Committee, comprised of a whole bunch of Federal law enforcement officials and intelligence agencies; these are the Federal Government's estimates of drug imports and consumption—won't include any estimates for cocaine. Presumably this is because agencies that contribute to the report can't agree on their cocaine estimates.

The bottom line is that policymakers don't have information that we need to make sensible decisions on policy for crime, nor can policymakers make meaningful resource allocation decisions or future predictions on the need of the criminal justice system.

Polls show that crime and the economy are the two most important issues to most Americans, so let me draw a comparison between the two. With the economy, we have the Labor Department's Bureau of Labor Statistics. It has a staff of well over 2,000 people, an annual budget of \$240 million, and it does an excellent job of measuring all sorts of economic indicators. When the Bureau of Labor Statistics says something, people know it is true. Markets go up and down, waiting for those statistics to be announced.

For crime, the lead agency is the Bureau of Justice Statistics. It has a staff of 50 people, a budget of about \$20 million, less than one-quarter of 1 percent of what we spend at the Federal level for the war on drugs and a minuscule proportion of what we spend as a nation on law enforcement in general. It is no wonder we have such an incomplete understanding of what is going on. It is no wonder that, as crime becomes more and more important an issue to people, we keep fighting the same battles, we keep arguing the same things. It is because we don't know what is going on; we are sort of stuck.

I don't know; this bothers me probably more than it bothers the average person, but what we do know, what we don't know, what are the implications of not knowing, these are some of the issues we are going to address today. To do so, we will hear from the General Accounting Office, which, at the subcommittee's request, has been examining statistical collection efforts of the Federal Government. We will hear from both the FBI and the Justice Department's Bureau of Justice Statistics, and we will have a panel of experts who represent State agencies and the academic community.

Our first witness this morning will be Lowell Dodge, but first I would like to ask my colleague Mike DeWine, if he would like to make any opening remarks.

Mr. DEWINE. No opening statement, Mr. Chairman. I just want to congratulate you for holding the hearings, and I look forward to listening to the testimony.

Mr. SCHUMER. Thank you.

Our first witness today is Lowell Dodge. He is a Senior-Associate Director with the General Accounting Office in this area.

Mr. Dodge, your entire statement will be read into the record. I know that we have asked you to do some work on this, and we very much appreciate your interest, your work on this, and your being here this morning. If you would, just for the record, introduce your two associates and then proceed as you wish.

STATEMENT OF LOWELL DODGE, DIRECTOR, ADMINISTRATION OF JUSTICE ISSUES, GENERAL GOVERNMENT DIVISION, GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY RICHARD M. STANA, ASSISTANT DIRECTOR, GENERAL GOVERNMENT DIVISION, AND HORACE KREITZMAN, SUPERVISORY INDUSTRIAL ENGINEER

Mr. DODGE. Certainly, Mr. Chairman.

With me, on my left, is Rich Stana, who is the Assistant Director in overall charge of this review, and, to my right, Horace Kreitzman, who captained this particular review from beginning to end.

We are pleased to be here, Mr. Chairman, to discuss the results of our review of State criminal statistical systems and, Mr. Chairman, the need for complete, current, and accurate statistics on crime and on the actions taken in response by law enforcement agencies and by the criminal justice system in general is universally recognized, and it is just as widely recognized that, despite the hard work of many dedicated people over the years, the programs we have in place to generate these statistics have significant shortcomings.

I would like to set the stage briefly, before getting into these shortcomings, with a few words on the programs in place. On page 5 of our statement, Mr. Chairman, we seek to set out on one page the units responsible at the Federal level, the primary ones bureaus, all bureaus in the Department of Justice, for collecting and bringing together and disseminating crime data. The chart also lays out their principal programs, the data tracked by each, and the sources that they rely on for each.

But rather than reciting the elements of this chart, let me move immediately and directly to the next page, page 6, on which we seek to show how these programs relate to the various stages and steps in the criminal justice process, moving from the crime incident at the top of that row of boxes in the middle of the chart down through the repeat offense at the bottom of the chart. We found this way of depicting the programs, Mr. Chairman, useful in several respects.

One fundamental condition that you will see is obvious: The process that we seek to capture in the data can cover as many as nine distinct steps, from running from the incident through the

repeat offense, and can involve a range of institutions, each with its own priorities other than that of collecting data, and that this process can be spread out over many years as we follow an offender through from beginning to end.

The second point that is obvious from this way of looking at it: Although we don't show this in its full detail on the chart, the data to be collected through this system originate at thousands of points in the law enforcement community, in the courts, and in the correctional institutions.

Then we go on further to show, in the symbols on the chart that are represented by circles, the fact that the data brought together by these various points of data collection at the State level come to usually two, sometimes more than two, points at the State level rather than to a single statewide data base, and at the Federal level we note that all of the efforts to roll this data up end up, as shown on our chart here, on two different sides of the chart. The left side reflects what the FBI has had in place for a number of years in its Uniform Crime Reporting System and NIBRS, and you will note that that system draws primarily from the upper end of the process, as we show it, focusing primarily on crimes and then arrests. Then, on the right side, we show the work of the Bureau of Justice Statistics, a much younger agency and a much newer set of efforts, but it does seek to take a much more comprehensive look at the total process, as you can see from the arrows as we draw them; it draws data pretty much from the top to the bottom of the process.

Now, Mr. Chairman, even given the challenges that we see as inherent in the process and the complex institutional arrangements that are reflected, we and others believe that these systems fall far short of what might reasonably be expected. I would like to turn briefly to the problems that we have highlighted in our statement, one at the Federal level and then moving to four at the State level.

At the Federal level, as you can see from the chart, we have two very separate national criminal data systems for rolling up crime data, and, as we show on a second chart, which we will put on the stand now, which also appears on page 9 of our statement, these systems have not been producing consistent results in recent years. The Uniform Crime Reporting Program—UCR—FBI's 60-year-old national network for rolling up actual crime reports, is shown on the dotted line, and on the solid line we show the national crime survey, which is the Bureau of Justice Statistics' effort, which they farm out to the Census Bureau, which covers approximately 50,000 households and 100,000 individuals, looking both at reported and unreported crime.

Our review of these data bases found a disparity in the levels of reported crime. For the purposes of this comparison, we looked only at reported crime and not unreported crime, to come as close to getting an apples and apples comparison as we could. Figure 3 shows the comparison from 1979 through 1988. The data reported by these programs do track fairly well through 1984, but from 1984 through 1988 the UCR data show that reported crime increased by over 17 percent while the NCS data show that reported crime increased by less than 4 percent over the same period.

We worked a bit with BJS statisticians in their efforts to make adjustments and to account for variations that might explain these differences, but even in that effort, while the trend lines came closer, the UCR data still showed a much steeper increase.

But the existence and the reasons for these inconsistencies are not generally made clear to the interested public in DOJ literature. If anything, that literature seeks to minimize the differences, and this concerns us. We are particularly concerned that we may have a pair of programs here with similar objectives reporting disparate results that could lead to a situation where policymakers might embrace one report or the other, whichever supports their particular point of view.

Now moving to the fundamental problems that we found at the State level, the first is the very serious and significant problem of data quality. The research that we have looked at shows that the extent of the data problem—and this is primarily in the criminal history records at the State level—is a serious one, particularly with respect to the results of reflecting court dispositions in the data.

A 1989 report by the SEARCH Group, Inc., which is a BJS-sponsored research organization in Sacramento, CA, and which is a fountain of information in this whole area, looked closely at this problem in the course of offering strategies for improving data quality. Their report states in its introduction that the data quality problem is a serious one as it affects the criminal history records in the States. The reportable actions and decisions, particularly court dispositions, are often missing from criminal history records, and information that is recorded may be recorded inaccurately. The SEARCH Group concluded that criminal justice decisionmaking and research and statistics that rely on these criminal history records may well be compromised.

Compounding this problem is the lack of validity checks done on State crime data that reside in the CHR repositories. In its 1989 report, the SEARCH Group stated that although Federal regulations require annual audits, at least of the central State repositories, and representative samples from contributing criminal justice agencies, only a few States have performed extensive audits which actually seek to match the data in the system with the underlying documents.

We discussed our concern about this with State officials in Illinois, Rhode Island, and Texas, who indicated to us that comprehensive data quality checks are not routinely performed in their States to assure that reported data accurately reflect the information contained in the source documents.

Moving to a second problem, a second related problem, with State crime statistics is the lack of completeness. Again, a survey by the SEARCH Group reported in December 1984, in looking at all of the State CHR repository operations that reported—and that was in 47 States—found that only 50 percent of the arrest and prosecution dispositions were reported to the CHR repositories and, further, that it was difficult to make a linkage between arrest and conviction data. By extension, the linkage problem also applies then to sentencing information and to incarceration data.

Some law enforcement agencies do not provide complete data for all reporting periods even to the FBI, although one would expect that the FBI, having been in this business for 60 years, would have gotten to the point where it would get consistent reports from most States.

For example, due to reporting problems at the State level, the FBI received no usable data from law enforcement agencies in Florida and Kentucky for the 1988 UCR reporting period. The FBI estimated then the criminal offense totals for those two States for the purpose of computing national crime trends. FBI officials said that similar instances occasionally occur with other locations and data items, and, as we previously mentioned, it is too early to tell whether the NIBRS data quality component—the NIBRS system is a refinement on UCR which has emphasized data quality from its inception—it is too early to tell whether the NIBRS emphasis on quality is going to completely correct this problem.

A third problem, Mr. Chairman, is the lack of consistency that we have noted in State crime data, to some extent caused by differences in penal code definitions from State to State. A significant definitional problem arises, for instance, because as basic a term as the term "felony" is not uniform either in its usage or in its definition.

Another example of definitional inconsistency involves the crime of rape. UCR defines rape as a crime against females. The State of Illinois, for example, however, has defined the crime as a gender neutral event, the crime of rape.

To avoid using inconsistent data, UCR does not use rape data reported by Illinois for computing national trends. Instead, the FBI estimates the number of rapes in Illinois using national data per 100,000 people within eight population groups. NIBRS, we hope, will be able to delineate the gender of rape so that this problem should disappear after NIBRS is fully implemented.

A fourth problem, and the last one we feature in our full statement, is the slow progress in automating State CHR repositories. Even though most students in this area look to automation as the single most important tool for achieving better data quality, we still see low levels of participation of States in the BJS offender-based transaction statistics system, which is a program that requires automation, a certain level of automation, in State CHR repositories as a prerequisite for participating in the system, including that data reasonably represent the State's criminal justice experience, capability for mechanized extraction for the OBTS data, and data coded to facilitate extraction. But at this point, only 14 State CHR repositories have these required capabilities and have volunteered to participate in the system. Some of them are still coming on board this year.

BJS seeks to encourage this process by providing up to \$10,000 to help States in upgrading their CHR repository automation projects and up to \$2,000 for annual data submissions. Mr. Chairman, I don't think these amounts pass the laugh test, and it is questionable whether they—

Mr. SCHUMER. I just asked if they were for snacks.

Mr. DODGE. We really question whether these amounts are sufficient to induce more States to participate.

One would hope that the arguments in favor of automating this whole operation speak for themselves, but you can't help but run up against the resource question as you look into this, even to the summary extent that we have in our review.

NIBRS implementation by the FBI also appears to be affected by inadequate automated State record systems, and currently the FBI expects 27 States to be participating in NIBRS by the end of 1990. However, full implementation is being delayed because some States do not have the software to properly extract data from their criminal history files while others have insufficient reporting by local agencies and files not designed for statistical extraction or other local resource constraints.

So, Mr. Chairman, this leads us, in closing, to raise a pair of broader questions, important questions about Federal efforts to improve State crime data. The first: What can be done to do more to forge a consensus on the elements of data that would make up a core of consistent and reliable State data for measuring crime? And the second question: How much Federal funding is needed, and how much should the Federal Government be willing to pay to improve automated data collection and reporting efforts at the State level?

Resolving these questions, even resolving them at the Federal level, will not be easy, but we do believe that resolving them is a fundamental responsibility of the Department of Justice and that they need to do so to make State crime statistics more reliable and valuable to their users.

This, Mr. Chairman, concludes our prepared remarks, and we would be happy to respond to your questions.

Mr. SCHUMER. Thank you, Mr. Dodge, for your excellent testimony.

[The prepared statement of Mr. Dodge follows:]

PREPARED STATEMENT OF LOWELL DODGE, DIRECTOR, ADMINISTRATION OF JUSTICE
ISSUES, GENERAL GOVERNMENT DIVISION, GENERAL ACCOUNTING OFFICE

The need for complete, current, and reliable information on the operations and results of criminal justice systems has long been recognized by law enforcement officials, prosecutors, the courts, academicians, and other interested parties. In 1930, Congress authorized the Attorney General to gather crime information, including data on state and local crime, to assist the operations of federal, state, and local law enforcement agencies. Today, two Department of Justice Agencies -- the Bureau of Justice Statistics (BJS) and the Federal Bureau of Investigation (FBI) -- routinely collect, analyze, and report state crime statistics. The Bureau of Justice Assistance (BJA) also collects and publishes data the states compile for their drug strategies.

BJS and the FBI have programs designed to compile state crime statistics and the results of the criminal justice process. GAO found, however, that using BJS and FBI statistics on the level of reported crime without making adjustments for differences in how the statistics are constructed can lead to inconsistent conclusions.

GAO also found that problems exist with the quality, completeness, and consistency of state criminal history systems, which in GAO's opinion limit their usefulness. Compounding these problems is an inadequate automation capability in many state criminal records repositories which precludes the efficient collection of state crime data by the Department of Justice. Even though these problems have been widely reported, they are not easily resolved and can be expected to continue for the foreseeable future.

The data reliability problems raise important questions about federal efforts to improve state crime data:

- What can be done to forge a consensus on a core of consistent and reliable state data for measuring crime?
- How much federal funding is needed, and how much should the federal government be willing to pay, to improve automated data collection and reporting at the state level?

Resolving these questions will not be easy. However, GAO believes the Department of Justice needs to do so to make state crime statistics more reliable and valuable to their users.

Mr. Chairman and the Members of the Subcommittee:

We are pleased to be here to discuss the results of our review of state crime statistics. Last December, you asked us to examine the availability, responsibility for collection, and reliability of these state crime statistics. In February, we briefed your subcommittee staff on the status of our work and were asked to summarize our results for today's hearing.

To assess the efforts to compile state crime statistics, we reviewed reports and documents from and interviewed officials of the Bureau of Justice Statistics (BJS), the Federal Bureau of Investigation (FBI), the Bureau of Justice Assistance (BJA), the Criminal Justice Statistics Association (CJSA), and state officials having knowledge of the criminal history records (CHR) repositories in Illinois, Rhode Island, and Texas. We did our work in January and February, 1990.

FEDERAL EFFORTS TO COMPILE

STATE CRIME STATISTICS

The need for complete, current, and reliable information on the operations and results of criminal justice systems has long been recognized by law enforcement officials, prosecutors, the courts, academicians, and other interested parties. At the state and

local levels, such information plays an important role in assisting with police investigations and in making prosecutive, sentencing, and correctional decisions. At the federal level, such information is used as a basis for distributing federal funds and targeting federal programs to address identified problems in the criminal justice system. State crime statistics are also important to criminal justice scholars who examine the incidence of crime and law enforcement efforts designed to address it.

Today, two Department of Justice bureaus -- BJS and the FBI -- have programs to routinely collect, analyze, and report on state crime statistics. BJS, which is organized within the Office of Justice Programs, is the Department's primary statistical component. BJS has a National Crime Survey (NCS) program in which individuals from a representative sample of households are interviewed by Bureau of the Census personnel (on a cost-reimbursable basis) on the reported and unreported crime they experienced. BJS also has the Offender-Based Transaction Statistics (OBTS) program, the National Judicial Reporting Program (NJRP), and the Correctional Statistics Program (CSP) which collect and analyze a wide range of state crime data on arrests, prosecutions, convictions, sentences, and incarceration. Data for these programs (except NCS) originate from state criminal history records (CHR) repositories, state and local law enforcement agencies, state courts, state corrections agencies,

or inmate surveys. In addition, BJS has an Expenditure and Employment (E & E) program which tracks criminal justice expenditure and employment levels in state and local law enforcement agencies, courts, and corrections agencies.

The FBI collects and analyzes data on reported crime and arrests from state, county, and local law enforcement agencies through its Uniform Crime Reporting (UCR) program. The FBI is now implementing a new system, the National Incident-Based Reporting System (NIBRS), which will expand data currently reported in UCR from eight categories of crime to 22 categories, and expand the reporting of significant details about the offenses, the arrestees, and the victims. One of the new categories in NIBRS will track drug/narcotic violations, which will enable the FBI to report on drug crime. The FBI's latest estimate is that full NIBRS implementation will take from four to five years.

A third bureau, BJA, has a limited role in the compilation of state crime data. BJA, which is also organized within the Office of Justice Programs, collects and publishes summary statistics as reported by the states on the nature and extent of the drug problem and the status of efforts to control it. States are encouraged to provide summary statistics to BJA as part of their drug control strategy statement, which is required for BJA funding. BJA provides a data format which requires the states to use much of the same or similar data already collected and sent

to the FBI. BJA also collects specific information on arrests, convictions, and sentences relating to the manufacture/cultivation, possession/concealing, and sale/distribution of illegal drugs. When NIBRS is fully implemented, BJA may be able to obtain drug crime data directly from the FBI.

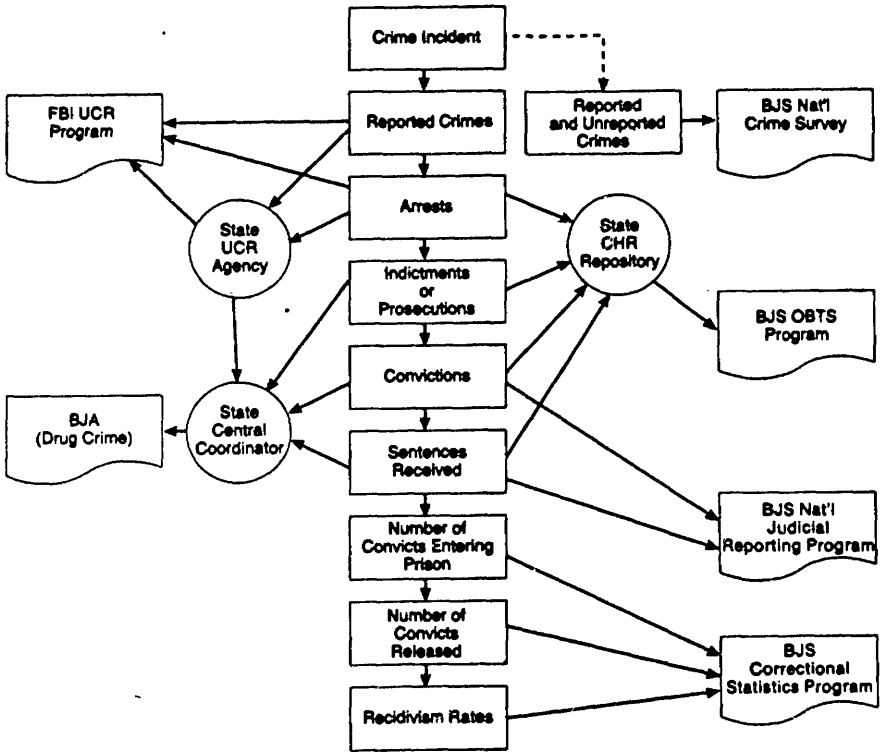
In addition to these bureaus, the Criminal Justice Statistics Association (CJSA), a nonprofit professional association located in Washington, DC, and funded by BJS and BJA, is involved in the analysis and reporting of state crime data. CJSA coordinates state Statistical Analysis Centers (SACs), provides technical assistance to address state and local crime-related policy issues, and maintains a clearinghouse of state policy resources called the Computerized Index to Data Sources (CIDS). In addition, the Department of Justice uses at least four other clearinghouses or data centers to store and distribute its reports.

Figure 1 provides an overview of the major Department of Justice programs designed to collect state crime data. Figure 2 shows the steps in the criminal justice process for which Department of Justice bureaus collect state crime data.

Figure 1: Major Department of Justice Programs for Collecting and Reporting State Crime Data

Bureau	Program	Type of Data Contained	Source of Data
Bureau of Justice Statistics	NCS - National Crime Survey	Crimes reported and not reported to police	101,000 individuals based on representative sample of 50,000 households
	OOTS - Offender-Based Transaction Statistics program	Felony arrests and subsequent prosecutions, convictions, and sentences	16 state CBR repositories currently participate
	NJRP - National Judicial Reporting program	Persons convicted of felony crimes, types of crimes committed, and type and length of sentence	State court data from a nationally representative sample of 300 counties
	CSP - Correctional Statistics program	Prison population, prison characteristics, inmate profiles, and post incarceration records	State courts, state corrections agencies, and inmate surveys
	E & E - Expenditure and Employment program	Tracks employment and funding levels for police, courts, and corrections agencies	Special sample of state and local governments, and federal records
Federal Bureau of Investigation	UCR - Uniform Crime Reporting program	Crimes and arrests reported to state, county, and local police	16,000 state, county, and local police through 42 state UCR agencies
	NIBRS - National Incident-Based Reporting System	Expands UCR with details about offenses, the arrestees, and the victims	FBI expects 27 states to participate by FY 1991
Bureau of Justice Assistance	Data submitted by states in their drug strategies	Arrests, prosecutions, convictions, and sentences pertaining to manufacture, possession, and sale of illegal drugs	State agencies

Figure 2: Steps in the Criminal Justice System for Which DOJ Bureaus Collect State Crime Data



CAUTION NEEDED WHEN INTERPRETINGUCR AND NCS DATA

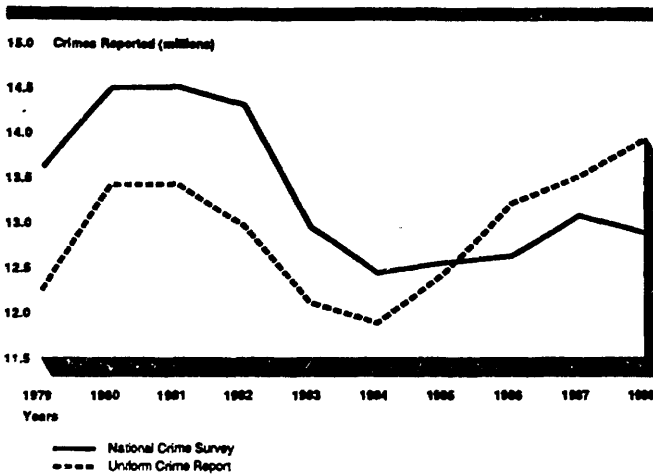
The Department of Justice has two statistical programs designed to measure the magnitude, nature, and impact of crime in the United States. The FBI's UCR began in 1929 and collects information on the following crimes reported to law enforcement agencies: homicide, forcible rape (against females only), robbery, aggravated assault, burglary, larceny-theft, motor vehicle theft, and arson. UCR data are compiled from monthly law enforcement reports made directly to the FBI or through state UCR agencies. Law enforcement agencies active in the UCR program represented about 240 million U.S. inhabitants, or about 98 percent of the U.S. population. UCR findings for each calendar year are published initially in a preliminary release in the spring followed by a detailed annual report. According to the FBI, in fiscal year 1989 they spent about \$4.5 million on UCR.

Recognizing that many crimes are not reported to police and thus are not captured by UCR, BJS in 1973 implemented NCS which collects information on crimes suffered by individuals and households, whether or not those crimes were reported to law enforcement. NCS collects detailed information on the frequency and nature of the crimes of rape, personal robbery, aggravated and simple assault, household burglary, personal and household theft, and motor vehicle theft. NCS does not measure homicide or

commercial crimes (such as burglary of stores), or crimes against individuals under 12 years of age. NCS collects information from a nationally representative sample of about 50,000 households. Households stay in the sample for three years and are interviewed by Bureau of the Census personnel at 6-month intervals. New households rotate into the sample on an ongoing basis. NCS findings for each calendar year are published in a press release the following April (preliminary data), in a BJS Bulletin in the fall presenting summary final data, and in a detailed report the following June. In fiscal year 1989, BJS paid about \$6.6 million to the Bureau of the Census to collect the data.

Our review of UCR and NCS data found a disparity in the levels of reported crime between the two programs. Figure 3 shows a comparison of these data from 1979 to 1988. The data reported by both programs show similar trends in crime through 1984. From 1984 through 1988, however, UCR data show reported crime increased by over 17 percent. NCS data, on the other hand, show that reported crime increased by less than 4 percent in this period.

Figure 3: Disparity in Levels of Reported Crime - NCS versus UCR



The discrepancy in the levels of reported crime could be due to differences in the crimes captured and data collection methodologies. It could also be due to incorrect data entry by police officers or Bureau of the Census personnel, or the NCS sampling variations (confidence intervals). When BJS statisticians made adjustments to control for these differences, the trends in data became closer although UCR data still show a steeper increase. The Department of Justice acknowledges that the Nation's two crime measures are not strictly comparable nor consistent. It is their view that each complements the other's findings and enhance our understanding of the Nation's crime problem.

The reasons for the inconsistent conclusions or the fact that inconsistencies exist are not made clear to the readers of the reports. We are concerned that having programs with similar objectives that report disparate results could lead to a situation where policymakers embrace the report which supports their particular point of view.

PROBLEMS ASSOCIATED WITH
STATE CRIMINAL HISTORY SYSTEMS

Over the years much hard work has been expended to improve state criminal history systems. Nevertheless, significant problems still remain with the state crime data, and these problems are widely recognized. The Attorney General noted in a November 20, 1989, letter to the Speaker of the House of Representatives that many of the criminal history systems maintained by law enforcement agencies are either out of date, incomplete, or both.

This state data reliability problem is not new to GAO. In a 1973 report, we noted that much of the data contained in state criminal history records was incomplete and inaccurate.¹ Our current review of Department of Justice documents and reports identified problems with data quality, completeness, and

¹Development of a Nationwide Criminal Data Exchange System - Need to Determine Cost and Improve Reporting (January 16, 1973, B-171019).

consistency, and with the automation of state criminal records. These problems limit the reliability and usefulness of state criminal history information systems.

Weaknesses in the data could compromise criminal justice decisionmaking, as such information plays an important role in assisting with police investigations and in making prosecutive, sentencing, and correctional decisions. For federal reporting purposes, the weaknesses in criminal history systems impact mainly on BJS' OBTS program because it relies on these systems for its data. The FBI's UCR program is affected by weaknesses in state, county, and local data.

Data Quality

The quality of state crime statistics for years has been recognized by the criminal justice community as a significant problem. Research has shown that the extent of the data quality problem in criminal history records is serious, particularly with respect to the results of court dispositions. However, despite studies and conferences regarding the problem, there continues to be a lack of assurance that data contained in CHR repositories is current and accurate.

A 1989 report by SEARCH Group, Inc., a research organization located in Sacramento, California, examines this problem. In

that report, SEARCH Group stated that serious data quality problems exist in state CHR information. Reportable actions and decisions, particularly court dispositions, are often missing from criminal history records and information that is reported may often be recorded inaccurately. SEARCH Group concluded that criminal justice decisionmaking, and research and statistics that rely on criminal history data, may be compromised.

Compounding this problem is the lack of validity checks done on the state crime data in CHR repositories. In its 1989 report, SEARCH Group stated that although federal regulations require annual audits of the central state repositories and representative samples from contributing criminal justice agencies, only a few states have performed extensive audits of their repositories and only a handful have undertaken any substantial auditing of local agencies. We discussed the verification of local crime data with state agency officials from Illinois, Rhode Island, and Texas. These officials told us that comprehensive quality checks are not routinely performed to assure that the reported data accurately reflects information contained in the source documents. BJS officials told us they perform no independent data matches to the source documents for the OBTS program. The absence of required validity checks raises additional questions regarding the accuracy of the data.

Data quality problems have also been experienced by the FBI. For example, FBI officials said that they sometimes receive state crime data that show wide variations from prior years data from the same locality. If a significant discrepancy is identified, the FBI makes a special inquiry with the submitting state or local agency, as appropriate. If the variation cannot be reasonably explained, the data are not used. The new NIBRS system contains a data quality assurance component whereby the state is required to compare reported data to source documents using standard audit guidelines provided by the FBI. FBI officials said full NIBRS implementation is not expected for four to five years, so we do not know whether this effort will yield better data.

Data Completeness

A second problem with state crime statistics involves the lack of completeness in the data collected and reported by the states. This also raises questions about the reliability of CHR data. Much of the data maintained by state CHR repositories consists of dispositions that are reported by the various criminal justice agencies in the states. A survey by SEARCH Group in December 1984 reviewed actual state CHR repository operations in 47 states. SEARCH Group found that only 50 percent of the arrest and prosecution dispositions were reported to the CHR repositories, and further that it was difficult to make a linkag

between arrest and conviction data. By extension, the problem also involves sentencing and incarceration data. SEARCH Group also found that differences exist among the states both in scope of reporting and whether such reporting was mandatory or voluntary. The study noted that reporting for jurisdictions with mandatory reporting statutes was higher than for jurisdictions with voluntary reporting.

A 1989 BJS report echoed the concern about the completeness of state crime data. According to that report, state-level data are available on crime rates and arrests, and on the number of people sent to prison and their sentences. However, a data gap was noted in showing what happens between arrest and imprisonment. Apparently, state courts have been reluctant to provide that data. BJS' NJRP was designed to fill this gap.

Some law enforcement agencies do not provide data for complete reporting periods to the FBI. For example, due to reporting problems at the state level, the FBI received no usable data from law enforcement agencies in Florida and Kentucky for the 1988 UCR report. The FBI estimated the criminal offense totals for these two states for the purpose of computing national crime trends. FBI officials said that similar instances occasionally occur with other locations and data items. As previously mentioned, it's too early to tell whether NIBRS' data quality component will correct such data completeness problems.

Data Consistency

A third problem involves the lack of consistency in state crime data, which is mainly caused by differences in penal code definitions from state to state. A significant definitional problem arises because the term "felony" is not uniform in either its usage or definition. OBTS defines a felony as any crime for which an offender can be imprisoned for more than one year. However, two jurisdictions (Maine and New Jersey) do not use this term at all to classify their criminal offenses and nine states offer no explicit definition of a felony, even though they use the term as a criminal designation. Further, while most states define a felony offense as one punishable by a minimum prison sentence of more than one year, five states have minimum felony sentences of 1 1/2 to 3 1/2 years, eight states have no minimum duration for felony sentences, and two states have a minimum sentence of less than one year. Therefore, caution must be exercised when comparing state felony crime data.

Another definitional inconsistency involves the crime of rape. UCR defines rape as a crime against females. The state of Illinois, however, has defined rape as gender neutral. To avoid using inconsistent data, UCR does not use rape data reported by Illinois for computing national trends. Instead, the FBI estimates the number of rapes in Illinois using national rates

per 100,000 people within eight population groups. NIBRS will be able to delineate the gender of rape, so this problem should disappear after NIBRS is fully implemented.

Automation of State Records

A fourth problem is the slow progress in automating state CHR repositories, which precludes the efficient collection of state crime data by the Department of Justice. The effect of this problem can be seen in the low level of participation in OBTS. BJS officials said to participate in OBTS, a state should have an automated CHR repository, data that reasonably represent the state's criminal justice experience, the capability for mechanized extraction of OBTS data, and data coded to facilitate extraction. At this point, only 14 state CHR repositories have the required capability and have volunteered to participate in OBTS. BJS provides up to \$10,000 to help a state upgrade its CHR automation and up to \$2,000 for annual data submissions, but it is questionable whether these amounts are sufficient to induce more states to participate. In any event, the participation of all states in OBTS is not expected by BJS in the foreseeable future.

NIBRS implementation also appears to be affected by inadequate automated state record systems. Currently, the FBI expects 27 states to be participating in NIBRS by the end of 1990. However,

full implementation is being delayed because some states do not have the software to properly extract data from their criminal history files, while others have insufficient reporting by local agencies, files not designed for statistical extraction, or local resource constraints. FBI officials said NIBRS is preparing to accept data directly from state, county, and local law enforcement agencies on a floppy disk, if necessary.

The Attorney General recently approved a discretionary grant of \$9 million per year for three years to assist the states in (1) improving the accuracy, completeness, and timeliness of criminal history record information in centralized state repositories and (2) providing such information to the FBI to establish a complete and automated database of felons who are prohibited from purchasing firearms. The FBI, in conjunction with BJS, will develop voluntary reporting standards for state and local law enforcement to record arrests and convictions in the last five years and in the future. The first phase of this effort should be completed in May 1990.

CONCLUSION

Having reliable state crime data is important for understanding the nature and incidence of crime, and the effectiveness of efforts to control it. Several Department of Justice programs are designed to compile state crime statistics and the results of

the criminal justice process. We found, however, that using UCR and NCS statistics on the level of reported crime without making adjustments for differences in how the statistics are constructed can lead to inconsistent conclusions.

We also found that problems exist with the quality, completeness, and consistency of state crime statistics, which in our opinion limit their usefulness. Compounding these problems is an inadequate automation capability in many state criminal records repositories which precludes the efficient collection of state crime data by the Department of Justice. Even though these problems have been widely reported, they are not easily resolved and can be expected to continue for the foreseeable future.

The data reliability problems raise important questions about federal efforts to improve state crime data:

- What can be done to forge a consensus on a core of consistent and reliable state data for measuring crime?
- How much federal funding is needed, and how much should the federal government be willing to pay, to improve automated data collection and reporting at the state level?

Resolving these questions will not be easy. However, we believe the Department of Justice needs to do so to make state crime statistics more reliable and valuable to their users.

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This concludes my prepared remarks. We would be pleased to respond to any questions.

Mr. SCHUMER. I guess my first question, really—and you have to give more empirical evidence—is, Why? I mean, here the country feels crime is such an important issue, whether it be at the State or Federal level. Any rational discussion of crime would come to a conclusion—anyone who studied it, whether it be a police chief, a DA, a mayor, a Governor, or President, would want to see what is going on out there, and yet for 20 years we haven't had any push, really, to improve data. Why is it?

I know that is a tough question, but I am sure in your position you have thought about it more than most of us have.

Mr. DODGE. I don't claim to be a long-time student in this area, Mr. Chairman, but even having looked at it for the period of time that I have, it strikes me that part of it is inherent in the systems that we are dealing with. We have a Federal system in this country, which means that we have 50 States and, in this instance, jurisdictions beyond States, the District and others, each of which work the system in their own way, and we don't, or have not at least as yet, made the decision that the way in which data are collected and the quality levels to which they should be collected should be something imposed on the States by the Federal Government, and I am not sure we ever will reach that conclusion.

But having kept ourselves, in other words, with a very decentralized system, we are going to face monumental challenges in trying to roll data up together in one central location in many instances.

Mr. SCHUMER. But even at the State level—let's forget the Federal system—I'm the Governor of State X, and my constituents are clamoring that we do more about drugs, about crime, about all the problems. So I say to the experts, "OK, tell me what is going on," and they can't. Why?

Mr. DODGE. At the State level, while we do have State offices that are responsible for collecting data which are generated largely at the local level, what strikes me is that almost everyone who is charged with the responsibility of collecting data is charged with it as a responsibility that is secondary to other responsibilities that are more primary—the police, the courts—and while we have, I think, made great strides with the law enforcement agencies, we see a pattern, apparently nationwide, that it is more difficult to get people in the courts to recognize the importance of taking the extra time that it requires to fill out the reports to send into the State systems here, and it is a problem we also noted which affected the capacity of the Sentencing Commission to do some of its work.

What additional pressure can be put on the court systems to do a better job in that regard, I think, is a useful point of inquiry for this subcommittee. There are relevant recommendations in what the SEARCH Group report says that may help some. But I also think it represents a lack of emphasis on this problem at the Federal and at the State level, reflected in an unwillingness to invest the resources that are required.

Mr. SCHUMER. I guess you could sum it up—and you tell me if you disagree with this. An older man who was one of my mentors said to me one of the challenges in life is organizing all the things you have to do when you have a lot of things to do, and he said there are four types of tasks. There are tasks that are important and immediate; those always get done when you are busy. There

are tasks that are unimportant and not immediate; those never get done. But the real challenge is doing the things that are important and not immediate as opposed to immediate but not important. I find that a very good guide, not that I am successful in living by it. Does that apply to statistics?

Mr. DODGE. I think that is true, and I think it is up to hearings such as this and the various conferences that have been held over the years to elevate the level of importance of those subsidiary responsibilities.

Mr. SCHUMER. Do people see them as important or not quite yet?

Mr. STANA. I think the people in the State agencies understand why these statistics are gathered and the importance of having reliable data. However, as we mentioned before, these tasks that are assigned to them in gathering and forwarding data are secondary, and I would hope that the reason that these things aren't always forwarded or that we have incomplete data is because they are busy and not because they lack the interest.

Mr. SCHUMER. What do you think? Which one do you think is right?

Mr. STANA. I just think that it is not their primary mission.

Mr. SCHUMER. I made the comparison between what we know about the economy and what we know about crime. Aren't we really just flying in the dark when it comes to making policy decisions about crime?

Mr. DODGE. I think there are many measures where we are able to say more now than we could 20 years ago, and flying in the dark may be a bit of a harsh characterization of it. For instance, we know now how many violent crimes are perpetrated by family members, by acquaintances, and by strangers, better now than we did 20 years ago.

We would like to characterize perhaps more as needing a better road map than flying in the dark, but it is clear—

Mr. SCHUMER. Well, one is if you are on the ground, one is if you are in the air, but it is the same problem.

Mr. DODGE. It is clear that we need a much better road map and that a whole lot needs to be done.

Mr. SCHUMER. For example, if as a policymaker we want to trace the statistics of a particular type of crime, from the act itself, how many acts committed, including the types of victims, through their perpetrators, the arrests, convictions, sentences, and recidivism rate, can we do that?

Mr. DODGE. We have no one single program that can do that. Collectively, the different DOJ programs now in place offer promise in doing that, but the linkages between them, as we pointed out, do not exist.

Mr. SCHUMER. Doesn't that make you mad? It makes me mad. I mean, I guess I'm a queer bird here, but that is a fundamental question. You don't know what you are doing in crime unless you can answer that, and we can't do it. It is not that we can't do it in four States and we can in 46; we can't do it anywhere. Am I correct?

Mr. DODGE. We cannot.

You can look to the fact, as we will hear, I gather, from subsequent witnesses, that the Bureau of Justice Statistics, which is

working hard to pull the various elements of this together, is a young agency. Maybe given the size of the challenge, we need to exercise some patience.

I sense that that is not a satisfactory answer to you, however, Mr. Chairman, that we need to move more quickly, in your view perhaps, than we are.

We would point, again, in this effort, to the importance of efforts to automate, and within that, I think, in seeking to make these linkages between different parts of the system to the need for consensus on agreement on universal identifiers, which we don't yet have at this point, on the cases, or on the offenders, or on whatever it is that we are going to use as our unit of analysis or our record and when we create one in an automated system.

We certainly have the technologies for that, as we have seen in our lives, in other areas, and I understand they are being applied in some areas here but not universally.

I know when I give blood, there is a little bar code system that is used where there are multiple copies of the same little bar code symbol each on a little stickum label, and all that the Red Cross has to do to make sure that they track the paperwork, together with the blood sample, together with the smaller samples that are sent out for testing is to put one of those little stickums on each one, and that, from their vantage point, seems to work pretty well. Maybe not that technology but something like it, it seems to me, is begging to be applied in this instance.

Mr. SCHUMER. At the State levels, is it lack of money more or lack of interest more?

Mr. DODGE. I think I need to defer to my cohorts on that one.

Mr. SCHUMER. Do they now have a computer system to keep their own information and records? I know in New York lots of the things are still done—I know when you arrest somebody and they go into the prison system until they pop out for arraignment, they call it the orange crate system, because they are kept in orange crates, and parents will go to the police precinct and say, "Where's my kid?" and they will say, "Well, we don't know; he will pop out of the system 3 or 4 days from now, but we don't know where they are now." That was another thing that amazed me.

Mr. STANA. I don't feel that I can speak for every one of the 50 States and the District of Columbia, but based on the literature that we have reviewed, it appears that there are just a few problems at the State level that have to be ironed out. One is the audits that we mentioned. Just going through the data and tracing things back to the source document takes time, and it does take some resources to do this kind of thing. Not very many States do this at all.

The second problem is this linkage that we talked about, to try to get the same identifier for every aspect of the criminal justice system for automation purpose.

These problems are well known; they have been known for a long time. So you turn to the question of, why are they still problems? Is it resources, or is it a lack of interest? I would have to believe, in my opinion, it is probably a little bit of both.

Mr. SCHUMER. Is there one locality or State that really does an excellent job that we look to and examine? Is there one State or

locality that, when you ask this question, you trace things through longitudinally?

I have learned from exploring things in my city that New York is behind a lot of other States in a lot of this stuff. I mean, we like to pride ourselves that we are ahead on this or that. On criminal justice, we are behind.

Mr. STANA. The three States that are cited in the literature are California, Texas, and Illinois, for having pretty fair systems, not perfect but pretty fair. Then there are some that aren't in real good shape at all. But if I were going to cite three—and I shouldn't cite three because there probably is a fourth and a fifth, but those three are in the literature.

Mr. SCHUMER. Let me turn it over to my colleague, Mr. DeWine.

Mr. DEWINE. Thank you, Mr. Chairman.

Mr. Dodge, I think you have very accurately outlined the overall problem, but even if you got uniformity in how the States report, it seems to me that the problem, as you have alluded to, is much beyond that. Take my State of Ohio, and I am sure it is true in most other States. The reporting is dependent upon thousands of agencies that gather the information. You may have a police clerk who simply never makes a notation that someone was convicted. As a prosecutor, that was always a problem I had. You would run the records out, and you would find that the guy was arrested 4 years ago on a charge, and you were trying to charge him for the second offense, but you couldn't find out whether or not he was ever convicted without making a call and going through a long hassle.

You have got literally thousands, and maybe in some States tens of thousands, of people you are depending on, so you are not going to have much consistency. You are lucky to get them to do what they are supposed to do and enter the information into the files.

If you look at the States, you can say, OK, we can solve the problem by doing this and that, but you are talking about hundreds of thousands of people nationwide who are entering this data, and obviously the data is only as good as what comes into the system.

Mr. DODGE. It is a challenge which is probably not inappropriately termed "monumental," but I wouldn't say it is hopeless. As we look out, we look at efforts to systematize in terms of getting uniformity in the forms that are used and building on that the kinds of automation that are required whenever you are automating. That is why we see the effort to develop the emphasis on automation and the effort to develop automated systems as perhaps the single most promising recent development encouraging and, in fact, forcing States to do things more systematically such that you could conceive of each of your 100,000 folks at the local level all using consistent or nearly consistent modes of data entry into a single or maybe a pair of statewide systems.

Mr. DEWINE. The chairman is very concerned, as I am, about gathering the information for our utilization and the States in their planning what to do, but, also, the improvement of the system clearly has some absolutely immediate benefits. You know the horror stories that we hear all the time and that are a reality of a person being picked up in Chicago and turned loose 8 hours later, yet there is a warrant for him either in that State or some

place else for the charge of murder, and he goes out and commits another crime. If we have the information available in the system, you are going to save lives, you are going to save crimes from being committed, you are going to lock up some of these no good bums who ought to be locked up for a long time.

So what we are talking about today, it seems to me, is the long-range benefit, but there is an immediate benefit, obviously, of getting these State systems up to speed.

Mr. DODGE. I don't think you will find any disagreement on the criticality of the need to improve these systems.

Mr. DEWINE. Let me ask one final question. As far as the statistics point of view, what don't we have that we need? In other words, from the point of view of making the decisions on the national level, from national trends, admittedly from what we have said, there are a lot of problems and we don't have all the statistics we need, and they may be somewhat flawed, but how bad is it from the point of view of making decisions and is there one particular area where you think our statistics are totally fouled up?

Mr. DODGE. We would cite three or four. We would look to the lack of completeness as probably the single most serious shortcoming in efforts to fill in the gaps, particularly as regards the data needed from the court systems.

We also need linkages and crosswalks that we don't have, and we would cite that as perhaps the second most important.

Mr. DEWINE. What does that mean?

Mr. DODGE. Where we are unable to trace from the original arrest through the system to figure out for a given population of arrests how many convictions we got, how many went to prison, how many went elsewhere, how many were recidivists.

Mr. DEWINE. Part of that problem is that, at least in some States, the statistics are kept primarily at the police station and they are oriented toward arrests, and the court system is oriented toward a conviction, and putting those two records together sometimes just doesn't happen. The police clerk never makes the notation that this guy was sentenced. I mean, they arrested him.

Mr. DODGE. Those functions are performed by different parts of the system. So you do create for yourself a challenge when you decide that you want to make those linkages. That is being worked on. We would look again to automation to help in that regard.

With respect to completeness and accuracy, we would look to States to do a better job at auditing what their current systems have in place as against the source documents as one promising measure that needs to be put into place in more locations.

Mr. DEWINE. Thank you.

Thank you, Mr. Chairman.

Mr. SCHUMER. Mr. Sangmeister.

Mr. SANGMEISTER. I'm sorry I came in after your testimony, so some of the questions may have already been answered.

Sometimes I look at some of these charts, and they are as confusing as the statistics that you are trying to collect. But the question that I would ask is this. As I understand from what I heard, the States are either not cooperative or they don't have the facilities to comply. Is there anything in the current law that we have or anything in the current Federal law that we should have as an induce-

ment to the States to improve collecting the type of statistics that are necessary?

Mr. DODGE. There are some inducements. Financial inducements, though minimal, are there. There are certain State practices that are required by Federal regulations, such as the practice of auditing, and even though there are requirements in Federal regulations to do auditing of what is in the criminal history records that are Federal regulations, we find that there isn't much of an effort to enforce those regulations, so that not too many States do the sorts of audits to tie those records against their source documents that we think are critical to verifying the accuracy.

Mr. SANGMEISTER. What are the sanctions if they don't follow it?

Mr. DODGE. I'm not sure there are any sanctions set forth in these requirements.

Mr. SANGMEISTER. So it is strictly you either do it or you don't do it.

Mr. DODGE. Participation by States in most of the systems which we depict on the chart up there is voluntary. We do not have a system, a single Federal system driven by Federal statute, which requires the completion of the data collection and analysis which we think is needed, and we do rely basically on cooperative arrangements between the Department of Justice and the various State levels, and that could be analogized, perhaps, to pushing on a string in terms of the level of control that that gives the Justice Department over these programs. So it depends on long-term efforts of persuasion and training to get the kind of buy-in that the Justice Department needs.

We understand from the FBI that even after 60 years of hard work there are still a handful of States that they don't ever expect to participate in the system.

Mr. SANGMEISTER. That is all I have, Mr. Chairman.

Mr. SCHUMER. Thank you, and I want to thank you. You have laid it out very well, and we appreciate once again your cooperation on this.

Mr. DODGE. Thank you, Mr. Chairman.

Mr. SCHUMER. Our next panel of witnesses this morning includes Joseph Bessette; he is the Acting Director for the Justice Department's Bureau of Justice Statistics; and J. Harper Wilson, the Special Agent for Uniform Crime Reports at the FBI.

Mr. Bessette, we will begin with you. Your entire statement will be read into the record, so please feel free to summarize it. I think it would be most helpful if you went over the salient points and added anything not in your testimony that you wish to add. Thank you for being here.

**STATEMENT OF DR. JOSEPH M. BESSETTE, ACTING DIRECTOR,
BUREAU OF JUSTICE STATISTICS, DEPARTMENT OF JUSTICE**

Dr. BESSETTE. Mr. Chairman, members of the subcommittee, I would like to thank you for the opportunity to testify this morning on the subject of criminal justice statistics. I would also like to commend you, Mr. Chairman, for calling attention to this issue, which may seem like a technical and dry subject to some; yet, as a

Presidential Commission on Law Enforcement once commented, "accurate data is the beginning of wisdom."

I have submitted a detailed statement for the record, as you mentioned, and would like to briefly summarize its contents.

As you know, Congress created the Bureau of Justice Statistics in the Justice Assistance Improvement Act of 1979 as the central Federal agency for collecting, analyzing, and disseminating criminal justice data and statistics from all levels of government. BJS is responsible for all major criminal justice statistical programs with the exception of the Uniform Crime Reports Program managed by the FBI, which you will be hearing about in a few minutes and which is being renamed the National Incident-Based Reporting System, or NIBRS.

BJS's data collection programs cover the entire range of the criminal justice system from criminal victimizations to prosecution, adjudication, and sentencing, through corrections, including prisons, jails, probation, and parole, and, finally, recidivism.

Between the 1930's and the 1960's, two Presidential commissions as well as other reports, studies, and congressional hearings called for a comprehensive national justice statistics program centralized in one agency. These recommendations led to the creation of a statistical operation within the Law Enforcement Assistance Administration about 20 years ago and eventually to the creation of BJS in 1979 as a separate statistical agency within the Department of Justice headed by a Presidential appointee.

I would like to give you a brief overview of BJS, its mission, and how it carries out its mission. BJS provides basic data on crime and the criminal justice system to the President, Congress, the judiciary, State, and local governments, criminal justice practitioners, researchers, the general public, and the media. It is mandated by statute to "give primary emphasis to the problems of State and local justice systems."

In meeting its mandate, BJS has developed more than two dozen major data collection series and an extensive analysis, publications, and dissemination program. As currently constituted, the Bureau of Justice Statistics has about 50 employees and a program budget of \$21.2 million. Approximately four-fifths of the BJS budget goes for the support of core statistical programs and the dissemination of data. The rest goes toward a variety of activities such as support for statistical analysis centers, or SAC's, within the States, support to the States for the implementation of the FBI's new NIBRS Program, and projects on such matters as the privacy and confidentiality of criminal justice records.

We have accomplished a great deal in the Federal Government over the last 20 years in developing comprehensive, credible criminal justice statistics of direct use to policymakers. My written testimony discusses BJS's statistical programs in some detail. What I would like to do here is give you an idea of how much we have accomplished by briefly indicating some of the questions for which, if these hearings had been held 20 to 25 years ago, there would not have been national data to inform policymaking.

Mr. SCHUMER. You are talking about Federal crimes—is that right?—when you say "national data."

Dr. BESSETTE. No. Data at the national level on State and local crimes. We also do collect information on Federal crimes, but that isn't part of my testimony this morning.

BJS now provides answers to these questions, although we couldn't answer these questions 20 or 25 years ago. Let me read a few of these examples.

How many serious crimes occur in the United States but are not reported to law enforcement authorities, and what are the reasons why victims don't report crimes?

How has victim willingness to report crimes changed over time?

What kinds of injuries do victims sustain in violent crimes? How many victims, for example, are hospitalized because of crime?

How many violent crimes are perpetrated by family members, how many by acquaintances, and how many by strangers?

What proportion of violent crimes are interracial versus intraracial?

How many persons are convicted of felonies each year in the United States?

What percent of convicted felons are sentenced to probation, to jail, or to prison, and for how long?

What is the offense distribution for those incarcerated in local jails? For example, how many are violent offenders, how many are recidivists, how many are nonviolent first-timers? What are their prior criminal histories?

Of all those under correctional supervision in the United States, how many are incarcerated in a local jail or a State or Federal prison, and how many are being supervised in the community; that is, on probation or on parole?

What is the drug use history for incarcerated offenders? What drugs have they used? At what ages did they start using drugs, and how often have they been in drug treatment?

What are the physical characteristics of the prisons and jails throughout the country? How much living space is afforded the average inmate, and how does this vary across the States?

How many correctional officers are supervising prison and jail inmates, and how has their number changed relative to the growth in the inmate population?

These and many other questions are answered by BJS in the 35 to 40 reports that we write, publish, and disseminate each year, reports which are designed to provide policymakers, practitioners, and the general public with a concise statistical portrait of crime and the criminal justice system. These reports are used extensively throughout the United States. In fiscal year 1989 alone, nearly 900,000 BJS reports were requested and disseminated either directly from BJS or through the clearinghouses that we support and fund.

Virtually all of our data sets are also made available through the National Archive of Criminal Justice Data which is part of the Inter-University Consortium for Political and Social Research at the University of Michigan. Researchers and practitioners throughout the country can access the data sets themselves through a telecommunications link to the computers at Michigan.

BJS also supports the Criminal Justice Statistics Association, or CJSA, which maintains a collection of State-produced criminal jus-

tice statistics reports, and we fund the National Clearinghouse for Criminal Justice Information Systems run by SEARCH Group.

BJS also provides special analyses to the President, the Attorney General, Congress, and State and local officials, and responds to policy questions not covered by existing data that can be answered by special computer tabulations.

With all that has been done, however, gaps do remain in our statistical knowledge of the criminal justice system. We have no national data, for example, on misdemeanor convictions and sentences. We know little about the magnitude of the white-collar crime problem and whether it is getting worse or better, and we have only very limited data on probation populations even though there are three times as many offenders on probation as there are incarcerated in all the State prisons in the country.

These, of course, are not the only gaps, these are just some that I point out here. They are described in somewhat greater length in my prepared testimony.

We have come a long way in 20 years, and I would like to assure you, Mr. Chairman and the members of the subcommittee, that the dedicated statisticians and other professionals at BJS will continue to embrace the highest standards of reliability and impartiality as they work to improve and expand our knowledge of crime and the criminal justice system. In this way, BJS will strive to meet the needs of those at all levels of government who are working to combat America's crime problem.

Again, thank you for the opportunity to testify, and I would be happy to answer any questions you might have.

Mr. SCHUMER. Thank you, Dr. Bessette.

[The prepared statement of Dr. Bessette follows:]

PREPARED STATEMENT OF DR. JOSEPH M. BESSETTE, ACTING DIRECTOR, BUREAU OF
JUSTICE STATISTICS, DEPARTMENT OF JUSTICE

The Bureau of Justice Statistics (BJS) is a young agency. In its present form it is just over 10 years old, having been established by the Justice System Improvement Act of 1979. Including the life of its predecessor agencies within the Law Enforcement Assistance Administration, it is just over 20 years old.

BJS and its predecessors were created in response to more than half a century of recommendations for a comprehensive national justice statistics program, most notably those of two Presidential commissions:

- the National Commission of Law Observance and Enforcement (Wickersham Commission) of the early 1930s, and
- the President's Commission on Law Enforcement and the Administration of Justice (Katzenbach Commission), established by President Johnson in 1965.

When the President's Commission issued its Task Force Report on Crime and Its Impact in 1967, it began its discussion of criminal statistics by noting the unfulfilled recommendation of the Wickersham Commission for the development of a "comprehensive plan" for a "complete body of statistics covering crime, criminals, criminal justice, and penal treatment" at the Federal, State, and local levels of government and the entrusting of this plan at the Federal level to a single agency. "Had this recommendation been adopted," the President's Commission wrote, "[we] would not have been forced . . . to rely so often on incomplete information or to conclude so frequently that important questions could not be answered."

Contrasting the meager and disparate criminal justice statistical efforts carried out by Federal agencies with the "millions of dollars and hundreds of highly trained statistical personnel" employed in the collection of information on the population, the economy, health, and education, the President's Commission formally recommended the creation of a National Criminal Justice Statistics Center within the Department of Justice to serve as the "central focus for . . . statistics related to the crime problem."

It is practically a cliché to say that accurate information is essential to sound policymaking. Yet the truth of this statement can hardly be doubted. "Accurate data," the Wickersham Commission noted, is "the beginning of wisdom." The following is a list of the kinds of questions about crime and the criminal justice system that could not be answered for the nation as a whole for policymakers twenty-five years ago but for which credible national data are now regularly provided by BJS:

- How many serious crimes occur in the United States but are not reported to law enforcement authorities and what are the reasons why victims don't report crimes?
- What proportion of crimes do victims report to law enforcement authorities and how has victim willingness to report crimes changed over time?
- What kinds of injuries do victims sustain in violent crimes; how many victims, for example, are hospitalized because of crime?
- How many violent crimes are perpetrated by family members, acquaintances, and strangers?
- What proportion of violent crimes are interracial versus intraracial?
- How many persons are convicted of felonies each year in the United States?
- What percent of convicted felons are sentenced to probation, jail, or prison, and for how long?
- What is the offense distribution for those incarcerated in local jails; for example, how many are violent offenders, recidivists, and non-violent first-timers? What are their prior criminal histories?
- Of all those under correctional supervision in the United States, how many are incarcerated (in a local jail or a State or Federal prison) and how many are being supervised in the community (on probation or parole)?
- What is the drug use history for incarcerated offenders: what drugs have they used, at what ages did they start using drugs, and how often have they been in drug treatment?
- What are the physical characteristics of the prisons and jails throughout the country? How much living space is afforded the average inmate, and how does this vary across the States? How many correctional officers are supervising prison and jail inmates, and how has their number changed relative to the growth of the inmate population?

Overview of BJS

As currently constituted, the Bureau of Justice Statistics has approximately 50 employees. About 35 of these hold professional positions; the rest are support staff. Most of those in professional positions are statisticians, trained in such fields as criminal justice, sociology, demography, political science, and psychology. Ten BJS professionals have PhDs and most of the rest have some post-graduate education. By statute, BJS is headed by a presidential appointee, confirmed by the Senate.

The current operating budget of BJS (FY1990) is \$21.2 million; the administrative budget is \$3.7 million. Approximately four-fifths of the BJS operating budget goes for the support of core statistical programs and the dissemination of data. The rest goes toward a variety of activities such as support for Statistical Analysis Centers (SACs) within the States, support to the States for the implementation of the FBI's new National Incident-Based Reporting Program (NIBRS), and specific projects on privacy and confidentiality of criminal justice records, international crime data, school crime, etc.

How BJS carries out its mission

BJS' mission is to provide basic data on crime and the criminal justice system at all levels of government to the President, Congress, the Judiciary, State and local governments, criminal justice practitioners, researchers, the general public, and the media. It is mandated by statute to "give primary emphasis to the problems of State and local justice systems." In meeting its mandate BJS has developed more than two dozen major data collection series and an extensive analysis, publications, and dissemination program.

BJS collects little raw data itself. Rather, it designs collection programs and enters into agreements to collect data with other Federal agencies (such as the U.S. Bureau of the Census), State agencies, private associations, and research organizations. The data collection programs use a variety of methods that include household interviews, censuses and sample surveys of criminal justice agencies and of prison and jail inmates, and compilations of administrative records. Initial data analysis and report preparation is performed by the statisticians, criminologists, and social science analysts on the BJS staff.

The principal means by which BJS disseminates its statistical data is through published reports. There are several different types of reports:

Bulletins. BJS Bulletins, begun in 1981, present data from various BJS statistical series. In a concise, easy-to-read format each Bulletin presents the latest information on aspects of crime, criminals, or the administration of justice. Most Bulletins are annual reports, releasing for the first time updated information from ongoing BJS statistical series. BJS releases approximately eight Bulletins each year.

Special Reports. BJS Special Reports, begun in 1983, also are aimed at a broad audience. Each Special Report focuses on a specific topic in criminal justice, often analyzing BJS data

in greater detail than is possible in the first release of data in a Bulletin. BJS releases approximately 10-14 Special Reports each year.

Press Releases. In order to promote wide exposure of Bulletins and Special Reports to policymakers and the public, a Department of Justice press release accompanies most reports and summarizes the findings. Occasionally, press releases alone are used to announce specific new findings (such as the midyear prisoner count). BJS Bulletins, Special Reports, and press releases receive extensive coverage in the nation's newspapers as well as radio and television coverage.

Statistical Compilations. These are detailed presentations of the wealth of data collected in specific BJS statistical programs. Some of these reports have over 100 tables showing the relationship among the numerous variables for which data are collected. A table, for example, might show how crime rates differ by race, sex, family income, or marital status. These reports also include copies of questionnaires and a detailed discussion of the methodology and definitions. They provide access to highly detailed BJS data for those who find it impractical to use data tapes or other electronic media. BJS releases approximately 10 such statistical compilations each year.

Technical Reports. BJS Technical Reports address methodological and technical issues. The content is more detailed than that of a Bulletin or Special Report and the audience is primarily criminal justice researchers.

Sourcebook. Each year BJS publishes the Sourcebook of Criminal Justice Statistics. This 600-page volume presents data from all major surveys and studies on crime and justice. It is indexed for easy reference.

Report to the Nation. The Report to the Nation on Crime and Justice, published in October 1983 and again in June 1988, offers a nontechnical portrait of crime, its victims, and the criminal justice system in a news magazine format with color graphics and maps. It is fully indexed and highlights the latest research and statistics on crime and justice. This report has been used extensively by educators throughout the country.

Dissemination of BJS data. Policymakers, practitioners, the media, and the general public receive BJS reports in a number of ways.

In fiscal 1989 more than 580,000 copies of reports were mailed to 12 subject-oriented mailing lists of more than 25,000 persons who have asked to receive reports on one or more subjects. These lists are purged annually and updated continually.

Two clearinghouses--the Justice Statistics Clearinghouse and the Drugs & Crime Data Center and Clearinghouse--staff four 800 telephone lines. In fiscal 1989 they answered more than 9,800 requests and distributed nearly 280,400 copies of documents.

BJS report order forms in NIJ Reports, a bimonthly publication of the National Institute of Justice/National Criminal Justice Reference Service, are sent to some 60,000 criminal justice policymakers and practitioners. These generated 54,382 orders for BJS reports in fiscal 1989.

BJS also supports three other information services.

The National Archive of Criminal Justice Data, part of the Inter-university Consortium for Political and Social Research at the University of Michigan:

- adds 50 new criminal justice data sets a year to the 300+ sets it maintains,
- sends data tapes and floppy disks to approximately 1,000 users a year, and
- gives technical assistance and training to users.

The Criminal Justice Statistics Association (CJSA) maintains a collection of State-produced criminal justice statistics reports.

The National Clearinghouse for Criminal Justice Information Systems run by SEARCH Group, Inc.:

- operates an automated index of more than 1,000 systems in State and local governments, and
- provides technical assistance and training for State and local officials in choosing, implementing, and maintaining criminal justice information systems.

BJS also provides special analyses to the President, the Attorney General, Congress, and (occasionally) State and local officials in response to policy questions not covered by existing data that can be answered by special tabulations.

Examples of the Use of BJS Data by Policymakers and Practitioners

The following are some recent examples of how BJS data have informed criminal justice administration and policymaking:

- The New Jersey Office of Legislative Services requested BJS data for a briefing paper for new committee members for the legislative session beginning in January, 1990.
- A U.S. Congressman requested information on the use of weapons in the commission of crimes in connection with the possible introduction of legislation that would address this issue.
- The Office of Personnel Administration in Rhode Island requested BJS information for use by the legislature in examining State police personnel issues and practices.
- The Office of the Comptroller in Chicago requested BJS data in order to compare Chicago with other cities in terms of the amount of funds being spent on criminal justice.
- The New York Department of Corrections requested BJS data on recidivism to compare its own study of recidivism with national data.
- The Sonoma County Probation Department from Santa Rosa, California requested the BJS microcomputer software guide for the development of a caseload tracking system.
- The Bronx City Court requested BJS information to assist in the development of a management system for the court.
- The Atlantic City Prosecutors Office requested BJS information to develop a proposal to acquire a system that would photograph an offender's identifying marks such as tattoos or scars to keep in an automated file.

BJS information has been cited in U.S. Supreme Court Cases:

- In Tennessee v. Garner et al., the majority cited data from the BJS report, Household Burglary, which shows that burglaries rarely involve violence, to support their decision that burglars were not necessarily violent offenders. The minority cited the report data on the percentages of violent crimes in the home that began as burglaries to support their position that burglary is a serious crime sometimes warranting the use of deadly force by police.

- In Thompson v. Oklahoma the majority cited data from two BJS bulletins, Capital Punishment, 1984 and Capital Punishment, 1986 in supporting their decision to prohibit the execution of a person who was under 16 years of age at the time of his or her offense.

Foreign countries have also requested BJS information:

- The Ministry of Justice in Egypt requested BJS information for their revision of criminal justice policies, including the possible creation of a life sentence without parole for drug offenders.
- The Department of Justice in Ottawa, Ontario, Canada requested BJS information for the analysis of different data collection models in order to improve upon their own systems.

BJS' Contribution to National Drug Control Efforts

Perhaps no criminal justice issue is currently of greater importance to national policymakers than the fight against the use of illegal drugs. The Bureau of Justice Statistics is supporting national drug control efforts in a number of ways.

BJS has managed the Drugs & Crime Data Center and Clearinghouse since its establishment in 1987 with funding from the Bureau of Justice Assistance. This service responds to policymakers' urgent need for the most current data about

- illegal drugs
- drug law violations
- drug-related crime
- drug-using offenders in the criminal justice system
- the impact of drugs on criminal justice administration

The Clearinghouse is now a single point of contact for inquiries from policymakers, practitioners, the media, and the general public on all aspects of drugs and crime. It also provides guidance and assistance to State agencies responsible for developing State strategies as part of the Anti-Drug Abuse Grant Program of the Bureau of Justice Assistance.

Analytic efforts initiated by the Drugs & Crime Data Center and Clearinghouse have focused on (1) defining the sources of Federal drug data for national policy formulation and (2) developing a comprehensive directory of State resources on drugs and crime, including all State agencies involved in responding to the drug problem.

BJS and the Drugs & Crime Data Center and Clearinghouse have provided analytic support for the Office of National Drug Control Policy (ONDCP). An extensive background paper concerning the high intensity drug trafficking area (HIDTA) designations was prepared for ONDCP's Bureau of State and Local Affairs; a consolidated version of this report became Appendix A of the January, 1990 National Drug Control Strategy. BJS provided funding support for the HIDTA study and for an assessment of drug clearinghouses currently being undertaken by ONDCP. Support will also be provided for an assessment of the flaws and gaps in statistical systems and series that generate drug-related data.

BJS has also modified several of its ongoing statistical programs to provide more complete data on drug law violations, drug-related crime, and drug use by criminals. Of particular importance are BJS surveys of the inmates of both state correctional facilities and local jails. These provide highly detailed data on the types of drugs used by criminals, the age of first drug use, frequency of use, the relationship of drug use to criminal activity, and participation in drug treatment programs. Other BJS statistical programs provide data on convictions and sentences for drug trafficking, prisoners and parolees convicted of drug trafficking or possession, the processing of Federal drug offenses, and the processing of drug trafficking and possession felonies in major urban areas.

BJS Data Collection Programs

BJS data collection programs cover the entire breadth of the criminal justice system, from criminal victimizations at one end through corrections at the other. These programs may be grouped into three types: (1) long-standing BJS data programs; (2) new programs to fill gaps in our knowledge of crime and justice; and (3) future directions in data collection efforts.

Long-standing BJS data programs

1. What is the nature of criminal victimization in the United States?

BJIS' National Crime Survey (NCS) was developed in response to recommendations made in 1968 by The President's Commission on Law Enforcement and Administration of Justice. The Commission sponsored its own victimization surveys and concluded that:

There is a great deal of crime in America, some of it very serious, that is not reported to the police, or in some instances by the police The surveys [sponsored by the Commission] produced rates of victimization that were from 2 to 10 times greater than the official rates for certain crimes

The Commission concluded that:

. . . these initial experiments produced useful results that justify more intensive efforts to gather such information on a regular basis

After a developmental period of about two years, regular data collection began in the National Crime Survey in 1972, and the first survey results were published for 1973. Since then, the survey has continually collected information on victimizations from all household members at least 12 years old in 49,000 households (about 101,000 persons). Interviews are conducted twice each year by interviewers from the U.S. Bureau of the Census, yielding a database of over 200,000 interviews annually.

Crimes measured by the survey include rape, robbery, assault, personal and household larceny (theft), burglary, and motor vehicle theft, whether or not the crime was reported to the police. Survey results since 1973 have shown that victims do not report about two-thirds of crimes to the police, including about half of violent crimes. Other data collected by the NCS include: (1) characteristics of the victims (age, sex, race, ethnicity, family income, educational level, marital status); (2) characteristics of offenders (age, race, sex, number of offenders, relationship between victim and offender); and (3) the nature of crime incidents (time and place of occurrence, economic loss, extent of injury to victim, medical treatment and/or extent of hospitalization, insurance coverage, days lost from work, property recovery). The survey also collects information on the reasons for reporting or not reporting the crime to the police.

This information provides the basis for an extensive publication program that provides data on all aspects of how criminal victimizations affect residents of the United States. Yearly

trend data are published in preliminary form in April following each data year and in final form in the fall in a BJS Bulletin on Criminal Victimization: Households Touched by Crime is published in June of each year; this report shows that one-third to one-fourth of all U.S. households are touched by an NCS measured crime each year.

Information from the survey is analyzed by statisticians in BJS who develop and publish 6-9 BJS Special Reports each year on selected topics. Examples of report topics include: elderly victims, teenage victims, black victims, rape, family violence, injuries from victimization, and the use of weapons in crime. BJS analysts usually compile data from several years to examine each topic in depth. These reports provide the basis for much of what is known about how crime affects its victims—for example, how often and how seriously people are injured, how much time they spend in the hospital, and how much they lose economically from the crime both in direct property losses and time lost from work.

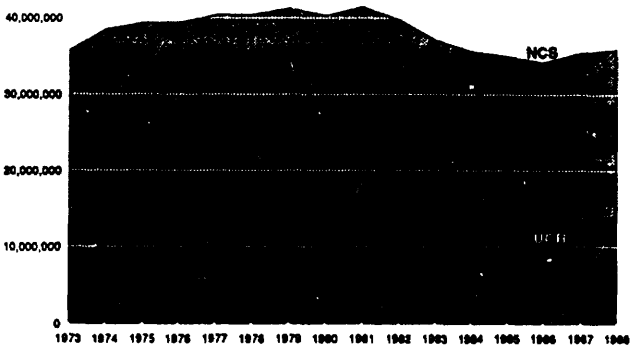
The survey also tells us which groups are most affected by different crimes. For example, it is a surprise to many people to find out how high the victimization rate is for teenagers--the average annual violent crime rate is 60.1 per 1,000 teenagers compared to 26.9 for the adult population.

The advantages of measuring crime by means of victimization surveys of the general population have been recognized in other countries as well as in the United States. Since the United States began the National Crime Survey in 1972, at least 19 other countries have conducted their own victimization surveys, including Canada, England, France, West Germany, Norway, Sweden, Hungary, Poland, Australia, and Japan. In addition to revealing the amount of unreported crime and the characteristics of crime victims, national crime surveys hold the potential for comparing crime rates across countries with a precision that administrative statistics do not permit. By asking crime victims about their actual experiences, victimization surveys bypass the intractable problems of differing legal definitions of crimes that confound comparisons of police statistics from one country to another.

The following is a graph comparing all crimes collected each year from NCS (currently about 36 million) and Index crimes from police statistics (currently about 14 million). This graph, which has not been adjusted to account for differences in the programs, shows the extent to which NCS has helped to uncover the so-called "dark figure of crime"--that is, the crimes that victims do not report officially to police. Additional improvements in screening

techniques (questions to jog memories about criminal incidents) which are now being phased into the NCS program are expected to increase NCS measurement of violent crimes by another 25%. The new screener is currently being tested in 10% of the sample; it will be phased into the full sample between 1991 and 1993. The new screener, which provides much more specific questions on family violence, is expected to increase reporting of this very sensitive and difficult to measure crime.

Crime levels in the NCS and UCR series, 1973-88



2. How does the justice system respond to crime?

In the United States the response to crime is mainly a function of State and local governments. Very few crimes (less than 10%) are under exclusive Federal jurisdiction. Police protection is primarily a function of cities and towns; prosecution and courts are mainly a function of counties; and corrections is primarily a function of State governments.

The dominance of State and local governments in the criminal justice system is demonstrated by the results of BJS' Survey of Justice Expenditure and Employment. This survey originated in the Bureau of the Census in the late 1960s as a special in-house study in which police protection, judicial, and corrections data for selected large governments were extracted from

data compiled in the Bureau's regular annual finance and employment sample surveys. This was in response to recommendations made by the 1968 Report on National Needs for Criminal Justice Statistics. In 1969 the survey coverage was expanded and a special mail canvass questionnaire was designed specifically to elicit criminal justice data.

Beginning with the fiscal 1971 survey, a new and enlarged sample of local governments was drawn specifically for the justice expenditure and employment survey to provide the variable pass-through data required by the 1970 amendments to the Omnibus Crime Control and Safe Streets Act (P.L. 90-351). Data were collected annually until 1979. The sample was again expanded in 1979 to provide the data for large counties and municipalities that were to receive direct entitlement law enforcement assistance grants under the 1979 Justice System Improvement Act (JSIA). Those provisions of the JSIA were never implemented.

In 1980 the survey was canceled for budgetary reasons. Since that time it has been conducted for 1985 and 1988 and is planned for 1990. Data from the 1988 survey have been published and will be used to determine what proportion of State funding under the Anti-Drug Abuse Act formula grants must be passed through to localities. In the years when the full annual survey has not been conducted, BJS has "extracted" similar data in less substantive and geographic detail from the Census Bureau's on-going finance and employment series. These extracted data, however, are not comparable to those collected through the BJS survey, but do serve as rough indicators of levels of justice spending and employment.

The justice expenditure and employment survey provides the following types of information:

- trends in criminal justice expenditures since 1971 in actual and constant dollars
- criminal justice employment levels for States and large local governments
- percent of total government spending for justice activities compared to spending for other government functions such as education, transportation, national defense, social insurance, and welfare
- how much each level of government spends for justice activities: for example, counties and cities spend over 10% of their dollars for justice activities, States around 6%, and the Federal government less than 1%
- changes in what justice dollars buy: for example, corrections dollars are increasingly going more for institutions and less for probation and parole

the distribution of justice spending by level of government: for example, State and local governments account for over four-fifths of all justice expenditure.

BJJ also has statistical series which examine what happens to offenders as they progress through the criminal justice system. In FY1983, BJJ initiated the Offender-Based Transactions System (OBTS) program to collect specific State data on the processing of felony offenders through the state criminal justice systems (arrest through sentencing). These data answer such questions as: what percent of arrests lead to convictions, what percent of convicted offenders are incarcerated, and how long it takes for an average case to get from arrest to disposition. Participation by the States is voluntary; 14 States, covering 30% of the nation's population, provided data for 1987. The remaining States do not participate for four major reasons: (1) they do not have an automated criminal history record capability; (2) they are not satisfied that the data being collected adequately represent the State as a whole (e.g., some jurisdictions are selectively reporting arrests); (3) they require significant funding to develop mechanisms to extract the data from other State files; and (4) they have criminal history files without statistical utility because the information is entered as "free text"; thus, the entire file must be converted before the OBTS extraction program can be utilized.

OBTS data have been used to prepare BJJ reports on such topics as the disposition of criminal cases, trends in case dispositions in five states, and white collar crime.

3. Who is under correctional sanction and why?

BJJ has a variety of statistical series on correctional populations which are a rich source of information on those in local jails, in State and Federal prisons, on probation, or on parole.

At the end of 1988, more than 3.7 million adults were under the care or custody of correctional agencies or institutions—an estimated 2% of the adult resident population of the United States. Convicted offenders and pre-trial detainees incarcerated in prisons and jails accounted for about 25% of the correctional workload while the remaining 75% were under supervision in the community by probation and parole agencies. Over the last 5 years, the community-based and the institutional correctional populations have grown at similar rates: 36% and 39% respectively.

BJS statistical programs on incarcerated offenders provide detailed information of the following types: midyear and yearend counts of State and Federal prison inmates by jurisdiction; detailed data on those admitted to and released from prisons, including demographic data, conviction offenses, sentence length, and time served; and, drawn from surveys of jail and prison inmates, criminal history and drug use data. These data show that State and Federal prison populations doubled during the 1980s, reaching 674,000 on June 30, 1989 - 92% of these were confined in State facilities. On a typical day three-fourths of those confined in State prison have been convicted of robbery (21%), burglary (17%), murder and nonnegligent manslaughter (11%), violent sex crimes (9%), drug offenses (9%), and assault (8%). Overall, about 55% of the those confined in State prisons have a current conviction for a violent offense, 66% have a current or past conviction for a violent crime, and 95% are convicted violent offenders or convicted recidivists. Of the 5% of State prison inmates who are nonviolent offenders with no previous convictions, over half were convicted of drug trafficking or burglary. More than 60% of State prison inmates have been incarcerated or placed on probation at least twice before; 45%, three or more times; and nearly 20%, six or more times. BJS data also show that local jail populations are about equally divided between those being held pending trial and those serving sentences after conviction (usually for less than a year). Although local jails had a one-day population of 342,000 in mid-1988, they reported more than 19 million entries and exits during the previous 12 months.

The National Probation Reports series provides annual data by State on the number of admissions to probation supervision and the yearend total of persons under such supervision. Additional data elements include sex, race, ethnicity, offense type, and conviction status. Since the President's Commission on Law Enforcement and the Administration of Justice met in the mid-1960s, probation populations in the United States have grown from about 400,000 to more than 2.3 million. In 1967, 49% of those under correctional supervision in the U.S. were probationers; by 1988 this had grown to 64%. Both in 1967 and 1988 about half of probationers had been convicted of a felony.

BJS' Uniform Parole Reports provide data on the populations and characteristics of persons admitted to and released from parole supervision. The program also gathers information from States on legislative and administrative changes likely to affect length of sentences and time served in correctional institutions. In recent years parole has been the fastest growing component of the correctional system, growing from 267,000 persons in 1984 to 408,000 in 1988. BJS data have shown that a typical prison sentence of 66 months results in an average stay in prison of 20 months followed by 19 months under parole supervision in the community.

Because of the growth in the size of the prison population, the number of people leaving prison and placed under a period of supervision in the community has also risen. This, in turn, creates a growing pool of persons returning to prison for violating the conditions of their release. Over the last decade, while the number of persons sent to prison by courts has increased by about 100%, the number of those sent back to prison for violating release conditions has increased by 300%. This may reflect increased surveillance by community agencies and possibly an increased ability to detect drug usage among those on conditional release.

New Programs to fill the gaps in our knowledge of crime and justice

Family Violence. Family violence is a sensitive and difficult crime to measure. The National Crime Survey currently tabulates all incidents reported to interviewers using the current crime screener; these findings have been presented in two special reports and will be presented yearly beginning in June of this year in our detailed annual report on Criminal Victimization in the United States. To increase reporting of this sensitive crime in NCS, a much more detailed set of screening questions is being phased into NCS between 1991 and 1993. Questions encourage victims to report attacks and attempted attacks, even if they are not sure they are a crime. They are specifically questioned about attacks or other incidents involving family members.

Since NCS does not interview victims younger than age 12 (and child development experts with whom we have consulted do not recommend lowering the interviewing age), we are exploring an additional method to measure child abuse as well as serious family violence. The Consumer Product Safety Commission currently obtains information from a sample of 65 hospital emergency rooms concerning injuries resulting from consumer products. We are examining the possibility of expanding their system to include coding of all intentional, or possibly intentional, injuries. A pretest was conducted in September, 1989 in 33 hospitals, asking coders to code these cases, even if they had not been officially classified as family violence or child abuse. Information was obtained on the victim-offender relationship, demographic characteristics available on the medical form, severity of the injury, weapons used, and whether anyone involved in the incident was under the influence of drugs or alcohol. BJS is optimistic that this can become a permanent program to measure the incidence of family violence and child abuse that is sufficiently serious to result in emergency room treatment.

By 1993 we expect to be able to report yearly on family violence obtained from the new NCS screening questions as well as family violence and child abuse coded through the emergency room sample. Although these data will still not detect all cases of family violence and child abuse, they will provide the most complete national estimate obtainable from two carefully developed data collection systems.

International Statistics. Another gap that BJS has begun to fill is the comparisons of crimes and criminal justice processes in the United States with those of other countries. Other Western industrialized democracies have crime rates that differ from those of the United States; we need to know how much they differ, why they differ, and if the reasons they differ can be addressed by public policy.

BJS cooperates with other countries and with international organizations to increase the availability of international crime statistics, to improve their quality, and to conduct comparative crime studies. We have worked with the United Nations to improve the design and data collection for the third UN crime survey of member nations and arranged for the data from this and the two earlier UN surveys to be placed in our criminal justice archive. Through the National Criminal Justice Reference Service, we are developing a program to disseminate criminal justice statistics publications from other countries. We are planning to fund the development of an electronic international network that will allow BJS to communicate directly with its governmental counterparts in other countries and with international organizations. We have published studies comparing crime rates and the use of imprisonment in the United States and other countries. We will also be publishing a study that compares time served by offenders in the United States and other countries.

National Judicial Reporting Program. One of the historic gaps in American criminal justice statistics has been the absence of national data to document whether more arrested felons are being prosecuted today than in the past, whether more convicted felons are now being sent to prison, or whether more probationers are having their probation revoked. Consequently, policymakers know that relative to the volume of arrests more felons are going to prison now than ever before, but they are in the unfortunate position of not knowing precisely what policies or practices are responsible for the historic change. A new statistical series recently launched by BJS is designed to close some of these persistent informational gaps. Had the series been in existence prior to the historic growth in America's prison population, it would have been possible to answer some of these questions.

The series, entitled the National Judicial Reporting Program (NJRP), compiles detailed information on individual felons convicted in a representative sample of State courts. For its initial phase the NJRP recorded information on felony convictions in 1986. For the second phase, now nearing completion, the targeted population is felons convicted in 1988. The third phase, now in planning, will target felony convictions in 1990.

The series of reports based on the 1986 survey achieved a number of "firsts" in American criminal justice statistics. For the first time detailed national data were available to show how many people were convicted of a felony offense in State courts nationwide, the percentage receiving a prison sentence, the percentage receiving probation, and the percentage receiving a jail sentence (Felony Sentences in State Courts, 1986, February 1989). For the first time convicted felons nationwide were described according to their race, age, and sex, and comparisons existed to show how sentences varied across demographic characteristics (Profile of Felons Convicted in State Courts, 1986, January 1990). Another first was the publication of national statistics showing the number of felons convicted by trial and by guilty plea, the effect on sentences of the different conviction types, and a description of various lengths of time the criminal justice system takes to process felony conviction cases (Felony Case Processing in State Courts, 1986, February 1990).

Another first in American criminal justice statistics was detailed national data on one particular type of sanction: probation (Felons Sentenced to Probation in State Courts, 1986, forthcoming). Probation is the most common sentence imposed by criminal courts in the United States -- more common than either prison sentences or jail sentences -- yet it is the least well documented in national surveys. Detailed national data on prison and jail sentences have long been available, but historically no detailed national data have existed on basic questions about probation, such as:

- How many felons are sentenced to probation in the United States?
- For which types of crimes are felons sentenced to probation?
- How many probation sentences include a jail term, fine, restitution, or treatment order?

Indigent Defense. Another overlooked area of the criminal justice picture is the role defense counsel performs in criminal justice processes and outcomes. Yet it is an area that in recent years has undergone tremendous historic change. Supreme Court decisions, throughout the 1960s

and the 1970s, resulted in a number of changes in the requirements placed upon States to provide defense counsel to persons accused of a crime but unable to afford their own defense. Although the impact of these requirements on State justice systems has yet to be fully evaluated, BJS has sponsored two national surveys that begin to shed some light on the effects of the new requirements.

The first was a 1982 survey of defense delivery systems throughout the 50 States and the District of Columbia. Information on the type of delivery systems (assigned counsel vs. public defender vs. contract system), caseload and cost estimates, availability of clerical and investigative resources, point of case entry, and other case processing procedures were collected. The second survey was done in 1986. It documented changes since 1982 in types of service delivery systems, caseload estimates, and the costs of providing the services. It found that 4 million defendants received indigent defense representation in 1986, up from 3 million in 1982, and that indigent defense cost the States \$1 billion in 1986, up from \$600 million in 1982.

Changes in State Felony Laws. State legislatures are continually revising old criminal statutes and enacting new ones. Such changes affect, for example, the type of charge a prosecutor can bring, the type of sentence a convicted offender can receive, and the amount of time a prisoner can serve. When jail or prison populations grow or when other trends become evident, policymakers commonly consider a wide variety of possible explanations, including changes in State laws. Finding information on State law changes has always been difficult because there was no publication that combined into a single source all the legal changes that occur over a period of time. BJS has taken a major step toward correcting this information gap with the publication of its Felony Laws of the 50 States and the District of Columbia, 1986 (December 1987). The publication gives the felony statutes and the penalties authorized in all the States as well as certain misdemeanor statutes and penalties. Future publications in this series will enable policymakers to identify law changes that might help account for trends they observe.

Recidivism. Recidivism has been of particular concern to BJS, the Department of Justice, Congress, and the criminal justice community for many years. In recognition of this concern, BJS has developed a national statistical series to measure recidivism systematically. Under the BJS National Recidivism Reporting System (NRRS), BJS links data from the FBI and participating States in order to track the criminal behavior of selected groups of offenders

In the first study published in 1987, the NRRS provided data on a representative sample of almost 4,000 persons age 17 to 22 years old who were paroled in 22 States during 1978. In 1989 the NRRS provided data on the postprison experience of a representative sample of 16,355 persons released from prison in 11 States, representing more than half of all released State prisoners in 1983. An estimated 62.5% of former state inmates were rearrested for a felony or serious misdemeanor within 3 years of their discharge from prison. About 47% of the former prisoners were convicted of a new crime and 41 percent were sent back to prison or jail. These studies:

- included records on single and multi-state offenders, enabling a more comprehensive analysis of recidivism than previously possible with single-State records;
- provided for the first time national level estimates of the rates of rearrest, reconviction, and reincarceration;
- provided estimates of the number of arrests for felonies and serious misdemeanors attributable to persons released from prison; and
- demonstrated the relationship of such factors as age, length of prior record, drug arrest history, incarceration history, sentence length, and time served with the postrelease performance of released prisoners.

BJS has begun development of a third NRRS recidivism database of approximately 40,000 persons arrested for the first time in 1978 and 1984, regardless of whether they were convicted or incarcerated. Data collection and conversion will be completed by September 1990. Important measures and issues to be addressed with these data include:

- the first national-level estimates of the lifetime prevalence of arrests for felonies and serious misdemeanors;
- the first measure of trends in recidivism, based on the same methodology for two points in time;
- annual estimates of the fraction of all arrests accounted for by first-time offenders in participating States;
- estimates of the number of first-arrestees with prior arrests in other States (multi-state offenders);
- analysis of criminal career patterns by age at onset, first arrest offense, types of criminal justice sanctions imposed, duration, and intensity.

Survey on Youth. Prior to 1987 there existed only limited national data on the characteristics of delinquent youth held in State institutions. We knew little, for example, about their prior criminal records or their drug use history. To fill these gaps BJS conducted the Survey of Youth in Custody in 1987. The BJS survey involved face-to-face interviews with a nationally representative sample of 2,621 youth in 50 long-term, state-operated juvenile correctional institutions. The sample represented over 25,000 youth housed in these facilities, or about half of all juveniles held in public juvenile facilities in 1987.

As a result of this study, we learned that juveniles incarcerated in long-term, state-operated juvenile correctional institutions differed from the general population with respect to several characteristics such as drug use, family situation, and education. We also found the youth in these facilities had characteristics similar to the residents in adult correctional facilities. Similar percentages of each group reported a prior incarceration. Backgrounds of prior violence and recidivism (defined as prior sentences to probation or incarceration) were also quite similar.

Specifically, the survey found that an estimated 39% of all juveniles held in long-term, state-operated juvenile correctional facilities had been incarcerated for a violent offense. Also, nearly 60% of the juveniles had previously used drugs regularly and more than 25% had used a major drug in the past on a regular basis. An estimated 48% of the juveniles were under the influence of drugs or alcohol at the time they committed the offense for which they were then incarcerated. Seven out of 10 of the juveniles had not grown up with both parents. More than half of all juveniles reported that a family member had also been imprisoned.

Law Enforcement Management and Administrative Statistics Survey. In 1987, BJS conducted the Law Enforcement Management and Administrative Statistics Survey (LEMAS). This survey is the first to provide nationally representative data concerning law enforcement agencies in the United States. Information was obtained from approximately 3,000 State and local police agencies, sheriffs' departments, and special police agencies (such as transit police and park police), representing a total of 18,000 agencies nationwide. Results yielded a comprehensive statistical profile of these agencies on a wide variety of subjects, including the number and characteristics of personnel; salary levels; expenditures; equipment provided to officers; types of, and uses made of, computers; number and types of police vehicles as well as policies for their use; types of programs such as those for victim assistance, child abuse, and drug education; and agency policies on subjects such as residency, educational requirements, and training for new recruits.

BJS published two reports from this series: one presenting a general profile of the state and local police agencies and sheriffs involved in the survey, and the other concentrating on police departments in cities with a population of 250,000 or more. The survey will be repeated in the summer of 1990, with added questions on drug-related policies.

National Pretrial Reporting Program. In recent years BJS has initiated a National Pretrial Reporting Program (NPRP) which fills an important gap in criminal justice statistics—the pretrial status of persons charged with felonies. Beginning in February 1988, data were collected in 40 jurisdictions, selected to provide a statistically representative sample of the 75 largest counties in the United States. These 75 counties account for more than half the Nation's crime. A sample of defendants in each county was tracked for 12 months or until disposition. Data were collected on: the arrest offense, the defendant's prior criminal record, the type of pretrial release, failure to appear in court, rearrests while on pretrial release, disposition, and sentencing. A summary report of findings was issued earlier this month. The survey will be repeated this year and is expected to be conducted every three years thereafter.

Federal Statistics. Prior to 1984, no single source of data describing the processing of defendants through the Federal criminal justice system existed. To meet this need BJS initiated the Federal statistics program which maintains data describing the prosecution, adjudication, sentencing, and correctional activity of federal defendants in a single data base. In order to examine case processing through the Federal justice system, procedures have been developed to link individual cases from various Federal operational agencies. Consistent with legislative requirements, the data are stripped of identifiers before release, and are used for research purposes only. Under the program, reports have been prepared analyzing bail before and after the 1984 Bail Reform Act, white collar crime, drug offenders, and other topics. A compendium of data describing all components of the system at both the national and district level has also been issued; this will become a regular annual report. In July 1989, Federal Criminal Cases, 1980-87 was published which showed that between 1980 and 1987 prosecutions in U.S. District Court increased 74%; convictions, 49%; and sentences to prison, 71%. Persons charged with drug offenses accounted for much of this increase: prosecutions for drugs were up 153%; convictions, 181%; and sentences to prison, 177%.

Simulation Model of the Federal Justice System. In response to a specific mandate of the National Drug Control Strategy BJS is working towards the development of a model to simulate the functioning of the Federal criminal justice system. This model would be based

on the collected under the Federal Justice Statistics program. As envisioned, the model will permit the analysis of the impact on the Federal justice system of changes in sentencing legislation, resource allocation, arrest rates, and other variables. A survey of the state of the art of existing models is now being completed. It is anticipated that within 18 months a prototype of a model will be available for implementation at BJS.

Guns, Drugs, and Violent Crime. In response to the high level of interest in the relationship between guns, drugs, and violent crime, BJS is requesting funding in its FY1991 budget to establish a comprehensive database of statistics addressing these relationships. Data will be gathered both from existing BJS sponsored criminal justice surveys through enhancements or supplements and by initiating new surveys and data gathering efforts. Specific actions to be taken include:

- Planned surveys of inmates of local jails and state and federal prisons will have an expanded set of questions concerning the relationship of drug use to crime and the use of firearms during the commission of crimes. Typical questions will include the number and types of weapons in possession of the person during the commission of the crime, whether they were used, and the source of the weapons (purchased, stolen, borrowed). Additional questions will be added to probe the acquisition, use, and role of illegal drugs during the criminal activities that led to incarceration.
- An incentive program will be established to increase the precision of offense reporting by the 14 states currently participating in the BJS Offender-Based Transaction Statistics (OBTS) program. Currently, many crimes which include weapon or drug descriptions as an element of the classification are coded into an "All Other" category rather than into more specific classifications. Funds will be provided for the states to produce more detailed information on weapons-related offenses and on the nature of drug crimes and the type of drug involved.
- The periodic survey of Law Enforcement Management and Administrative Statistics (LEMAS) will be expanded to include questions regarding the degree to which police and sheriffs' departments have drug testing policies, test arrestees for drugs, test recruits for drugs, and utilize specialized drug investigation units or task forces. Other questions will be added relating to the type of weapons authorized and supplied for police use.
- BJS will initiate studies in selected cities of the criminal histories of those arrested for selling or buying drugs. One objective of the studies will be to determine whether different sentencing policies could significantly reduce crime through incapacitation.

- BJS will expand its National Pretrial Release Program to provide increased emphasis on persons arrested for drug related crimes. This program collects data on defendants from the time the case is filed with the court through adjudication, with particular focus on pretrial release and outcome. Currently there are 40 jurisdictions in the sample which are representative of the 75 largest counties in the United States.

Future challenges and directions in BJS data collection programs

Misdemeanor Statistics. As noted earlier, BJS has recently begun to provide nationally representative data on felony convictions and sentences throughout the United States. No national data exist, however, on misdemeanor convictions. Although misdemeanors are on the whole less serious than felonies, nonetheless many serious criminal acts (including some violent crimes and some drug offenses) result in misdemeanor convictions. This is a serious gap in criminal justice statistics. For example, although the Nation is involved in a fight against the use of illegal drugs, there are no national data available on the number of persons prosecuted, convicted, and sentenced for misdemeanor drug possession.

White Collar Crime. At the present time there are no comprehensive, empirical data describing the rate, nature, or economic cost of white collar crime throughout the nation. A BJS initiative for such a statistical program was denied funding by Congress for FY1988.

This program would measure the incidence, nature, and cost of white collar crime in order to establish a statistical baseline that would permit development of more cost-effective prevention and enforcement policies and evaluation of existing and future white collar crime control strategies. A program would be specifically designed to minimize overall costs by relying on existing administrative data from enforcement agencies. Overall, the project would result in a new series of statistical indicators tracing current levels and long-term trends in white collar crime. Such trend data would permit the evaluation of the effectiveness of regulatory and enforcement strategies as well as the modification of such strategies to target more effectively the dollars expended for white collar crime control.

Survey of Probationers. As noted earlier, probationers account for 64% of the corrections population nationwide. However, beyond such characteristics as race, sex, and whether the offense was a misdemeanor or felony, no information is available on criminal history

backgrounds or patterns of drug or alcohol use. A nationally representative sample survey utilizing the self-reports of probationers, similar to the types of surveys now conducted with prison and jail inmates, would provide the first opportunity to examine this population and how they may differ from other components of the corrections caseload.

Other BJS Activities Related to Criminal Justice Statistics

In addition to the data series that BJS runs or sponsors, there are several other activities that BJS undertakes to improve or develop criminal justice statistics.

Statistical Analysis Centers (SACs). The Bureau of Justice Statistics (BJS) provides partial support to State governments for the establishment and operation of state-level centers for the analysis of statistics on crime and criminal justice. The functions of a State Statistical Analysis Center (SAC) are to:

- collect, analyze and interpret data on criminal justice in the State;
- produce statistical reports on crime, criminal offenders, and the criminal justice system;
- provide the State government and local governments with access to Federal resources in criminal justice statistical information;
- provide a contact point in the State for BJS and serve as a dissemination point for statistical products and technology; and
- provide data to BJS for multi-State and national compilations.

At present there are SACs in 45 States and the District of Columbia, Puerto Rico, the Virgin Islands, and the Northern Mariana Islands. Most are supported by State funding augmented by awards from BJS. The SAC must be authorized by State legislation or by executive order and be a non-partisan professional organization which serves all branches of the criminal justice system and all levels of government in the State as well as the general public. The SAC must be staffed by professionals who are skilled in the statistical treatment of data for policy analysis and who are familiar with the factors, issues, and processes that are involved in crime and the criminal justice system.

Identifying Felons and Improving Criminal History Records. Section 6213 of the Anti-Drug Abuse Act of 1988 required the Attorney General to report to Congress by November 18, 1989 on a system for the immediate and accurate identification of felons who attempt to purchase firearms. A Task Force on Felon Identification in Firearms Sales was established to develop a range of options that would comply with the statute. The Acting Director of BJS served on the Task Force, and BJS provided the basic staff support for the Task Force. In his letter of November 20, 1989 the Attorney General forwarded the Task Force report to Congress and recommended a four-part program to enhance efforts to stop firearms sales to felons. One recommendation was to use \$9 million of the Bureau of Justice Assistance's Discretionary Grant Program in each of the next three years to fund cooperative agreements with States for the purpose of achieving compliance with the new FBI reporting standards and to improve the data quality of state criminal histories.

BJS has undertaken, in cooperation with the Bureau of Justice Assistance, a discretionary grant program for identifying convicted felons and improving the quality of criminal history information. The goals of the program are: (1) to enhance State criminal history records in order to accurately identify felons attempting to purchase firearms; (2) to comply with new FBI voluntary reporting standards for identifying such individuals; and (3) to improve the quality and timeliness of criminal history record information. By enhancing the completeness, accuracy, and timeliness of State criminal history records, this program will provide tangible benefits to law enforcement agencies while also significantly improving a rich source of data for statistical analyses and studies.

The Redesign of the Uniform Crime Reports Program. Throughout the 1980s BJS worked closely with the FBI on the first comprehensive assessment of the Uniform Crime Reports (UCR) program since its inception in 1930. This assessment by a private contractor resulted in a design for implementing a new incident-based crime reporting system (called National Incident-Based Reporting System, or NIBRS). In recent years BJS has been funding State agencies to implement the redesigned program. To date, \$8.6 million has been provided to 30 States and the District of Columbia. Applications for funding from six additional States are currently under review at BJS.

The States are just now beginning to submit the new incident-based crime data. Since a variety of data elements will be collected for each offense and arrest, the NIBRS program will provide a rich source of data for analyzing crimes that come to the attention of law

enforcement authorities. In the years ahead BJS will conduct numerous special analyses of the new NIBRS data for dissemination as BJS reports. BJS will work closely with the FBI in developing a complementary publications plan.

Conclusion

Much has been accomplished in achieving the recommendations of the two Presidential Commissions that called for a comprehensive national criminal statistics program. Nonetheless, much remains to be done. The dedicated statisticians and other professionals at BJS will continue to embrace the highest standards of accuracy, reliability, and impartiality as they work to improve and expand BJS' data collection efforts and to ensure that these meet the needs of those who are working to combat America's crime problem.

Mr. SCHUMER. Mr. Wilson.

Again, your entire statement will be read in the record, and you may summarize, add, subtract, as you wish.

STATEMENT OF J. HARPER WILSON, CHIEF, UNIFORM CRIME REPORTING PROGRAM, FEDERAL BUREAU OF INVESTIGATION

Mr. WILSON. Thank you, Mr. Chairman. I would like to thank you for the invitation.

The FBI is very pleased that you are scrutinizing the criminal justice information systems that we have available today, and I am personally pleased in that we consider these systems very important and crucial in the decisionmaking and resource application process.

I might start by giving you a little brief history on what UCR is—uniform crime reporting—what it is and what it attempts to achieve. As has been pointed out earlier, the program is 60 years old. It began back in the 1920's when the International Association of Chiefs of Police realized there needed to be a national system to measure crime from one jurisdiction with another.

This is the only major free world country that has its municipalities, States, provinces—whatever they are called—given the authority to establish common law type violations independent of the national perspective. In most of the other major countries, Federal or national laws apply equally throughout the provinces, States, et cetera. So you can't, in this country, take an aggregation of offenses occurring throughout our States and come up with any meaningful total. For example, in Kansas, the theft of a piece of personal property out of an interior of an automobile is considered a burglary. In New York State, for example, it is considered a larceny theft.

Uniform crime reporting was developed by the International Association of Chiefs of Police to provide a common denominator whereby law enforcement would throw away in preparing uniform crime reporting reports its State statute requirements. The records clerk wears two hats. One is his police hat that he needs to go by State statutes; the other is his uniform crime reporting hat in which he applies our definitions.

The program was adopted by the International Association of Chiefs of Police in 1930. The FBI was considered the most, at that time, viable national administrator since we had national presence and since we had the natural liaison with the law enforcement community. The IACP prevailed upon the Attorney General and the FBI to assume this leadership role. Congress, in 1930, mandated the Attorney General by statute, who delegated the authority to the FBI.

Throughout these last 60 years, the program has remained very static; very little innovation, very little change, has occurred. That is primarily because of the initial lack of data processing capabilities in 1930.

The program began with a Dow Jones type approach. Seven index offenses were selected to be the representors of all crime in the country. The UCR Program has and will continue to look only at offenses known to law enforcement and arrests. We do not pre-

tend or are we capable of looking at dispositions, which include, beyond arrest convictions, sentences, et cetera.

Today, I am happy to report, and I think that you may be enthusiastic to hear, that some dramatic and innovative changes are occurring in the UCR Program. I believe that in the very near future many of the voids that you feel frustrated with today, Mr. Chairman, will be filled by the information to be collected in the National Incident Based Reporting System [NIBRS] Program.

The law enforcement executives throughout the country today who are familiar with the potentialities of NIBRS are, themselves, very enthusiastic and hopeful that the application of NIBRS will assist them not only in administrative endeavors within their police and sheriffs' offices but in operational endeavors also.

After numerous years of providing advise regarding the traditional Uniform Crime Reporting System, the International Association of Chiefs of Police and the National Sheriffs' Association in the late 1970's called upon the FBI to apply the coming information age, the data processing capabilities, to a more improved, more useful system. Since then, a system has been developed following an independent survey which the Bureau of Justice Statistics supported through contract funds which would bring to the 21st century crime statistical reporting and collection capabilities.

The consultants that studied the system in the early 1980's had two responsibilities. One was to delineate the good traits as well as the criticisms about the current uniform crime reporting system, and their second responsibility was to make recommendations for its enhancement and improvement.

In 1985, their recommendations were published in a document entitled "The Blueprint for the Future of UCR." There were three basic recommendations: One, that the traditional summary system, which was just an aggregation of the number of rapes and robberies, etc., that a jurisdiction had every month be changed to an incident-by-incident reporting system whereby each criminal incident would be captured in specific detail. Information about each criminal incident would be reported separately in individual incident reports. Also recommended was that the number of criminal offenses captured by the Uniform Crime Reporting Program be expanded to include more offenses of current interest in the criminal justice community.

They recommended in the blueprint that this data be captured on two reporting levels. Level one would include all law enforcement contributors. And let me add right here that our current constituency in uniform crime reporting is over 16,000 local police departments, sheriffs' offices, and State police agencies throughout the country. Those participants in uniform crime reporting do so completely on a voluntary basis at the national level and comprise over 98 percent of the country's total population, which we feel at the FBI attests very strongly to the value that law enforcement perceives the uniform crime reporting system to be to them.

The second recommendation of the blueprint involved the two-level reporting. Most of the 16,000 participants would report greater incident detail about the index offenses, the seven, now eight, index offenses of the traditional system. The level two reporting requirements would include all cities with populations excessive of

100,000 and a sampling of smaller cities and counties to do vastly more reporting on expanded number of offenses.

Three, a very important recommendation was that the standard for quality assurance be enhanced tremendously, which means, of course, audits and self-certification procedures on the part of all participants.

The law enforcement community has enthusiastically endorsed the concepts of the blueprint. In 1986, the FBI began preparations on the requirements on the actual new program. We determined that level two and level one reporting standards were not really feasible because it is just as easy for a local police department to go completely to level two and include in the report to NIBRS all offenses rather than extract simply those that comprise formerly the crime index. So today all jurisdictions who are coming on board with the new reporting system will be going directly to the full NIBRS requirements, which is good news, I think.

After developing the requirements for the incident reporting system in March 1988, we presented these requirements to a 250-member conference in Orange Beach, AL, representing all State law enforcement groups, the IACP, the National Sheriffs Association, and many other law enforcement interests. After a week-long discussion of these requirements, the conference unanimously endorsed the content of the NIBRS requirements and recommended that an advisory policy board, which is provided for by law, be established for the UCR Program whereby local law enforcement data contributors would have direct input to the Director of the FBI concerning policy and implementation matters of NIBRS. That has been done. The board was established. The first meeting was held in Alexandria in 1989.

Back in March 1988, when this concept and the requirements were finalized and endorsed, we projected that it would take probably 10 or 15 years for NIBRS to be fairly significantly implemented throughout the country. That is based on the voluntary nature of the program and also on the fact that it will require considerable resource commitment on the part of local law enforcement to come to be reportable under the incident-based system.

The good news is that that projection, which was certainly very conservative, has changed considerably since then. Today, we have 27 States who will be participating in NIBRS, and implementation of the program at the national level only became possible last year. By the end of next year, over half of all the States, 27, will be reporting under the incident-based system, and the 10 to 15 years projection is completely out the window; it will be much more like 4 or 5 years before we will have significant implementation throughout the country.

For example, in Alabama 93 percent of all their agencies within the State now participate in NIBRS. State officials only a fairly short time ago projected in this time frame they would have only 10 percent participation. That demonstrates to me the fact that the program has sold itself to law enforcement executives who become familiar with it and realize what they can do with the data once it is available.

Because the implementation of NIBRS will, of course, require these resource commitments at the local level, we at the FBI have

encouraged their adoption of the program when resources permit, when they, as we all do, renovate record systems. The tail should not wag the dog but vice versa. Nevertheless, the law enforcement eagerness to find and possess NIBRS information is somehow enabling them to find the resources necessary to make this commitment much more quickly than anticipated.

Some of the crime data issues that can be addressed by the new program are terrorism, white-collar crime, weapons offenses, missing children, drug/narcotic offenses, drug involvement in all offenses, domestic violence, juvenile gang type crime, parental kidnapping, organized crime, child pornography, and computer-related crime.

I am not going to go into any great detail today, my written statement has more of that, except to say that there are 22 broad categories of offenses included in the new program and, perhaps more importantly, great detail about each offense. There are 52 data elements, or details, that can apply to each of the 22 categories of offenses, and the formal statement has a description of those.

One of the good things about cost to local, county and State law enforcement agencies, and Federal, is that the major cost involved in going from the traditional summary system to the incident system are startup costs. Once the transition is made, many jurisdictions are finding that the increased use of computerization lessens operating costs.

A couple of new responsibilities that have impacted on the UCR program should be noted. One is something that is very near to this subcommittee, and that is the hate crimes legislation which has passed both Houses of Congress and is pending signature at the White House. The Department of Justice has indicated that once the President signs the bill it will delegate the responsibility to collect such to the FBI. We have been in the process for the last 3 years in determining how best to pursue hate crimes collection once the legislation is enacted, and we have several plans to activate once the law is passed.

We believe that the intent of the legislation is very, very good. Not only are the victims of these crimes those who are actually touched by it but, in fact, all of those people within the communities of the same class as the victim. We believe the hate crimes legislation and the data collection will sensitize law enforcement more fully to the problems that this type of criminality pervades and will also help community organizations to better address the victims' needs.

The other fairly new responsibility imposed upon the FBI was the 1988 law called the Uniform Federal Crime Reporting Act, which mandates that Federal law enforcement also participate in UCR. The Federal law enforcement community is now being implemented to participate in the NIBRS Program.

The founders of the traditional UCR Program intended that the Federal law enforcement community would participate eventually. That never occurred because the crimes that comprise the crime index were not those for which Federal law enforcement had tremendous interest. That has certainly changed now with the devel-

opment of NIBRS. The Federal law enforcement community can be expected to be up and running within about 2 years.

The other ancillary service that the UCR Program provides is the program of collecting information on the felonious and accidental killings of law enforcement officers and assaults on law enforcement officers. I have some detail about that in my formal statement. I won't get into any further discussion of that here.

Thank you, and I would be happy to answer any questions.

Mr. SCHUMER. Thank you, both panelists, for comprehensive testimony.

[The prepared statement of Mr. Wilson follows:]

PREPARED STATEMENT OF J. HARPER WILSON, CHIEF, UNIFORM CRIME REPORTING PROGRAM, FEDERAL BUREAU OF INVESTIGATION

I am delighted to have the opportunity to appear before the Subcommittee on Criminal Justice. There are some dramatic innovations occurring in the Uniform Crime Reporting (UCR) Program that I believe will greatly expand our knowledge about crime and its perpetrators, as well as the many related criminal justice issues facing our society today. In the relatively near future, many of the criminal justice information voids could be directly addressed by the data provided in the innovative and completely redesigned UCR system. Nationwide, law enforcement executives familiar with this new system are tremendously optimistic about its future usefulness in operational and administrative applications. I believe you, also, will be enthusiastic following your scrutiny of the new program called the National Incident-Based Reporting System (NIBRS).

NIBRS is the culmination of many years of planning and development throughout the law enforcement community. In the late 1970s, the law enforcement community, represented by the International Association of Chiefs of Police (IACP) and the National Sheriffs' Association (NSA), called for a thorough review and redesign of the UCR Program which was first implemented in 1930. Since its inception, the Program had remained relatively static in terms of reporting procedures and data collected and disseminated. The number of voluntary participants, however, has grown from approximately 400 in 1930 to over 16,000, representing 98% of the Nation's population.

By the 1980s, a broad utility had evolved for UCR, and recognizing the need for improved statistics, law enforcement called for a thorough evaluative study that would modernize the UCR Program to take advantage of the law enforcement community's expanded capabilities to supply crime-related data to meet its ever increasing informational needs.

A national system addressing crime data and statistics is necessary because the United States is the only free world country whose subdivisions (states) have the authority to establish their own criminal statutes. For example, a criminal act which is "burglary" under Kansas law is "larceny" in New York State. In other major Western governments, "federal" criminal laws transcend jurisdictional boundaries. The differing state criminal codes in America, however, preclude a mere aggregation of state statistics to arrive at a national total. Therefore, standardized offense definitions by which law enforcement submit UCR data, without regard for local statutes, were formulated at the Program's beginning in 1930 to overcome these variances and to produce uniform national crime statistics.

For 60 years, the traditional UCR Program has provided periodic assessments of the nature, type, and trends of crime nationwide. Data produced have, however, been very limited in scope and detail. In 1982, an outside consultant was contracted to conduct a two-phase study of the UCR Program. The first phase entailed delineating the good traits of the traditional system,

as well as its criticisms. Phase two of the endeavor was to make recommendations for the improvement and enhancement of UCR. The study was done in conjunction with UCR law enforcement participants and was overseen by the FBI and the Bureau of Justice Statistics, the agency providing the contract resources. In early 1985, the completed study and resultant recommendations were published as the "Blueprint for the Future of the Uniform Crime Reporting Program" (Blueprint).

The significant global recommendations made by the Blueprint were: (1) that the system be converted from the historical "summary" collection method whereby monthly aggregate crime information is collected, to an "incident-based" system involving the collection of incident-by-incident data. Specific details about each criminal incident were to be collected; (2) that collection of data be accomplished on two levels. Agencies in Level I would report important details about those eight offenses comprising the current Crime Index, their victims, and arrestees. Law enforcement agencies covering populations of over 100,000 and a sampling of smaller agencies would be included in Level II, which would collect expanded detail on all significant offenses; and (3) that more formal and standardized quality assurance procedures be instituted.

Throughout 1985, discussions among the law enforcement community ultimately yielded endorsement of the redesign concepts set forth in the Blueprint. In 1986, the FBI began its design of

the new system requirements. It became apparent during the development of NIBRS that the Level I and Level II reporting proposed in the Blueprint was not the most practical approach. Many state and local law enforcement administrators indicated that the collection of data on all significant offenses could be handled with more ease than could the extraction of selected ones. While "Limited" participation, equivalent to the Blueprint's Level I, will remain an option, it appears that all reporting jurisdictions, upon implementation, will go immediately to "Full" participation, meeting all of the NIBRS submission requirements.

In March, 1988, the FBI presented its proposals for NIBRS requirements to approximately 250 law enforcement executives representing each state's Police Chiefs' Association, Sheriffs' Association, IACP, NSA, and other law enforcement interests. At the conclusion of a week-long conference, NIBRS was unanimously endorsed. The conference attendees also unanimously urged the formulation of an official Advisory Policy Board comprised of data providers to assist in the direction and implementation of the new Program. The Uniform Crime Reporting Data Providers Advisory Policy Board has been established as recommended. Comprised of 20 law enforcement executives representing data contributors of all population sizes and regions of the country, the Board had its first meeting in Alexandria, Virginia, in February, 1989.

In March, 1988, it was projected that significant national implementation of NIBRS would require 10 to 15 years, given its voluntary adoption at the city, county, and state levels. However, the progress of NIBRS adoption and application has been overwhelming. Thirty states are at varying stages of implementation and at least that many will be reporting NIBRS data by the end of next year. NIBRS has literally sold itself to chief executives of law enforcement agencies. In Alabama, for example, over 93% of the state's law enforcement agencies are currently reporting NIBRS data. Early state projections had only forecast 10% coverage at this point in time. This overwhelming support is especially surprising in that participation in NIBRS is purely voluntary.

While there is no Federal statutory UCR reporting requirement, the law enforcement agencies covering 98% of our Nation's population which now voluntarily submit crime reports attest to UCR's perceived value throughout local law enforcement. Because the implementation of NIBRS will, of course, require substantial resource commitment at the local level, we at the FBI encouraged law enforcement executives to implement NIBRS as resources allowed and in conjunction with other modifications to their records systems. We were prepared to operate the traditional and NIBRS systems in parallel for the many years we projected would pass before full implementation. It appears now,

however, that law enforcement, in its eagerness to possess the new NIBRS information, is finding the resources to make the transition more quickly than anticipated.

The Department of Justice, through the Bureau of Justice Statistics, has been providing modest financial assistance to the states for implementation of NIBRS. To date, thirty states and the District of Columbia have received \$8.6 million, and by the end of fiscal 1990, it is anticipated that more than \$10 million will have been awarded for this purpose.

As I stated earlier, NIBRS will collect data pertaining to almost every major criminal category of interest in the United States. Some of these areas are:

- Terrorism
- White Collar Crime
- Weapons Offenses
- Missing Children
- Drug/Narcotic Offenses
- Drug Involvement in all Offenses
- Spouse Abuse
- Abuse of the Elderly
- Child Abuse
- Domestic Violence
- Juvenile Crime/Gangs
- Parental Kidnaping
- Organized Crime
- Pornography/Kiddie Porn
- Driving Under the Influence
- Alcohol-Related Offenses
- Computer Crime

Eight criteria were applied by the FBI to the offenses to be included, and likewise, to specific details about criminal incidents. They are: (1) the seriousness or significance of the offense, (2) the frequency or volume of its occurrence, (3) how

widespread the offense occurs in the United States, (4) whether the offense will come to the attention of law enforcement, (5) whether law enforcement is the best channel for collecting data on the offense, (6) the burden placed on law enforcement, (7) the national statistical validity and usefulness of the collected data, and (8) as the sole collector of criminal incident information, the national UCR Program's responsibility to make crime data available not only to law enforcement, but to others having a legitimate interest in it. Throughout the Program's design, the goal was to harness information currently in law enforcement records, not to require the collection of additional information.

Included in NIBRS are 22 broad categories of offenses against persons, property, and society. I have provided a listing of these offenses, their definitions, and subcategories on a separate document. Perhaps more important than the expanded offenses in NIBRS are the details to be captured on each criminal incident. There are 52 data elements or specific details to be reported as they apply to each criminal incident. Certain data elements, such as whether the offense was attempted or completed; date of occurrence; location; computer, alcohol, or drug involvement; whether and how cleared by law enforcement; type and value of property loss and recovery; victim type (individual, business, society, etc.); number of, age, sex, race, ethnicity and resident status of offenders and/or arrestees,

apply to all offenses. Others apply only to certain categories of offenses. For example, for crimes where the victim is an individual, the age, sex, race, ethnicity, and residence status of the victim are reported. For crimes against persons and robbery, the relationship of the victim to the offender, the weapon used, and the type and extent of any injury are reported. For drug offenses or drugs/narcotics seized in connection with another offense, the drug type and quantity are recorded. The type of criminal activity (buying/receiving, distributing/selling, exploiting children, etc.) is captured for offenses such as drug/narcotics violations, counterfeiting/forgery, pornography/obscene material, and weapons law violations.

Additionally, there are another 10 offense categories for which data on persons arrested are collected. Examples of these are bad checks, driving under the influence, liquor law violations, and trespass. A final category requires reporting arrests for all other offenses. Crimes in this limited reporting category, while sometimes serious, did not sufficiently meet the criteria for the collection of detailed offense data.

NIBRS, unlike the traditional summary UCR Program, will capture details on all offenses occurring during a single criminal incident. Under the traditional system, if more than one crime was committed by the offender(s) at the same time and place, only the most serious was reported. In NIBRS, all

offenses occurring within a single incident are to be reported, along with their corresponding data elements. For example, if an offender breaks into a residence to steal property, rapes a female occupant, and then murders a second individual in order to escape, three offenses occurred: homicide, forcible rape, and burglary. Under the traditional system, only the homicide, along with limited detail, would be reported. NIBRS would capture the occurrence of all three offenses, along with great detail about each offense, the victim(s), the offender(s) and any property involved.

To preserve the UCR long-term statistical series, NIBRS has been structured to allow the extraction of traditional UCR data. During the transitional period of NIBRS implementation, the FBI plans to convert from NIBRS data the traditional or summary statistics necessary for the annual publication of "Crime in the United States." New data presentations which will be made possible by NIBRS will be phased in as implementation progresses. In the interim, periodic special reports and topical studies using the available NIBRS data will be produced.

The successful implementation of NIBRS and subsequent data availability depend upon serious commitments at all levels of government. State and local governments have already demonstrated their commitment by expending and allocating significant resources to this effort.

I would like to discuss some new responsibilities delegated to the UCR Program. The Uniform Federal Crime Reporting Act of 1988 mandated all agencies that have Federal law enforcement responsibilities to report crime statistics to the UCR Program consistent with established requirements to include the reporting of drug/narcotic offenses. Because NIBRS applies to the investigative interests of Federal law enforcement and because it contains the provision for reporting drug/narcotic offenses and drug relationships to all offenses, NIBRS is in the process of implementation throughout the Federal law enforcement community. Federal involvement will for the first time bring to UCR the ability to present the total picture of crime known to law enforcement in the Nation. I predicted that Federal law enforcement would naturally evolve into participation when it became aware of the benefits provided. The law precluded this natural evolution. Most agencies, including the FBI, will use these detailed crime data to better formulate investigative approaches particularly in the areas of nonreactive violations. The designers of the traditional UCR system intended that the Federal sector participate, but the offenses comprising the Crime Index (homicide, forcible rape, robbery, aggravated assault, burglary, larceny-theft and motor vehicle theft) were not those for which Federal law enforcement had broad responsibility. NIBRS, as previously discussed, changes and broadens this scope. Three conferences have been held with Federal law enforcement

since passage of the legislation, and implementation is underway in varying degrees. The Department of the Interior, having approximately five agencies with law enforcement responsibility, has graciously agreed to serve as the pilot Federal test bed. It is estimated that it will take about two years to complete NIBRS installation at the Federal level.

As you know, the Hate Crimes Statistics Act has passed the Senate and House and is expected to become law. The Department of Justice has indicated that the UCR Program will be tasked to fulfill the law's mandate of collecting statistics on crimes motivated by hatred or bias.

The UCR system, historically, has been an objective collection of offenses known to law enforcement. Therefore, it is recognized that offender motivation will be a difficult factor to quantify like any other subjective element involved in criminal offenses. Since the motivation determination goes far beyond the traditional scope of UCR, it will require the FBI to develop the facts to be used in making these determinations. Many officers will feel uncomfortable if asked to express their motivational opinions on an incident report form or other official document. Many will perceive that a wrong or unsubstantiated opinion will serve to impeach the credibility of their otherwise factual report at a later time in court, etc. Hopefully through proper guidance and training these concerns will be overcome.

In anticipation that the collection would, however, ultimately be mandated, the UCR Section has been studying the most feasible approach to collect bias-crime data. Discussions have been held with representatives of some states which are attempting bias-crime data collection. Also, I met with the Bias Crime Unit in the New York City Police Department, which has one of the most progressive and comprehensive efforts in the United States. During the October, 1989, meeting of the UCR Data Providers Advisory Policy Board, a recommendation was issued to the FBI Director. The Board strongly urged that any mandated bias-crime collection effort be administered by the FBI through the UCR Program.

I believe that the most effective and accurate picture of bias crime at the national level can be obtained by conducting, on a sample basis, a nationwide in-depth analysis of suspected bias-related incidents. This approach, as determined by our Research and Analysis Unit, would require approximately 800 participating agencies to follow cases through the investigative and prosecutive process and report extensive facts in those incidents that were determined to be motivated by hatred. Considerable resource commitment on the part of those agencies participating would, of course, be required, and in view of the current fiscal constraints, the agencies selected for the sample would understandably require Federal reimbursement. It was projected that Federal funds required would be quite

extensive (probably exceeding \$12 million annually). This sampling approach would not provide statistically significant local, state, or regional information. During numerous discussions with congressional staff members and representatives of groups pursuing bias-crime legislation, we proposed this alternative as the most viable method of achieving a valid national assessment. Our proposal was negatively received on all fronts, based on its cost and lack of geographical specificity.

In lieu of the sampling approach, which requires resources that are obviously not available, the FBI plans to collect these data by special submission from all UCR participants (both summary and NIBRS). Software provisions will be made available to NIBRS participants so that these data may be included in routine formats. Prior to any collection effort, definitions of hate/bias-motivated crimes and categorical breakdowns will be established by the FBI in conjunction with the DOJ and governmental entities having experience with the issue. As resources permit, training will be provided the law enforcement community. Publication of resultant statistics cannot occur until their validity and credibility have been established. This may require a substantial amount of time unless the sampling approach is utilized.

The hate crimes issue is obviously one of national concern and reliable data on its prevalence are unquestionably

needed. With this Act becoming a reality, plans must be made to collect this information in ways consistent with the established UCR quality controls throughout the United States. With a greater and more comprehensive understanding of the nature and extent of hate crime across our Nation, several benefits may result. Law enforcement agencies can better investigate these incidents and bring to justice the perpetrators of these crimes. Also, community service groups can better respond to bias-crime victims' needs.

An ancillary function that has been conducted by the UCR Program since 1971 is the Law Enforcement Officers Killed and Assaulted (LEOKA) Program. Authorized by Presidential Directive, the LEOKA captures extensive detail on officers feloniously killed in the line of duty, and less detailed data on officers accidentally killed and assaulted in the line of duty. These data are published in periodic releases and a separate annual publication. Notification of officers killed feloniously is also made via a law enforcement teletype system. This information is used extensively in officer survival and other training at all law enforcement levels (including the FBI) throughout the country.

The FBI is just concluding a Special Survey of Selected Felonious Killings of Law Enforcement Officers. Consisting of 50 representative incidents resulting in the death of an officer, this survey concerns an in-depth probe of the offender and victim

officer and the circumstances that led to their convergence. The study has involved the review and analysis of all facts available about the individuals involved, as well as the subsequent investigation of the matter. Also, an interview of the convicted offender, using established methodology, was conducted. Preliminary findings promise to identify previously unrecognized training issues and provide unprecedented opportunities for addressing these life and death matters. Publication of these results is planned for late 1990.

In summary, I hope that I have presented the potential for criminal justice information provided by NIBRS and other UCR elements in a fashion, limited as it must be here, that raises some optimism and even excitement. I also reiterate that bringing this potential to reality will require commitment from us that matches that already underway by the Nation's city, county, and state law enforcement agencies.

I would now be happy to respond to any questions you have.

Statement of J. Harper Wilson

TO: Subcommittee on Criminal Justice/Committee on the Judiciary

GROUP A OFFENSES

1. ARSON

Definition: To unlawfully and intentionally damage, or attempt to damage, any real or personal property by fire or incendiary device.

2. ASSAULT OFFENSES

Definition: An unlawful attack by one person upon another.

A. Aggravated Assault

Definition: An unlawful attack by one person upon another wherein the offender uses a weapon or displays it in a threatening manner, or the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.

B. Simple Assault

Definition: An unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.

C. Intimidation

Definition: To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

3. BRIBERY

Definition: The offering, giving, receiving, or soliciting of any thing of value (i.e., a bribe, gratuity, or kickback) to sway the judgment or action of a person in a position of trust or influence.

4. BURGLARY/BREAKING AND ENTERING

Definition: The unlawful entry into a building or other structure with the intent to commit a felony or a theft.

5. COUNTERFEITING/FORGERY

Definition: The altering, copying, or imitation of something, without authority or right, with the intent to deceive or defraud by passing the copy or thing altered or imitated as that which is original or genuine; or the selling, buying, or possession of an altered, copied, or imitated thing with the intent to deceive or defraud.

6. DESTRUCTION/DAMAGE/VANDALISM OF PROPERTY

Definition: To willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it.

7. DRUG/NARCOTIC OFFENSES

Definition: The violation of laws prohibiting the production, distribution, and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use.

A. Drug/Narcotic Violations

Definition: The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation, or importation of any controlled drug or narcotic substance.

B. Drug Equipment Violations

Definition: The unlawful manufacture, sale, purchase, possession, or transportation of equipment or devices utilized in preparing and/or using drugs or narcotics.

8. EMBEZZLEMENT

Definition: The unlawful misappropriation by an offender to his/her own use or purpose of money, property, or some other thing of value entrusted to his/her care, custody, or control.

9. EXTORTION/BLACKMAIL

Definition: To unlawfully obtain money, property, or any other thing of value, either tangible or intangible, through the use or threat of force, misuse of authority, threat of criminal prosecution, threat of destruction of reputation or social standing, or through other coercive means.

10. FRAUD OFFENSES

Definition: The intentional perversion of the truth for the purpose of inducing another person, or other entity, in reliance upon it to part with some thing of value or to surrender a legal right.

A. False Pretenses/Swindle/Confidence Game

Definition: The intentional misrepresentation of existing fact or condition, or the use of some other deceptive scheme or device, to obtain money, goods, or other things of value.

B. Credit Card/Automatic Teller Machine Fraud

Definition: The unlawful use of a credit (or debit) card or automatic teller machine for fraudulent purposes.

C. Impersonation

Definition: Falsely representing one's identity or position, and acting in the character or position thus unlawfully assumed, to deceive others and thereby gain a profit or advantage, enjoy some right or privilege, or subject another person or entity to an expense, charge, or liability which would not have otherwise been incurred.

D. Welfare Fraud

Definition: The use of deceitful statements, practices or devices to unlawfully obtain welfare benefits.

E. Wire Fraud

Definition: The use of an electric or electronic communications facility to intentionally transmit a false and/or deceptive message in furtherance of a fraudulent activity.

11. GAMBLING OFFENSES

Definition: To unlawfully bet or wager money or something else of value; assist, promote, or operate a game of chance for money or some other stake; possess or transmit wagering information; manufacture, sell, purchase, possess, or transport gambling equipment, devices or goods; or tamper with the outcome of a sporting event or contest to gain a gambling advantage.

A. Betting/Wagering

Definition: To unlawfully stake money or something else of value on the happening of an uncertain event or the ascertainment of a fact in dispute.

B. Operating/Promoting/Assisting Gambling

Definition: To unlawfully operate, promote, or assist in the operation of a game of chance, lottery, or other gambling activity.

C. Gambling Equipment Violations

Definition: To unlawfully manufacture, sell, buy, possess, or transport equipment, devices, and/or goods used for gambling purposes.

D. Sports Tampering

Definition: To unlawfully alter, meddle in, or otherwise interfere with a sporting contest or event for the purpose of gaining a gambling advantage.

12. HOMICIDE OFFENSES

Definition: The killing of one human being by another.

A. Murder and Nonnegligent Manslaughter

Definition: The willful (nonnegligent) killing of one human being by another.

B. Negligent Manslaughter

Definition: The killing of another person through negligence.

C. Justifiable Homicide

Definition: The killing of a perpetrator of a serious criminal offense by a peace officer in the line of duty; or the killing, during the commission of a serious criminal offense, of the perpetrator by a private individual.

13. KIDNAPING/ABDUCTION

Definition: The unlawful seizure, transportation, and/or detention of a person against his/her will, or of a minor without the consent of his/her custodial parent(s) or legal guardian.

14. LARCENY/THEFT OFFENSES

Definition: The unlawful taking, carrying, leading, or riding away of property from the possession, or constructive possession, of another person.

A. Pocket-picking

Definition: The theft of articles from another person's physical possession by stealth where the victim usually does not become immediately aware of the theft.

B. Purse-snatching

Definition: The grabbing or snatching of a purse, handbag, etc., from the physical possession of another person.

C. Shoplifting

Definition: The theft, by someone other than an employee of the victim, of goods or merchandise exposed for sale.

D. Theft From Building

Definition: A theft from within a building which is either open to the general public or where the offender has legal access.

E. Theft From Coin-Operated Machine or Device

Definition: A theft from a machine or device which is operated or activated by the use of coins.

F. Theft From Motor Vehicle

Definition: The theft of articles from a motor vehicle, whether locked or unlocked.

G. Theft of Motor Vehicle Parts or Accessories

Definition: The theft of any part or accessory affixed to the interior or exterior of a motor vehicle in a manner which would make the item an attachment of the vehicle, or necessary for its operation.

H. All Other Larceny

Definition: All thefts which do not fit any of the definitions of the specific subcategories of Larceny/Theft listed above.

15. MOTOR VEHICLE THEFT

Definition: The theft of a motor vehicle.

16. **PORNOGRAPHY/OBSCENE MATERIAL**

Definition: The violation of laws or ordinances prohibiting the manufacture, publishing, sale, purchase, or possession of sexually explicit material, e.g., literature, photographs, etc.

17. **PROSTITUTION OFFENSES**

Definition: To unlawfully engage in or promote sexual activities for profit.

A. **Prostitution**

Definition: To unlawfully engage in sexual relations for profit.

B. **Assisting or Promoting Prostitution**

Definition: To solicit customers or transport persons for prostitution purposes; to own, manage, or operate a dwelling or other establishment for the purpose of providing a place where prostitution is performed; or to otherwise assist or promote prostitution.

18. **ROBBERY**

Definition: The taking, or attempting to take, anything of value under confrontational circumstances from the control, custody, or care of another person by force or threat of force or violence and/or by putting the victim in fear of immediate harm.

19. SEX OFFENSES, FORCIBLE

Definition: Any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent.

A. Forcible Rape

Definition: The carnal knowledge of a person, forcibly and/or against that person's will; or, not forcibly or against the person's will where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity.

B. Forcible Sodomy

Definition: Oral or anal sexual intercourse with another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

C. Sexual Assault With An Object

Definition: To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will; or, not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

D. Forcible Fondling

Definition: The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will; or, not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental incapacity.

20. SEX OFFENSES, NONFORCIBLE

Definition: Unlawful, nonforcible sexual intercourse.

A. Incest

Definition: Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

B. Statutory Rape

Definition: Nonforcible sexual intercourse with a person who is under the statutory age of consent.

21. STOLEN PROPERTY OFFENSES

Definition: Receiving, buying, selling, possessing, concealing, or transporting any property with the knowledge that it has been unlawfully taken, as by Burglary, Embezzlement, Fraud, Larceny, Robbery, etc.

22. WEAPON LAW VIOLATIONS

Definition: The violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices, or other deadly weapons.

Mr. SCHUMER. I have a lot of questions, I guess the first one for Mr. Wilson.

On the NIBRS system, I would just like a little clarification. You say the startup costs are the main costs. Is that a software cost? Is that a computerization cost? It is not an input cost, because that has got to be constant. So that is part one of the question.

Part two of the question is: Let's say this year my State cuts back on the amount of money going to law enforcement. Why wouldn't they cut back on the personnel who enter this and set back the program a little ways? In other words, it is a voluntary system. There is no direct payback to the States. There is an indirect one, admittedly an important one.

What keeps them in the system? is the second question. First, what are the startup costs? because lots of places aren't computerized at all, which would mean huge startup costs to get into the system.

Mr. WILSON. That is right.

I believe your perceived answer is correct. The startup costs primarily involve for those States with automated systems is the development of new software.

Mr. SCHUMER. What percentage of States have automated systems?

Mr. WILSON. We have 26 States currently under the traditional system sending us the old summary information on computer tapes.

Mr. SCHUMER. Is that right?

Mr. WILSON. Yes.

Mr. SCHUMER. The States gather those from the localities?

Mr. WILSON. Yes; 42 States and the District of Columbia have State level collection entities that first collect all of the crime data from sheriffs and police chiefs, compile it, edit it, and send it to the FBI.

Mr. SCHUMER. I just wanted to get to that. So, really, it is a software problem in terms of startup, just switching it over.

Do they have to enter more things as they go through the process? Does it take 9 minutes to fill out this form per crime rather than 3 minutes for another? Could you give us some idea of that?

Mr. WILSON. Yes, Mr. Chairman. The NIBRS Program did not intend, and resisted a lot of outside attempts, to require law enforcement to go outside their normal course of operations and collect additional statistics for statisticians. We simply want to harness that that is already collected in law enforcement for law enforcement purposes and better utilize it. So the extraction and channeling—better put, perhaps—of this data into the system is where the software involvement comes in.

Mr. SCHUMER. OK. And then just one quick question that Mr. Bessette's testimony brought to my mind. In giving us the things that we could know in these 20 years which we didn't know before, one of the things you said is recidivism. What percentage of the people in prison and jail now are recidivists—have committed a crime previous to this one?

Dr. BESSETTE. Of those, I don't remember the exact percentage.

Mr. SCHUMER. I don't want to put you—

Dr. BESSETTE. I can certainly supply that. I can tell you that 95 percent of those in State prisons now, at least as of 1986, which is our most recent comprehensive survey on this—we are repeating the survey in 1991—95 percent are convicted violent offenders or convicted recidivists, in one of those categories, and about 5 percent are first-time nonviolent offenders.

Mr. SCHUMER. OK. When you say “convicted recidivists,” recidivists of a misdemeanor or felony or just of a felony?

Dr. BESSETTE. Our measure is anyone who has previously been convicted of a criminal offense and sentenced to probation or incarceration as a juvenile or an adult.

Mr. SCHUMER. OK.

Dr. BESSETTE. We have a detailed breakdown of how many are second-timers, how many are third timers, how many are fourth-timers. We can certainly supply that.

Mr. SCHUMER. I think one of your trusty aides can find the number in front of you.

Dr. BESSETTE. Yes, my trusty aide is the head of our corrections unit and is the world's foremost expert on correction statistics, Lawrence Greenfeld; 82 percent. He can remember all of those numbers because he doesn't have quite as a large a purview as I do; 82 percent are recidivists.

Mr. SCHUMER. I wonder if we could ask him if he agreed with that analysis.

OK, 82 percent of the people in prison now are recidivists, but, I mean, someone could be picked up for a small possession charge, have a misdemeanor, and then the second time around do a serious crime, and you would consider him a recidivist.

Dr. BESSETTE. Yes. If he was convicted of a criminal offense, yes.

Mr. SCHUMER. All right.

Going back to Mr. Dodge's testimony, let me just ask both of you: It seems to me now we are better at collecting snapshot data—how many of this at this given time, how many that at that given time—but are we doing anything, and will the NIBRS system or anything that is being done that you are aware of, Mr. Bessette, get to the questions that I am always thrown back on when I try to examine the criminal justice system, which is longitudinal studies, following things through the system as opposed to a snapshot at one part of the system at a given time?

Mr. Bessette, then Mr. Wilson.

Dr. BESSETTE. Our OBTS system is designed to do what you are asking. We began with five or six States, although some of them are fairly large States—California, New York, Pennsylvania—and we now have about 14 States contributing OBTS data—offender-based transaction statistics data—for 1987. Some of those States may or may not make it into our final reports, because we do a lot of quality control checks. We don't simply accept the data that is supplied unless it looks credible, and we have put out a series of reports.

I have been at BJS for 5 years and will be leaving in a few months, and we have put out a series of reports from OBTS which, in fact, do track felony arrests. They don't track misdemeanor arrests, but those reports track felony arrests through final disposition, whether that is a conviction or the case thrown out, a sen-

tence to prison, or whatever it is, and we are encouraging more and more States to supply us with OBTS data.

Mr. SCHUMER. So for the States you mentioned, you might be able to tell me how many people were arrested for robbery—how many robberies were committed, what percentage of those robberies was there an arrest, what percentage of those arrestees was there an indictment, what percentage of those indictments there was a conviction, what percentage of the conviction was incarceration.

Dr. BESSETTE. Yes. We begin with—

Mr. SCHUMER. You can do that in how many States?

Dr. BESSETTE. Well, we begin with the arrest. Now, we can go to the UCR data and get the offenses reported to police.

Mr. SCHUMER. Yes, but that doesn't match up.

Dr. BESSETTE. And that may not be a perfect match, but beginning with arrest, we can go from arrest all the way through for the key criminal justice events, not for every single event. If someone missed a court appearance, we are not going to have that in OBTS.

Mr. SCHUMER. But the things that I mentioned are all key events.

Dr. BESSETTE. Yes, we can do that for approximately 14 States.

Mr. SCHUMER. For 14 States and for a variety of different crimes.

Dr. BESSETTE. For a variety of felonies. Again, if you wanted simple assault, which is usually a misdemeanor, we couldn't do that.

Mr. SCHUMER. OK. I would ask that you submit for the record those statistics for those 14 States for all the major felonies that you have that on.

Dr. BESSETTE. The 14 States are submitting the data now, so we don't have the results from 14 States.

Mr. SCHUMER. How many do you have?

Dr. BESSETTE. We did a trend report from 1983-86. We had five States, although mostly large States that had comparable data across those 4 years, 1983-86. That is a published report; it came out a year ago. We would be happy to supply that.

Mr. SCHUMER. OK. But you know what I am looking for, the percentage each time. I want to see who falls out where.

Dr. BESSETTE. Sure.

Mr. SCHUMER. OK.

Dr. BESSETTE. That is the reason we have the OBTS Program, to track the same cases over time.

Mr. SCHUMER. Because I asked CRS to compile these numbers, and they said they couldn't get them. Now, I don't know, maybe they couldn't get them for all 50 States. We just got your five States. We will put it in the record.

Dr. BESSETTE. I can see how many more States we have. In the report that we did with the five States, it was five because we needed every State in for every year, so we would have consistent data.

Mr. SCHUMER. And you are pretty confident in the quality of the data?

Dr. BESSETTE. We are fairly confident of the quality of the data, yes. Now we may have some more States that I can give you for recent years, but perhaps not for all those years.

Mr. SCHUMER. OK.

[The information follows:]

Table 1: 1987 OBTs Dispositions - by State, from arrest, by charge at arrest

Disposition	Total	Alaska	California	Delaware	Minnesota	Missouri	New York	Pennsylvania
Reported felony arrests	536,006	3,317	260,212	5,674	9,272	19,909	152,021	85,617
Total	100%							
Prosecutions	81%	100%	100%	100%	100%	100%	100%	100%
Convictions	60	60%	72%	60%	87%	69%	97%	86%
Sentenced to:								
Non-incarceration	20	23	8	23	19	17	28	43
Incarceration	40	34	48	21	57	20	36	23
Facility:								
State prison	10	34	9	21	16	13	12	4
Local jail	30	0*	39	0*	41	7	24	19
Violent Offenses	22	38	19	24	22	17	25	28
Prosecutions	79%	61%	66%	64%	80%	58%	96%	79%
Convictions	51	58	50	40	70	36	52	49
Sentenced to:								
Non-incarceration	17	13	6	20	10	14	21	31
Incarceration	34	45	44	20	60	22	31	18
Facility:								
State prison	13	45	14	20	24	17	15	6
Local jail	20	0	30	0	36	5	16	12
Property Offenses	34	37	35	37	56	49	30	29
Prosecutions	83%	58%	77%	52%	91%	75%	97%	83%
Convictions	64	55	65	45	78	39	68	61
Sentenced to:								
Non-incarceration	20	29	8	18	20	18	33	37
Incarceration	44	26	57	27	58	21	35	24
Facility:								
State prison	9	26	10	27	16	13	8	6
Local jail	35	0	47	0	42	8	27	18
Drug Offenses	23	16	31	16	12	16	22	27
Prosecutions	79%	64%	71%	62%	36%	65%	98%	88%
Convictions	57	61	50	41	77	34	72	81
Sentenced to:								
Non-incarceration	11	33	5	22	29	17	22	35
Incarceration	46	28	45	19	48	17	50	46
Facility:								
State prison	11	28	8	19	6	12	18	12
Local jail	35	0	37	0	42	5	32	34
Public Order Offenses	21	9	15	23	10	18	23	40
Prosecutions	84%	53%	71%	69%	85%	65%	98%	93%
Convictions	69	50	56	48	75	37	73	83
Sentenced to:								
Non-incarceration	38	19	14	32	18	16	50	59
Incarceration	41	31	42	16	57	18	23	24
Facility:								
State prison	4	31	5	16	20	9	6	1
Local jail	27	0	37	0	37	9	17	23

The decision not to prosecute may be due to a police decision to release, failure of the grand jury to indict, victim refusal to prosecute, and so forth.

* All convicted offenders sentenced to incarceration are assigned to the State's Department of Corrections.

Percentages are computed within each offense category. For example, the 79% rate of prosecutions for total violent offenses is based on the total number of violent offenses (22% of the 536,000 dispositions).

Source: Bureau of Justice Statistics
Offender-Based Transaction Statistics Program

May 15, 1998

Table 2: 1987 OBTIS Dispositions - by State, from decision to prosecute by charge or arrest

Disposition	Total	Alabama	Georgia	Idaho	Nebraska	Vermont	Virginia
Reported felony prosecutions	85,482	11,341	38,960	2,838	1,796	30,547	
Total	100%	100%	100%	100%	100%	100%	
Convictions	68%	74%	68%	79%	67%	64%	
Sentenced to:							
Non-incarceration	30	32	50	23	33	5	
Incarceration	38	42	18	56	32	59	
Facility:							
State prison	25	29	18	24	11	33	
Local jail	13	13	0*	32	21	26	
Violent Offenses	15	22	10	21	15	19	
Convictions	57%	63%	46%	78%	66%	58%	
Sentenced to:							
Non-incarceration	14	20	24	15	27	3	
Incarceration	43	43	22	63	39	55	
Facility:							
State prison	29	32	22	36	17	31	
Local jail	14	11	0	27	22	24	
Property Offenses	53	46	52	49	54	58	
Convictions	69%	79%	67%	79%	69%	67%	
Sentenced to:							
Non-incarceration	30	31	51	25	37	5	
Incarceration	39	48	16	54	32	62	
Facility:							
State prison	25	33	16	21	13	34	
Local jail	14	15	0	33	19	28	
Drug Offenses	15	25	13	16	13	14	
Convictions	73%	78%	75%	79%	77%	66%	
Sentenced to:							
Non-incarceration	34	39	54	24	49	6	
Incarceration	39	39	21	55	28	60	
Facility:							
State prison	27	24	21	21	6	39	
Local jail	12	15	0	34	22	21	
Public-Order Offenses	17	7	25	14	18	9	
Convictions	73%	69%	78%	82%	57%	54%	
Sentenced to:							
Non-incarceration	46	50	57	33	25	7	
Incarceration	27	19	21	49	32	47	
Facility:							
State prison	20	11	21	15	4	20	
Local jail	7	8	0	34	28	27	

These States provide OBTIS data only from the point after the decision has been made to prosecute.

Percentages are computed within each offense category. For example, the 57% rate of convictions for total violent offenses is based on the total number of violent offenses (15% of the more than 85,000 dispositions).

* All convicted offenders sentenced to incarceration are assigned to the State's Department of Corrections.

Source: Bureau of Justice Statistics
Offender-Based Transaction Statistics Program

May 15, 1990

Mr. SCHUMER. Then I have a question for each of you, maybe Mr. Wilson first, about the divergence between the NCS and the UCR data that Mr. Dodge referred to. What happened to make your data go up while the other data sort of stayed flat?

Mr. WILSON. The Attorney General, recognizing that there had existed for some number of years public confusion about the apparent inconsistencies of the two program reports, asked Joe and myself to get together last year to try to resolve that.

We have, for the first time, released a comparative statement, joint statement, setting forth the differences in the two programs and, I think, encouraging that they not be compared but be used to complement—the results of the two programs to complement each other in a better understanding of crime.

The bottom line is that the two programs are not comparable because of a number of reasons—definitions, methodology, and so forth—and, second, even you try to compare them, which you shouldn't, there are no inconsistencies, and that is simply because the national crime survey is a sampling system and its projections are estimates with fairly, in most cases, wide sampling variations, and in all the years that we have looked at them, the changes in UCR crime trends have always fit within the parameters of the intervals signifying no inconsistency. But, going back to the first part of it, they shouldn't be compared, they are two systems.

Mr. SCHUMER. I don't quite understand that, Mr. Wilson. They are measuring the same thing ultimately, reported number of crimes. Maybe there are reasons they are different, and obviously they were different even before 1985, but they sort of seem to follow each other, and you would just say on the UCR, I guess, that fewer agencies or whatever were reporting them, but after that they really change in trend and change in direction, and it is not very satisfying to say, well, they are different methods. Either something is wrong with one of them or—well, something has got to be wrong with one of them, or with both of them, because you can't simply say—when you have two ways of measuring the same thing, you know, I can use a telescope or walk up close to that map, but Pennsylvania is going to be right below New York no matter which way I do it. If, all of a sudden, Pennsylvania starts appearing through the telescope to be near Illinois, something is wrong either with the telescope or with my looking at the map.

So, first, I don't see how you say you can't compare them, because they are measuring the same thing. Second, I don't see how you can't say something is wrong with one of them. I don't know which one it is.

Mr. WILSON. Maybe I could expand on what I said to help address your confusion, and I can certainly appreciate that. The lack of comparability involves a lot of things. One is that the definitions of the offenses measured are different. The coverage is different. For example, the national crime survey does not measure homicide, nor does it measure crimes against business; the UCR system does. The victims less than 12 years old are not captured by the national crime survey; all victims are captured by UCR. Those are a few of the differences in definitions and coverage.

One of the main problems with your chart that was provided by the General Accounting Office and with using national crime

survey results for trending is that their sample size is such that the projections are limited by fairly wide parameters. Let me give you an example.

Mr. SCHUMER. I go by my polls in my district by 500 people, and they come out pretty accurately, and this is 100,000.

Mr. WILSON. That is exactly right, 100,000 people sounds like a big sample. Fortunately for us all, not all of those 100,000 people were victims, only those that were are the real sample, and it is relatively small. For example, the worst case scenario was forcible rape. Probably—and I don't know—out of the 100,000 people you have 70 or fewer victims of rape.

Mr. SCHUMER. We are talking about total here.

Mr. WILSON. Yes.

Mr. SCHUMER. And total, as I remember the statistics, something like a quarter of all families report some kind of crime happened to them; I think it is 30 percent.

Dr. BESSETTE. That is correct. It is about 25 percent.

Mr. SCHUMER. So you have 25,000 crimes per 100,000 sample. So maybe we are believing the numbers of forcible rape just as, you know, I look at my sample and I can't say people who have a high school education versus people who live in the western part of my district, because that is a smaller sample, but I look at the aggregate, and it is supposed to come out accurately. And this is not measuring forcible rape, it is measuring total.

Mr. WILSON. That is true.

The Gallup Poll, for example, when they project that you are going to be the winner in your district—

Mr. SCHUMER. Gallup is not concerned with small fry like me, but we hire our own pollster.

Mr. WILSON. They usually attach to that projection that you are going to win in your district by 6 percent along with a plus or minus number.

Mr. SCHUMER. Yes, they do.

Mr. WILSON. Plus or minus 4 percent or 3 percent, or whatever, which is a small interval.

Mr. SCHUMER. Right.

Mr. WILSON. The confidence intervals which measures sampling variation in most of the national crime survey estimates are fairly wide. The point was earlier in the comparability and the lack of inconsistency that the UCR trend changes have always fallen within the low side minus or the high side plus. So the interval itself must be viewed in order to accurately and technically relate the two programs, and that wasn't done on the graph that was used earlier.

Mr. SCHUMER. Mr. Bessette.

Dr. BESSETTE. Mr. Chairman, I didn't bring a chart, but I do have a graph that we did. Perhaps I could submit it to the committee.

Mr. SCHUMER. Please.

Dr. BESSETTE. I have four copies here, which leaves me with one. This is a somewhat more precise comparison than the GAO comparison, because we have gone into the actual data sets themselves, and we have made the two sets as comparable as possible. That means eliminating homicides from the UCR, because we don't measure homicide in NCS, and eliminating simple assaults from

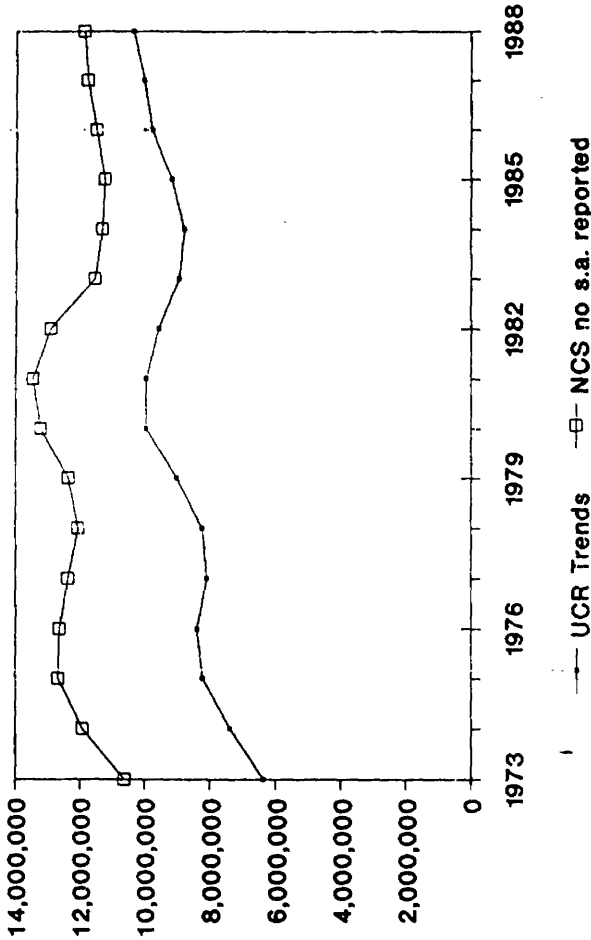
NCS, because the index offenses don't include simple assault. Everything that you can do we have done.

Now, there are certain things that can't be done, like eliminating victims under the age of 12 from UCR, because we don't measure them, but, as you can see from the graph—

Mr. SCHUMER. Without objection, we will submit one of these for the record.

Dr. BESSETTE. Thank you.
[The graph follows:]

Reported crime in NCS and UCR: 1973-1988
Excludes NCS s.a., UCR murders/comm.



1988 NCS data preliminary

Dr. BESSETTE. The year-to-year trends are quite consistent—when one goes up the other goes up, when one goes down the other goes down. There are only 2 years when that is not the case: 1975-76 they moved in slightly different directions, and from 1984-85 they moved in different directions. But out of a total of a 15- or 16-year comparison, 90 percent of the time they are moving in the same direction.

Mr. SCHUMER. What accounts for the great—it must be the simple assaults, because there aren't that many homicides to make a difference. Is that right?

Dr. BESSETTE. We have subtracted out—there were no simple assaults—

Mr. SCHUMER. So it is the simple assaults that account for the difference between your chart and the GAO chart?

Dr. BESSETTE. The simple assaults, the homicides, and the commercial crimes. We subtracted out commercial crimes from the UCR, which, if you have the data tapes, you can do that, but if you just work off reports, you may not be able to do that. This is a graph we have been working on at BJS for some months, and I am extremely confident that this is an accurate representation of the two series.

One of the points to notice besides the fact that the trends are basically similar year to year is that, over the long haul, 15 years, there is a significant difference. The UCR goes up quite a bit more than the NCS goes up.

Mr. SCHUMER. That would make sense, though, because law enforcement is understanding the importance of reporting these things more now than they were 15 years ago. Wouldn't that explain it?

Dr. BESSETTE. I think that is certainly a possibility.

So I think you get a somewhat different view from this more precise comparison. I think it is incorrect to say these two series go in different directions and policymakers can pick and choose which one they want. In fact, they move in broadly similar directions, although there is a 15-year difference. It is important also to keep in mind that the national crime survey, of course, measures crimes that law enforcement doesn't hear about. There is another two-thirds of the crimes here—there is a graph in my testimony that shows how much more we are picking up that law enforcement never learns about, and a lot of detail about the nature of victimizations that is not coming through.

Mr. SCHUMER. But one of the things that this chart, and even the other one to some extent, is reassuring about is that the UCR system—I believe 100,000 is a pretty good sample; I don't care what they say.

Dr. BESSETTE. I believe our sample, too, Mr. Chairman.

Mr. SCHUMER. Yes. And the UCR thing is more open to human frailty, if you will. It is getting closer, which means UCR is getting better, people are reporting things better. I am heartened by this chart for both systems, although the other one is disconcerting.

I have a couple of other questions on other areas, first for Mr. Bessette. These are just related again. One of the things we worry about is that the data comes through clear that there is no tamper-

ing with it. You know, we had that incident in Chicago, the famous incident in Chicago about 6 years ago.

Dr. BESSETTE. I was living there at the time; I remember it well.

Mr. SCHUMER. Yes. Certain data was just not reported just so the law enforcement, the police, could look pretty good.

My question is—and, again, the model of the Bureau of Labor Statistics is great. The Commerce Department, the Labor Department, for their various statistical agencies, they are pretty good in terms of leaving them alone. What is the Justice Department's current policy for clearing BJS press releases, and how is it different from previous administration procedures?

Dr. BESSETTE. Well, first let me just comment with respect to some of the first sentences in your statement. I have been at BJS for 5 years. I was, for 3½ years, deputy for data analysis and 1½ years now acting director. There has never been a case in my time there, and people there tell me never before then as well, of the Department interfering in any way with the reports, with the accuracy, with the nature of the numbers, anything of that sort. So, in that respect, we have been functioning as a kind of semiautonomous statistical agency quite well.

However, the BJS press releases—I use the term “BJS press releases,” but, actually, they are Department of Justice press releases officially, and they have always gone to the Department for clearance. We draft them in BJS with representatives from the Office of Congressional Public Affairs in the Office of Justice Programs. We work on a press release, and it does go up the chain of command for clearance, and that has been the case right along. So, in that respect, the policy hasn't changed. Usually, there have been very few changes introduced.

Mr. SCHUMER. What is the most significant change you can remember?

Dr. BESSETTE. The most significant change, which is in the public record, is that last year, for the first time, the Attorney General was quoted in a BJS press release commenting on the numbers and recommending public policy. That happened that one time; that has not happened since.

Mr. SCHUMER. I think it is a good idea to keep the two separate. The Attorney General should comment on policy but not in the statistical press releases. OK.

I have a few questions now for Mr. Wilson. I know this panel has gone on a while, and I appreciate the patience of my colleagues.

I am interested in hate crimes, and, as you mentioned, your office is going to be responsible for that act. In the past, the FBI opposed including these responsibilities as part of the UCR crime reports. Why did the FBI oppose them? and, second, how will you implement the legislation now that it is about to become law? My question is, wouldn't it make sense to issue guidelines to the States so that hate crimes can be included in NIBRS while it is being developed?

Mr. WILSON. Yes. Thank you for the opportunity, Mr. Chairman, to address that. A lot of folks know that the FBI was opposed to including hate crimes requirements in UCR, but not a lot of folks know why. It certainly was not for philosophical reasons. It simply

was logistical in nature. The UCR Program historically has been set up to collect known facts, reported facts to law enforcement.

The determination and motivation of a hate crime involves more than objective determination; sometimes it involves opinions as to motivations at the point in the process by which a Department would report to UCR a crime, whatever it be—assault, vandalism—as being motivated by hate-bias.

Many police officers will be reluctant to state an opinion on an otherwise factual report because at a later date in testimony, court or what have you, if he is wrong in his opinion his whole credibility may be impeached based on that opinion in the otherwise, as I said, factual report.

We are concerned that these heinous crimes will now go underreported should it be included in the traditional method of collecting crimes, which is a census of almost all police departments in the country.

We studied this quite a bit, including my visit to the New York City Police Department Bias Crimes Unit, who, I think, is one of the most progressive in the entire country. We wanted to simulate that on a national basis. My chief statistician came up with some computations saying that if we were to be able to scientifically select 800 agencies representative of geographics and demographics in the country we would be able to come up with a true national picture of the pervasiveness of hate crime. This would require that those 800 agencies follow a suspected hate crime through the process of investigation and even into prosecution and make a final determination based on facts, rather than making an off-the-cuff type of opinion. That would cost quite a bit of money; we have projected in excess of \$12 million. That was not acceptable to the Congress, apparently, so now we will attempt the best job we can in collecting it through NIBRS and separately from those agencies that are not yet participating.

Mr. SCHUMER. How will you judge whether your fears are or are not being realized? Will you do some spot checks here and there just to see if NIBRS is doing things accurately?

Mr. WILSON. Yes, we will. We will be doing some of that.

In order to publish this data, it must be credible data, and we will have to do a lot of determining when and if it is credible before publication.

Mr. SCHUMER. One final question. I have been told that your office may lose as many as 30 people involved in the UCR because of these A-76, these OMB cuts. One, what impact will this have on the reports? Two, what about hate crime statistics? Will that hurt your collection of those?

Mr. WILSON. Mr. Chairman, the picture is a little bit worse than that. The projection of a loss of 30 employees is really a minimal part of the problem. It now appears that because of A-76 reductions the FBI may be forced to cease its support of uniform crime reporting.

The Division in which uniform crime reporting is housed in is called the Records Management Division. Records Management Division's primary responsibility is the maintenance of FBI investigated files. It is being tasked to lose by the end of this fiscal year, September 30, 147 employees based on A-76, which is 129 and 18 as

it pertains to Gramm-Rudman reductions. This is the culmination this year—not a culmination, it is a continuing loss of employees over the past several years since 1987, three-digit numbers each year.

The Records Management Division has the philosophy, and I fully concur, that at some point you must be able to do your primary responsibilities well and eliminate those that are less important to the overall primary mission of the FBI rather than do across-the-board cuts and do everything you do badly. So in that UCR is not a primary investigative mission of the FBI, it would be rightly the one to suffer the cuts.

Mr. SCHUMER. So what will happen?

Mr. WILSON. There would be no FBI administration of the program, nor would there be hate crimes implemented nor Federal law enforcement agencies pulled in. The consequences are fairly widespread and dramatic.

Mr. SCHUMER. Who will do all this if the FBI is not doing it?

Mr. WILSON. The Attorney General would be tasked to make that determination, I suspect, if he agrees with the proposals that are still in the very early stages.

Mr. SCHUMER. That is pretty heavy stuff. How many did you say, 147?

Mr. WILSON. Yes, sir.

Mr. SCHUMER. Eighteen due to Gramm-Rudman.

Mr. WILSON. And 129 due to A-76.

Mr. SCHUMER. Mr. Bessette, would you comment off the top of your head. Isn't that just going to greatly cripple UCR? Here we are saying the NIBRS system is beginning to work and things are beginning to happen.

Dr. BESSETTE. Obviously, I think the public is well served by having both the national crime survey and the UCR Program with the new NIBRS Program. I would be very surprised if the Federal Government ceased its support of the uniform crime reports program, but I have absolutely no inside information of any sort.

Mr. SCHUMER. Well, where would it go? Let's say the Attorney General told you that he had no way to avoid the cuts that Mr. Wilson talked about, and he said, "Well, what are we going to do with the UCR Program? What are we going to do to collect hate crimes?" Where would you put it?

Dr. BESSETTE. Hate crimes is a congressional mandate, assuming the President signs the bill.

Mr. SCHUMER. Right.

Dr. BESSETTE. I don't believe the UCR Program is.

Mr. SCHUMER. OK. So leave out hate crimes right now, because that will be a little easier to do, I guess.

Dr. BESSETTE. There is a large staff of people. I think Harper has 90 or more people who work over there, in his unit. I would try to find some way of providing the support for that unit and continue the UCR Program there.

Mr. SCHUMER. "Harper" means Mr. Wilson, I take it.

Dr. BESSETTE. Mr. Wilson, yes.

Mr. SCHUMER. But if you are going to lose all those people, they are not going to be able to do it at all. We are not talking about 30,

we are talking about 147 people. Can you still do it in your department with 147 people cut?

Mr. WILSON. Can we still do UCR?

Mr. SCHUMER. Yes.

Mr. WILSON. No, not at all.

Mr. SCHUMER. OK, Mr. Bessette. The Attorney General has asked you—well, it is not going to be over there in the FBI any more. Where in Justice can we fit it in without any increase in personnel?

Dr. BESSETTE. I guess I would have to know a lot more about all the rest of the Department of Justice to make that kind of determination. My little empire is but 50 people.

Mr. SCHUMER. So you couldn't do it.

Dr. BESSETTE. Obviously not.

Mr. SCHUMER. OK.

Mr. DeWine.

Mr. DEWINE. Thank you, Mr. Chairman.

I think the chairman has covered the ground very well. I just have one question, Mr. Wilson. I'm not sure I understand how you are going to get at this problem of the reporting of hate crimes. In other words, it is subjective to some extent. How do you deal with that? What instructions are you going to give the thousands of reporting agencies, or do you know yet?

Mr. WILSON. Mr. DeWine, we don't know yet, exactly. We have identified 11 States in addition to New York City who have done some preliminary work on this very question that you ask. We will consult with all of them, continue to consult with all of them, and other interests, special interests, in the Department of Justice who have, in the Civil Rights Division, quite a bit of expertise to come up with guidelines on how an officer can determine, is this offense suspected of being—properly suspected of being racially, ethnically, or whatever motivated. Once that question is addressed, then there will be other guidelines to try to sort through the facts as known to make a determination not only is it motivated by bias but what bias, and then the program will pick up information about the victims, about the offenders, and other circumstances.

Mr. DEWINE. Your guidelines would be aimed at that arresting officer, reporting police agency?

Mr. WILSON. Not the arresting officer, there may not be an arrest, but the officer who takes the offense report, yes, and the investigator who follows up.

Mr. DEWINE. You will have fun.

Mr. WILSON. I know.

Mr. DEWINE. Thank you.

Mr. SCHUMER. Mr. Sangmeister.

Mr. SANGMEISTER. No questions, Mr. Chairman.

Mr. SCHUMER. Thank you.

I have to say before you leave, I am very troubled, as somebody who spent the first hour talking about how we need more statistics and how we have got to do them better. I am extremely troubled, Mr. Wilson, by what has happened here, and I am going to try to check it out, look into it, and see what can be done.

I have not talked to my colleague, Mr. DeWine, about it or George Gekas, the ranking member of this subcommittee, but I am

sure they will have the same concerns. I thank both of you for your excellent testimony.

Dr. BESSETTE. Thank you, Mr. Chairman.

Mr. SCHUMER. Our final panel will please come forward. They include Dr. Larry Sherman, the president of the Crime Control Institute; Steven Rickman, the president of the Criminal Justice Statistics Association; J. David Coldren, the executive director of the Illinois Criminal Justice Authority, one of the States that has been singled out—Mr. Sangmeister ought to know—for exemplary work in the statistics area; and Anthony Pate, the director of research for the Police Foundation.

I would ask all of our witnesses—Mr. Pate is not here; Dr. Sherman will present two testimonies—we would ask that each of the witnesses, if possible, confine their testimony to 5 minutes; we will stick to the 5-minute rule because we are running late. So if you could sum up all of your testimony, including Mr. Pate's, it will be read into the record, and if you could highlight it and do it in 5 minutes each, it would be of great help to the chairman and the subcommittee.

I want to thank all of you for coming, and maybe each of you—I will ask you the question at the end. I was going to just ask you to comment on what we just learned at the end of the last panel.

First we will have Dr. Sherman. We will go: Dr. Sherman, Mr. Rickman, Mr. Coldren, and do you want to do Mr. Pate's testimony separately or together with your own?

Mr. SHERMAN. As you please, Mr. Chairman.

Mr. SCHUMER. Why don't you do both of them. We will give you a little more than 5 minutes for that.

Mr. SHERMAN. Thank you.

Mr. SCHUMER. We are going to submit all of Mr. Pate's testimony for the record, so thank you.

STATEMENT OF DR. LAWRENCE W. SHERMAN, PROFESSOR OF CRIMINOLOGY, UNIVERSITY OF MARYLAND, AND PRESIDENT, CRIME CONTROL INSTITUTE

Dr. SHERMAN. I think the news we have just heard is devastating. I think that law enforcement in this country, which has not been very good at lobbying for Federal funding for its purposes, may awake from being a sleeping giant. The prospect of losing the UCR is unthinkable.

Yet it is interesting that it is the police chiefs who would be the most concerned. I am not sure that the police officers on the streets would realize what they have lost, because from their perspective the issue is not "garbage in/garbage out" but exactly the opposite. That is, they don't see the use to which these statistics are put, and therefore they don't feel there is a great deal of need for them to take the care to provide the kind of detail that the NIBRS system contemplates, which I think is a serious issue with respect to the future of NIBRS.

Now, one of the things that I think needs to be thought about in that respect is Federal assistance for integrating statistical analysis into crime control. That is, the extent to which the State agencies are doing good work with analysis is not enough to get the street

officer to understand how a crime statistic can help figure out what to do about all the crimes at a certain location in a certain neighborhood. With better epidemiological kinds of analyses of the crime patterns I think we might be seeing crime statistics put to much more immediate use and produce greater effectiveness of crime control.

So one of the things I have advocated for years is a program of Federal training and fellowships for local crime analysts so that they could be better suited to do the kinds of research that would be useful to local crime control. If we built from the bottom up with respect to nongarbage out, therefore nongarbage in, we would find that the NIBRS system would come along much more quickly, that is, assuming that we have any such system at all.

Another thing that might help, I think, is to focus police officers' attention on some of the extremely serious crimes that are not currently available from any of the data systems, and so the main thrust of my testimony is eight crimes statistics that we need to fight crime.

It is almost incredible in 1990 that nowhere can one get statistics on abductions. With the rise in parking lots, in shopping centers, abductions from parking lots has become a major kind of crime that women, in particular, need to fear, especially since many of the abductions are committed for the purpose of rape as well as rape-murder.

At the University of Maryland, in our own parking lots, we have had at least one case of an abduction-rape. I do a lot of work for the shopping center industry, and we find some shopping centers have more of these kinds of problems than others. But in terms of being able to get any comparative estimate of how prevalent the problem of abductions is from parking lots, parking garages, street abductions, other settings, we really just have nothing to hang our hats on, because the abduction aspect of the offense is buried in the more serious offense, which is the rape or the murder.

So, absent NIBRS, or absent some kind of box checkoff system comparable to what might be usable for the bias system, we really have no way of telling how many abductions there are in the United States or in each jurisdiction.

A second very critical issue that has just emerged in recent years is bystanders, and especially innocent bystanders, being caught in the line of fire. Our estimates from studies of press accounts show an absolutely astounding increase in people being caught by stray bullets or being caught by bullets shot into a crowd, which, in many cases, we are talking about small children, people who really had every right to be where they were and they just got killed. That kind of terror, I think, totally transforms the nature of the crime problem in the United States. We need to know more about it, especially the apparent spread from Los Angeles, where the drive-by shooting was invented, to New York and now perhaps other parts of the country.

I think we need to modify our homicide reporting basis to include some police observation on whether the person appeared to be the intended target of the bullet, it is often difficult to tell, but even just some data on whether the shooting occurred in the course of wild shooting into a crowd; that would be terribly important.

This gets us to a third possible statistic that would be very useful, and that is looking at the increase in fire power on our streets. Semiautomatic weapons appear to be available in much greater numbers than they have been before. The velocity and numbers of bullets that are fired by those weapons are far more deadly, and the extent to which we need to be considering national policy about semiautomatic weapons and their spread, I think, could be analyzed far better if we had much more specific data on the use of semiautomatic weapons.

That brings us to a more basic question. How many people got shot in the United States last year in the course of crime? I don't think any of us know. That is the basic behavioral question, as opposed to the legalistic categories of the aggravated assault, robbery, and murder. NIBRS can tell us that, but it depends on how long it is going to take, if ever, given what we have heard this morning, to get to that point. I think it is an absolutely critical priority.

It is very important for localities probably to be comparing their shooting rate as opposed to their homicide rate, because very often the homicide rate is a function of how good the medical care is, how quickly the ambulance gets to the scene and gets you to the hospital. So we pay a lot of attention to comparative homicide rates when the underlying behavior is people getting shot, and we are not counting that at all.

A fifth area that we ought to be looking at more precisely is police officers getting killed in the war on drugs. The law enforcement officers killed data which were supplied to us with the very helpful cooperation of the FBI show that there was a record high in that number in 1988, but there has not been a continuing statistical series in that; it has to be drawn inferentially from the case studies.

A sixth area, which is of increasing concern in minority communities, especially in recent years: After a long period of reductions in the number of people getting killed by police in this country, especially minorities, we are now seeing an increase. I think that increase could be justified as being a part of the war on drugs. But since we have no national data on people getting killed by police officers by the reason or circumstances in which they are killed, police officers and police departments are subject to attacks on the grounds of their being trigger happy. I think we could deal with a lot of the emotional aspects of these issues and the very tragic choices that have to be made if we had some data nationally on people getting killed by police and why.

Another terribly important aspect for law enforcement is to look at the area of how many calls for service they are receiving. This is something quite independent of the number of crimes reported that really shows how much pressure is being placed on the police to deal with the quality of life in their communities. We have no national reporting on the number of calls for service. It could, for example, be included in the next BJS survey of law enforcement agencies. I would highly recommend that issue to your attention, because I think it helps to tell us what is going on, especially in underclass communities and center cities, much better than simple counts of crime.

The last area is counting the number of domestic violence arrests. This is an issue that is very important but may also be swamping the criminal justice system and, I think, needs to be looked at in relationship to all the other offense types.

And just a few words about Tony Pate's testimony. I formerly held his job, and so I feel well qualified to give his testimony.

Mr. SCHUMER. I don't want to put you under the burden of doing that. We will insert that entire testimony in the record, and we will certainly all look at it carefully.

Dr. SHERMAN. Fine. Thank you, Mr. Chairman.

Mr. SCHUMER. Thank you.

[The prepared statement of Dr. Sherman follows:]

CRIME CONTROL INSTITUTE

1063 Thomas Jefferson St., N.W., Washington, D.C. 20007, Telephone 202-337-2700
Fax 202-337-4324

Professor Lawrence W. Sherman
University of Maryland
President

Dennis Rogan
Vice President, Research
Carol Bridgeforth
Vice President, Administration
Michael E. Buerger
Director, Minneapolis
Janell D. Schmidt
Director, Milwaukee Office

Testimony of

Lawrence W. Sherman

Professor of Criminology
University of Maryland

and

President, Crime Control Institute

before the Subcommittee on Criminal Justice
Committee on the Judiciary
U.S. House of Representatives

April 19, 1990

EIGHT STATISTICS WE NEED TO FIGHT CRIME

The Crime Control Institute commends the Subcommittee on Criminal Justice for its leadership in creating statistics on bias-related and hate crimes. The principle evident in that initiative is one I would urge you to apply to other vitally important areas.

For years, police officials and scholars have bemoaned the legalistic nature of crime statistics. By counting crime in legal categories, we gloss over enormous and important differences in behavior. A robbery, for example, includes both a purse snatch without injury and the holdup shooting of a liquor store clerk, but they have very different implications for the seriousness of this nation's crime problem.

The FBI and the BJS have actively embraced the principle of behavioral

differences in their redesign of the Uniform Crime Reporting Program. In seeking more detail about how crimes happen, however, we have risked losing the cooperation of local police officials. Several midwestern police agencies have told me they simply cannot and will not be able to comply with a highly detailed crime reporting procedure—of the kind people like me have advocated for years.

There are many possible responses to this problem. Not the least would be for local police agencies to begin to use the detailed information in more useful crime analysis. The quality and quantity of crime analysis in local police agencies is far below its potential. Until street officers seem some direct benefit from filling out all the details on the new forms, they will be reluctant to "waste" their time.

Another interim response would be to concentrate on a few high priority offense types, crimes that evoke special police interest because they are so serious. A high degree of police cooperation can be expected with a small number of serious offenses. I can testify personally at the high level of interest in some of these data, since preliminary reports on them by the Crime Control Institute have attracted national press attention and considerable interest from local police departments.

1. ABDUCTIONS. It is impossible to get any data on the frequency of abductions by strangers, one of the most fearsome offenses. The University of Maryland, like so many other locations with large parking lots, has experienced at least one abduction rape. Abduction murders are also not uncommon. But they are lumped in statistically with all other rapes and murders. How often abductions occur, where they occur, and whether they are

increasing or declining, is anybody's guess. Better data could help police to produce better crime prevention programs, and help landlords to construct better security programs.

2. BYSTANDER SHOOTINGS AND MURDERS. Crime Control Institute surveys of news reports show that killings and woundings of bystanders have increased dramatically in the past five years, since the onset of crack. In New York, we found a fourfold increase in bystanders shot over the past decade, from 34 in 1977-79 to 128 in the latest three year period, 1986-88. While stray bullet shootings remained fairly constant during that period, persons shot indiscriminately in crowds rose eightfold, from 13 in 1977-79 to 102 in 1986-88.

Los Angeles showed an even bigger increase, from no bystanders reported shot in 1977-79 to 105 reported in 1986-88. On a per capita basis, Los Angeles now has twice as many bystander shootings as New York.

Our study defined bystanders as anyone hit by a bullet aimed at someone other than the person hit, or by bullets aimed generally at a crowd rather than at a specific individual.

Table 1
Bystanders Reported Randomly Shot and Killed by Three Year Period,
New York City, 1977-88

	Period				Total
	1977-79	1980-82	1983-85	1986-88	
<u>Persons</u>					
Wounded	17	23	47	96	183
Killed	17	7	14	32	70
Total Persons	34	30	61	128	253
Persons by Stray	21	7	24	26	78
Persons in Crowd	13	23	37	102	175

The New York City Police Department has recently begun to keep separate statistics on bystander murders, but not on bystander shootings. More national understanding of the scope and the spread of this kind of terror can be gained by the creation of a national data base that includes both shootings and killings of bystanders. Even a statistic on shooting into crowds, which would capture the "drive-by" phenomenon, would help us understand and combat these developments.

3. SEMIAUTOMATIC WEAPONS. One factor in the rise of bystander shootings may be an increase in more powerful weaponry on the street. We cannot tell, however, without statistics on the types of guns used in shootings and killings. The more powerful weapons seem to have a higher shoot to kill ratio, with bullets traveling farther and hitting harder than traditional revolvers. A national count on persons killed by semiautomatic weapons each year, or even the proportion of homicides with one, two, and three or more bullet wounds, would tell us much about a key cause of death from shootings.

4. SHOOTINGS. An even more basic statistic is how many people were actually shot by bullets with criminal intent. This number is buried in the counts of legal categories, like robbery, rape and aggravated assault. The health statistics based on hospital admissions are years behind, and not provided in usable form to law enforcement. As more and more bullets fly around our center cities, the number of shootings becomes even more vital for crime analysis.

5. POLICE KILLED AND SHOT IN DRUG-RELATED SITUATIONS. Here again, the need

for the data seems obvious. But the data are currently unavailable in published form. Our analysis, with the very helpful cooperation of the FBI, shows that police killed fighting drugs, including planned assassinations and other non-arrest circumstances, hit a record high in 1988. Publishing such statistics regularly would be helpful to police agencies. It would be even more useful to have comparable annual data on shootings of officers, since these events are far more numerous.

6. PERSONS KILLED BY POLICE OFFICERS BY REASON. Unlike the number of court-ordered executions, the number of persons killed by police has never been routinely published on a national or local basis. Crime Control Institute surveys show that these numbers dropped by over 50% from 1971 to 1984, and continued to drop after the Supreme Court restricted shooting justifications in *TENNESSEE V. GARNER* (1985). But the numbers have recently started to increase. We suspect the reason is connected to drug enforcement, but we cannot tell without official data. Moreover, individual shooting incidents often generate sweeping criticisms of police agencies which disregard their overall statistical record. New York, for example, has traditionally had one of the lowest rates of killings of citizens by police. But it is often accused of being trigger happy after shootings in specific neighborhoods. National statistics, by type of shooting situation, would help everyone understand better where each local agency stands.

7. CALLS FOR SERVICE. Another terribly important statistic on the state of police work is the number of calls for service received and answered. Since police widely adopted 911 systems over the past two decades, the numbers of

calls for service have skyrocketed. The burden of answering these calls has made it more difficult for police to take initiative in deterring crime. More screening of calls, with fewer calls answered by dispatching a police car, is essential. Yet screening is political dynamite in many communities. Having national statistics on how many calls are received, and what proportion are answered, would be very helpful in crafting more effective crime control strategies.

8. DOMESTIC VIOLENCE ARRESTS. In the past six years, police have mounted a national crackdown on minor domestic violence. This policy was based in part on our own research, which found that arrests had more of a deterrent effect in Minneapolis than a backfiring effect. State legislatures, in my view, have over-interpreted that finding, and required police to make such arrests in many states. This has swamped police activity in some locales, while other agencies have almost ignored it. New York City and Milwaukee, for example, make about the same numbers of arrests annually for domestic violence, even though New York is 12 times the size. Understanding these differences, and examining their impact on domestic homicide rates, can only be accomplished with national data on domestic violence arrests. But at present, those numbers are lumped together with arrests for all other kinds of assaults.

These eight statistics--abductions, bystander shootings, semi-automatic weapons, all shootings, domestic violence arrests, drug related shootings of police, persons killed by police, calls for service and domestic violence arrests--will all cost money to produce. They cannot be created within

existing budget levels, and will require some small appropriation for training local police, computer entry of the data, analysis and publication. I would not recommend any legislative requirements for these data without commensurate appropriations. But the small amount of money needed would be well spent. All these statistics are the kind of numbers that can make a difference on the streets. They can help shape the crime control strategy of a nation.

Equally important, however, is evaluating those strategies. For this reason, I also urge you to consider working for a budget increase for the National Institute of Justice, the basic agency for evaluating the effectiveness of crime control strategies and the primary supporter of our research. Their current budget of \$20 million to develop and test crime-fighting methods is only ten percent of the tax dollars we spend in R & D on dental health. I submit that many Americans care more about homicide than tooth decay, and that Congressional appropriations should reflect that priority. With all of the new funding for the war on drugs, THERE HAS BEEN NO INCREASE IN R&D FOR LAW ENFORCEMENT—even though police chiefs are crying out for better evaluations of enforcement tactics. I hope you will hear their cries.

Thank you.

[The prepared statement of Mr. Pate follows:]

PREPARED STATEMENT OF ANTONY PATE, DIRECTOR OF RESEARCH, THE POLICE
FOUNDATION

Good morning. I appreciate the opportunity to appear before you today. Recognizing that you have already heard a great deal of testimony, I will be mercifully brief.

I see my role today to be a dual one. On one hand, as Research Director of the Police Foundation. A private non-profit research organization that has been conducting law enforcement research for twenty years. I would like to reflect the perspective of the research community. On the other hand, as someone who works closely with police departments throughout the country, I will reflect what I have found to be the perspective of the law enforcement community.

In both capacities, I applaud the work of this committee. The work that you are doing and the questions that you are asking are important for both researchers and practitioners. Our police, prosecutors, judges, and corrections officers are struggling to cope with the enormous -- and increasing -- demands being placed upon them. The only way they can possibly do so effectively is to make policies based on accurate, comprehensive information. Researchers can contribute to this search for better policies -- but only to the extent that they have good data. I see your work as a significant contribution to improving the information available to both law enforcement and the research community. I would like first to comment on the role that good information has come to play in making criminal justice policy. Then I would like to make a few suggestions--most of them quite modest, one of them somewhat less so.

It should come as no surprise that researchers should emphasize the value of good data. Sometimes we are accused of getting so involved in our data that we forget the policy relevance of what we do. What is truly exciting is that over the last several years members of the law enforcement community have come to recognize the importance of good information just as much as researchers do. As a result, policies are now being made based on sophisticated data analysis, not on hunches, intuition, or tradition.

To some extent, this increasing reliance on data for making policy decisions has come about as a result of the collaboration of researchers and practitioners. In Kansas City, for example, research indicated that simply having patrol cars driving around more or less at random -- the traditional method of deployment -- had no noticeable effect. As a result, many police departments began to experiment with new methods of deployment.

In San Diego, research showed that one-officer patrol cars were as efficient, as effective, and perhaps even more safe than two-officer patrol cars. As a result, many more one-officer units patrol our streets today.

Other research has indicated that, for a number of reasons, the length of time that it takes for a police car to arrive at

the scene of a crime does not have much to do with either making an arrest or even the satisfaction of the citizen calling the police. As a result, our police are finding new ways to respond to non-emergency calls.

Based on research, many police departments are trying new techniques to reduce fear and enlist the support of citizens. Based on research, many departments encourage the arrest of men who assault their spouses. The list of research that has affected policy is long and getting longer every day.

And more and more of this research is conducted by the law enforcement agencies themselves. Overloaded with calls for service, police have had to devise systems to allocate their personnel across time and space. Inundated with crime, many agencies have had to devise screening mechanisms to determine which cases should get extensive investigation and which are unlikely to ever be solved. Prosecutors have had to create similar mechanisms to decide which cases are most likely to lead to conviction and which are not. It is not surprising anymore to find police officers, prosecutors, or judges who know as much about research as members of the academic community.

But all of this research depends upon accurate, comprehensive available data. You are probably aware of the phrase, "garbage in, garbage out." In computer programming, that simply means that your analysis results can be no better than the quality of the data you used in that analysis. In policy research, the consequences of inaccurate, limited, or unavailable data are much more serious than that phrase suggests. If, because of data problems, we make faulty policy decisions, we run the risk of badly investing our tax dollars, inefficiently deploying our police officers, wasting the efforts of our prosecutors and judges, and needlessly crowding our jails.

That is why your work is so important. The improvements that are being made in the uniform crime reporting system will make it much easier for researchers and practitioners to understand the nature of crime in our nation and to devise policies to cope with it. Likewise, the victimization surveys, the offender-based transactions system, and other programs of the Bureau of Justice statistics are valuable research tools. I also want to emphasize the importance of the periodic law enforcement management surveys conducted by BJS. We have come a long way in the last several years. The work of the FBI and BJS have contributed significantly to that progress. I trust that the work of the GAO and the Committee will assist in that effort.

But while I have the opportunity, I would like to make a few suggestions. I will start with the modest ones. First, there are certain questions about law enforcement that we receive quite often for which there are no good data and to which neither the

UCR nor the BJS law enforcement management survey provide answers. How many civilian complaints are lodged against police officers each year? What were the charges? How many of them are sustained? How many officers discharge their weapons each year? How many civilians are wounded or killed? How many homicides are drug related? What is the educational level of police officers? What is the racial composition of our police departments? We do not have good answers to any of those questions. I realize that none of this information would be easy to get. But I urge you to make the attempt.

Now to the immodest suggestion. Although the offender-based transactions system is certainly a step in the right direction, I believe we have to take a much broader view of the data that we need to make informed policy decisions. It will be a vast improvement to be able to have incident-based UCR data. Refining the national crime survey is a worthwhile endeavor. But if we cannot relate those data to information about census figures, policy personnel, calls for service, calls dispatches, and data about prosecutorial decisions, court judgements, incarceration, probation, and parole, we are going to be unable to understand the full consequences of policies on the entire criminal justice system. We know, for example, that a small number of addresses account for a very large percentage of calls for police services. Researchers -- and practitioners -- need data to be able to determine what those addresses are, what they are like, and how they can be impacted by different policies. To do that, we need an automated, comprehensive, integrated criminal justice database.

We know also that a few officers make a disproportionate number of arrests and that others almost never do. We need to know what those officers are like, and why they behave so differently. Is it due to the area they are assigned? Is it because they are young and aggressive? Armed with this information, police departments can make better decisions about recruitment, training and other issues. We need a comprehensive criminal justice data base to be able to answer those questions.

Arrests by certain officers are much more likely to lead to a conviction than are those by other officers. Why is this? Do they collect better -- or different -- evidence? Again, only a comprehensive database will allow us to find out.

Prosecutors reject a large number of cases at initial screening. They dismiss more. Why? For what kinds of cases? Based on what factors? Arrests by some officers fare better than others. Why? With a comprehensive database we could address those issues.

I could go on. But I think the point was made as long ago as the 1973 report by the National Advisory Commission on

criminal justice standards and goals. They said, "If the criminal justice system is to work as a system, the participants must first know how it works." Without a comprehensive criminal justice data base we will be unable to do that.

I leave you then with the suggestion that we build on the work that has been accomplished so far. Let us adopt the strategic planning model used by the UCR in converting to an incident-based system. Let us assemble representatives from all elements of the criminal justice community -- police, prosecutors, judges, corrections officials, and researchers -- to identify our common needs. Based on these needs let us develop an information base that will allow us to make policies that are as well-informed as we can make them.

Thank you.

Mr. SCHUMER. Mr. Rickman.

STATEMENT OF STEPHEN E. RICKMAN, PRESIDENT, CRIMINAL JUSTICE STATISTICS ASSOCIATION

Mr. RICKMAN. Mr. Chairman and members of the subcommittee, I appreciate the opportunity to testify before you this morning.

As president of the Criminal Justice Statistics Association, I find it most encouraging that you chose the availability of statistical data as an important emerging criminal justice issue.

I am submitting testimony to you that describes programs developed by our association to include criminal justice information and to recommend measures that can improve on the availability and utility of criminal justice data. I will now highlight for you our major points.

First a few words about who we are. The Criminal Justice Statistics Association is comprised of statisticians, researchers, administrators, data managers, and other professionals interested in the collection, analysis, and application of criminal justice statistics. We have representation from nearly every State in the Union. Our core membership is comprised of the directors of criminal justice statistical analysis centers located in 47 States and the District of Columbia. These data gathering and analysis centers were established in these States over the last 15 years with assistance from the Bureau of Justice Statistics.

It was most appropriate that criminal justice statistical analysis centers be established to gather the necessary data to help State and local officials make rational criminal justice policy decisions. After all, State and local governments accounted for about 87 percent of all criminal justice expenditures and are responsible for the handling of more than 90 percent of the Nation's offender population. These statistical analysis centers are positioned to play a critical role in enhancing the criminal justice policymaking process at the State and local level in coming years and can generate the data necessary to accurately determine national crime and justice trends.

In the District, I have the honor of directing the statistical analysis center here. What we do is, we collect data from each of our criminal justice operating agencies on a monthly basis; we compile that data; we analyze it; we generate reports for our executives and our legislators. We also use that information to help with analyzing the impact of proposed legislation, use that information to help make budget decisions, and I think our SAC is fairly typical, which you will find in other States.

Because criminal justice is primarily a State and local function, any national efforts to improve the quality and usefulness of criminal justice information must be targeted at State and local governments. Congress, in legislation establishing the Bureau of Justice Statistics, recognized this point and mandated that this agency give primary emphasis to the problems of State and local justice systems. CJSA and SAC's have benefited substantially from financial support provided by BJS.

The leadership of BJS has provided consistent support over the years and has demonstrated great vision in recognizing the need to

develop criminal justice data gathering and analytical capacities at the State and local levels. However, BJS funding levels for SAC programs have not increased in terms of their portion of the overall BJS budget. In fact, resources allocated for SAC's have remained at a constant level of only 9 percent of BJS' total budget since 1983. These funding priorities are of great concern in light of the ever increasing need for criminal justice data and analysis at the State and local levels.

Due to the importance of SAC's at the State level, CJSA is recommending that Federal support for these statistical analysis centers be substantially increased. Currently, SAC's are eligible for State level statistical program grants from BJS ranging from \$50,000 to a total of \$100,000. In fiscal year 1989, SAC's received a nationwide total of less than \$2 million for this program. We recommend that the total amount of State level statistical program grants awarded directly to SAC's be increased to \$4 million annually and that BJS place a greater emphasis on State statistical programs.

We certainly utilize many of the reports that are produced by BJS from their so-called core programs, but what we really need is assistance at the State and local level. We need to increase our capability to generate the data. Most of the data that will eventually be used by BJS and other national reporting systems will be generated at the State and local level, and that is where we need to build our capacities.

We also believe that Federal and State collaboration provides a strong foundation for developing and improving criminal justice information. CJSA, therefore, recommends that the Federal Government increase support for State-Federal partnerships that bring together Federal, State, and local officials to focus on data development and analysis for addressing specific policy issues. Currently, CJSA, with funding from the Bureau of Justice Statistics, manages a 28-State drug consortium. We have brought 28 States together, and we meet three or four times a year, and we are working on developing measures that will allow us to determine the impact of the Federal antidrug strategy. We are also developing other measures so that we can determine the incidence and prevalence of drugs in our various communities.

Something that you mentioned earlier: One thing that we are working on is developing the capability of tracking drug offenders as they move throughout the system so we can determine what happens to persons who are arrested for drug offenses.

As States implement programs that address overcrowding, we also think it would be an excellent idea if a similar kind of consortium program was established so we can begin to collect data to evaluate the effectiveness of these programs.

CJSA also recognizes that many criminal justice information systems remain problematic in the 1990's. Fragmentation, incompatibility, missing data, and archaic technology contribute to the inability of these information systems to produce accurate, timely, and useful data. CJSA recommends that a national plan be developed for establishing, improving, and linking criminal justice information systems at the national, State, and local levels and that funds be provided to implement this plan.

I echo many of the points that Lowell Dodge and others have made this morning that the criminal justice information systems in this country are in very bad shape. Most of them were started in the early 1970's. At this point, the hardware is out of date, the software is archaic and is missing data in many of these systems. I think a case in point as we struggle to deal with identifying felons who attempt to purchase guns in this country, the inability of these systems to produce that information, is really crippling that effort.

I think because these are State-based systems, to address a point that you raised earlier, why is it that States themselves don't target funds to develop these criminal justice information systems? Well, working at the State level, I think I can maybe offer you some insights on that.

Statistics and criminal justice information, they have to compete for dollars with high profile issues. They have to compete for dollars with drug enforcement, they have to compete for dollars with prison overcrowding, and so when it comes time to make budget decisions, often it is the statistics and the criminal justice information that are pushed aside. I guess the irony of that is that, in order to really address these kinds of problems, you need the information. To make rational policy decisions, you have to have information to guide you, and what so often happens is that policymakers make visual decisions, they react emotionally to deal with pressures from constituents, and we end up not really addressing the problems as accurately as we can.

CJSA also recommends that additional training resources be made available for building State-level capacities in the use of advanced analytic tools, appropriate methodologies for policy analysis and evaluation, and methods for improving and developing criminal justice information systems.

CJSA currently operates a computer center, and in this computer center we train law enforcement personnel, criminal justice planners, how to take advantage of the new technologies. We offer them training on prison forecasting, on crime analysis, but the problem is that many of the criminal justice personnel cannot take advantage of these training opportunities because, once again, these are often given low priority within States in terms of funding.

CJSA agrees that NIBRS represents an important advancement in developing a comprehensive, uniform crime reporting system, and CJSA recommends that the Federal Government step up efforts to assist with implementing NIBRS at State and local levels and developing methods for analyzing incidence-based data for criminal justice decisionmaking.

Let me wrap up by saying that as crime and drug abuse persist in our society and as each continues to defy traditional law enforcement approaches, criminal justice managers and decisionmakers require reliable and meaningful information to guide them in making policy decisions and allocating scarce resources. Critical policy areas cannot be adequately addressed without a thorough empirical analysis to determine the impact of changes on various operational and decisionmaking points in the criminal justice process. Ultimately, it is the data that must drive decisions about pro-

grams or approaches to use in reducing crime, it is the data that will tell us which offenders pose the least risk to the community, and it is the data that will tell us about our justice system workloads and where breakdowns are occurring, and, yes, it is the data that will eventually lead to the policy and management solutions to our most pressing criminal justice problems.

Thank you.

Mr. SCHUMER. Thank you, Mr. Rickman, for your excellent testimony.

[The prepared statement of Mr. Rickman follows:]

PREPARED STATEMENT OF STEPHEN E. RICKMAN, PRESIDENT, CRIMINAL JUSTICE
STATISTICS ASSOCIATION

Mr. Chairman and Members of the Committee:

It is an honor to testify before this distinguished committee. As President of the Criminal Justice Statistics Association (CJSA), I find it encouraging that you chose statistical information—or rather, the lack of statistical information—as an important emerging criminal justice issue. Without adequate information, it is increasingly difficult to solve the complex problems which confront the nation's criminal justice system. I appreciate the opportunity to discuss the role of statistics in criminal justice decisionmaking. I will describe the programs developed by the CJSA to improve criminal justice information and recommend measures for federal leadership.

As crime and drug abuse persist in our society, and as each continues to defy traditional law enforcement approaches, criminal justice managers and decisionmakers require reliable and meaningful information to guide them in making policy decisions and allocating scarce resources. Critical policy areas cannot be adequately addressed without a thorough empirical analysis to determine the impact of changes on various operational and decisionmaking points in the criminal justice process. Ultimately, it is data that must drive decisions about what programs or approaches to use in reducing crime. It is data that will tell us which offenders pose the least risk to the community. It is data that will tell us about our justice system workloads and where breakdowns are occurring. And yes, it is data that will eventually lead to the policy and management solutions to our most pressing criminal justice problems.

Too often, criminal justice policy decisions are triggered by public outrage and frustration resulting from the perception that our crime problem continues to worsen and is beyond our control. Political leaders and policymakers faced with public pressure to act

employ measures that may strike a responsive tone with the general public, but lack any rational basis.

Across the nation we find that the absence of meaningful data to aid policymaking contributes to the widespread practice of visceral decisionmaking in criminal justice. Legislators and governors toughen sentences one day, and soon afterwards, launch early-release programs to relieve overcrowding caused, in part, by tougher sentences. More police are hired, but the impact of additional law enforcement staff is not studied, and therefore, courts become overloaded and arrestees are released without being prosecuted. These are common occurrences throughout our nation's criminal justice system and these erratic reactions can be attributed, in part, to insufficient data and an inability to transform existing data into information that can be used effectively by policymakers and managers.

Criminal Justice: A State and Local Function

Criminal justice is primarily a state and local function. Most offenders are arrested by local police, prosecuted by a county or state attorney, processed through a local or state court, and, if incarcerated, serve time in a local jail or state prison. In 1988, more than 92 percent of all incarcerated offenders nationally were housed in state prison facilities. Moreover, 97 percent of all adults on probation or parole in that same year were under state supervision. In FY1985, state and local governments paid 87% of the total amount for justice expenditures.

State and local officials, consequently, are primarily responsible for operating the criminal justice system. Because of differences in state statutes, the structure of the criminal justice system varies across states, and differences in priorities and funding

mechanisms in local jurisdictions influence the policies and practices of criminal justice officials. Policy decisionmakers face different types of criminal justice problems and must fashion solutions depending upon the state or local jurisdiction. In the same way, criminal justice information is collected, maintained, and used differently depending upon the management needs and policy priorities of the individual jurisdictions.

Because criminal justice is primarily a state and local function, any national effort to improve the quality and usefulness of criminal justice information must be targeted at state and local governments. In the 1970s, the federal government began a national effort to encourage and support the development of state criminal justice information and statistical systems. Through the Law Enforcement Assistance Administration (LEAA), the states received federal funding for establishing criminal justice Statistical Analysis Centers (SACs) as the nucleus for coordinating each state's criminal justice information and statistical activities. At the same time, federal funding was used to create state-level Offender-Based Transaction Statistics and Computerized Criminal Histories (OBTS/CCH), which systematically collects offender-based data from all major criminal justice agencies, from arrest through final disposition. Federal funding was also used to establish a Uniform Crime Reporting (UCR) system at the state level for collecting and reporting law enforcement data to the FBI's national program. By the early 1980s, LEAA had been dismantled and the states began to fully or partially fund SACs, strengthening the states' commitment to criminal justice research and statistics. The Bureau of Justice Statistics (BJS) was authorized by Congress in 1979 and continued to provide federal financial and technical assistance to states for supporting the development of information and statistical systems.

CJSA and SACs

In the early 1970s, the directors of SACs formed CJSA as a national resource for exchanging information among states with similar criminal justice problems. With nearly two decades of experience, the Association now serves as the national voice for its members, focusing on issues relating to the development, analysis, and interpretation of criminal justice information. The Association's goals reflect a strong commitment to developing and disseminating information that supports sound policy development. These goals are:

- to enhance the technical and organizational capabilities of states to engage in criminal justice research and policy analysis;
- to foster and coordinate the exchange of information and technology at the local, state, and Federal levels;
- to serve as a forum for expressing the common concerns and perspectives of state analysts and promoting the consensus of the states at the national level;
- to develop and disseminate methodologies for conducting policy analysis in the states; and
- to establish and promote professional standards for enhancing the work of criminal justice policy analysts.

The SAC directors serve as the Association's state representatives and form a national network of professionals involved in research, evaluation, policy analysis, and information system issues. Located in executive branch agencies in 47 states and four territories, the SACs use criminal justice information to conduct objective analyses of statewide and systemwide policy issues. They are involved in a wide range of activities depending upon

the priorities of each state's criminal justice system. SACs approach their work from a unique perspective based on several essential elements: 1) an objective, systemwide approach to criminal justice issues; 2) a concern with improving the quality of criminal justice information; 3) an emphasis upon making statistics relevant to the policy choices that confront decisionmakers and to the general public; and 4) a state--as opposed to a national orientation--to criminal justice problems and issues. As the analytical arm for state government, SACs form an important link between operational agencies that collect data and criminal justice managers and policymakers that use information for decisionmaking. Working with all components of criminal justice, the SACs stimulate the demand for information and encourage improvements in data quality. The SACs also form a bridge to federal criminal justice information and statistics, by identifying and collecting information for national statistical programs and making data available to state and local officials.

CJSA and SACs have benefited substantially from financial support provided by BJS. The leadership of BJS has provided consistent support over the years and has demonstrated great vision in recognizing the need to develop criminal justice data gathering and analytical capacities at the state and local levels. However, BJS funding levels for SAC programs have not increased in terms of their portion of the overall BJS budget. In fact, resources allocated for SACs have remained at a constant level of only 9 percent of BJS' total budget since 1983. These funding priorities are of great concern, in light of the ever increasing need for criminal justice data and analysis at the state and local levels.

State/Federal Partnerships for Justice Information

A strong, interdependent relationship between the states and the federal government is essential for developing and improving criminal justice information. Federal criminal justice agencies (like BJS) rely on data collected by state and local criminal justice operations to inform the nation on crime and justice. In order to find out what is effective in drug control, the Bureau of Justice Assistance (BJA) and the National Institute of Justice (NIJ) provide funding to state and local agencies for evaluations of federally-funded programs and strategies. Through a 28 state effort to assess state drug control strategies, federal and state officials collaborate to develop evaluation methods and comparable data on the drug problem. (This program is described in detail below.)

CJSA and the SACs view cooperation with the federal government as critical to the success of law enforcement initiatives and to the future of public safety research. CJSA forges partnerships between state statistical agencies and their federal counterparts. Since 1979, CJSA has worked closely with BJS to provide technical assistance services and training programs for state statistical agencies and to promote state-to-state information exchanges. As one example, CJSA developed the IMPACT microcomputer software package to assist state and local analysts in forecasting future prison and jail populations. IMPACT quickly and easily allows the analyst to evaluate the potential impact of legislative, policy, and demographic changes on correctional populations. As prison and jail crowding worsens, tools like IMPACT increase the states' capacities to understand the problem and develop potential solutions. CJSA provides assistance to IMPACT users and general training to state and local officials on forecasting techniques. CJSA also maintains a national database on SAC research and policy analysis activities, and handles requests

for information from federal, state, and local criminal justice agencies as well as requests from Congress and the public.

At present, with support from BJA, CJSA is building state capabilities to: evaluate drug abuse and criminal justice programs, use computer technology for analyzing crime and drug problems, and develop information systems that support research and policy analysis. For example, CJSA is leading a national effort to assess the impact of state strategies for controlling illegal drugs. Using a unique approach, based on collaboration with federal and state officials, a consortium of 28 states meets regularly to share information on drug control strategies (developed as a result of the 1988 Anti-Drug Abuse Act) and to develop common methods for data collection, analysis, and reporting. By developing common indicators of the drug problem, states are encouraged to evaluate drug control strategies and assist in making drug-related information available nationally. As examples, the consortium is collecting and analyzing drug enforcement data from 240 multi-jurisdictional task forces and 63 crime laboratories from around the country. In the near future, the consortium will be analyzing and reporting drug offender processing data from 14 states. Also, with BJA support, CJSA operates the National Criminal Justice Computer Laboratory and Training Center/Washington, DC. Located on Capitol Hill, the facility provides a state of the art classroom environment devoted to training criminal justice practitioners in applying computer technology to their information management needs. The Center also distributes public domain software, and provides technical assistance on selecting and implementing computer systems.

Working with NIJ, CJSA is studying a new law enforcement approach to drug control called multi-jurisdictional drug control task forces. Almost every state has implemented

these task forces as the foundation of their drug control strategy. CJSA is also coordinating a national conference on "Evaluating Drug Control Initiatives." Scheduled for June 1990, the conference is aimed at federal, state, and local officials involved in managing or evaluating drug control programs. It will facilitate nationwide information sharing and serve as the first step in developing a national information base on "what works" in drug control. Since most evaluation efforts are fairly new, the conference will focus on research design issues and solutions to problems encountered by criminal justice evaluators.

These state/federal partnerships have resulted in the development of new tools for addressing criminal justice problems, and analyzing and evaluating policies. Over the last decade, the skills and capabilities of state analysts have increased dramatically, with unprecedented use of sophisticated research activities and policy analysis models. SACs are now able to examine a broader range of issues with more and better information than ever before. However, research and evaluation are limited by the quality and breadth of information available from operational agencies.

Training Criminal Justice Professionals

Prison crowding, sentencing guidelines, prison alternatives, drug trends, and other pressing issues in criminal justice have spawned the development of new analytic tools to assist researchers and analysts. Currently, risk assessment techniques, prison forecasting, simulation modeling, and other advanced analytical tools are available for utilization by state and local analysts. While these techniques are being applied in varying degrees, opportunities for training and other forms of technology transfer are limited by a lack of adequate training funds made available to state and local jurisdictions.

By enhancing the technical and analytical capabilities of states, the federal government can significantly improve the quality and usefulness of criminal justice information. Through national training programs, state and local officials can be kept abreast of technological advances and appropriate methods for developing information systems, using computer technology, improving criminal justice databases, and conducting research and policy analysis.

The Computer Center operated by CJSA is an excellent example of federally-supported programs targeted at building state capabilities. The National Criminal Justice Computer Laboratory and Training Center/Washington, DC provides technical assistance and training to state and local officials on the use of computers and their applications to solving crime and drug problems. Hundreds of criminal justice officials, including those in police, courts, corrections, and planning agencies have attended training programs and received general assistance through the Computer Center.

Criminal Justice Information Systems

The primary suppliers of criminal justice data in most jurisdictions are computer-based criminal justice information systems. They provide criminal justice agencies with the data that support their operations and provide statistics that serve as the foundation of most criminal justice research. These systems vary greatly both within and across jurisdictions, often lack compatibility, and reflect the absence of a national plan to guide their development.

Many criminal justice information systems that received substantial support in the 1970s have not become fully operational or remain problematic in the 1990s. Computerized Criminal History systems, which form the basis for offender-based tracking

(OBTS), are riddled with inaccuracies and missing data. Less than 20 states have an operational OBTS system, and even those that do have data quality problems that limit their usefulness. In many jurisdictions, information that is maintained by one criminal justice agency, such as the prosecutor, the courts, or corrections, cannot be linked to another agency. Therefore, the ability to determine the result of criminal justice actions (such as the type of sentences resulting from arrests) are severely hindered. Some criminal justice agencies, located in jurisdictions with small populations, are not automated at all. In these jurisdictions, summary information is difficult, if not impossible, to access.

There are numerous constraints to developing and improving criminal justice information systems. Political realities often hinder the ability of criminal justice agencies to share information and plan for the development of information systems in a coordinated fashion. For example, the judiciary is an independent branch of government and, in many jurisdictions, the courts do not have systematic processes for providing information to the police or correctional agencies. Technological constraints prevent communication among computer systems on which mutually beneficial criminal justice information resides. Many agencies have outdated computers that cannot be linked to agencies with newer equipment. This problem is exacerbated by the fact that agencies often purchase computer systems in isolation and so the needs of related agencies are not considered. Criminal justice priorities are also a factor. The dominance of high profile issues, such as prison overcrowding and drug enforcement, child abuse, and domestic violence, have pushed information systems and statistical issues to a lower priority status. This change is ironic in that the high profile issues themselves cannot be addressed until these problematic data

systems are improved to a point where they can provide diagnostic and prescriptive information.

UCR and NIBRS

For the past 50 years, national reporting of crime data has centered around the FBI's Uniform Crime Reporting Program. Despite its flaws, this crime reporting system has filled an information void by providing a rough indicator of the levels of reported crime in the nation. However, increased sophistication in our ability to respond to crime now requires more detailed information about each criminal incident.

Over the last decade, the FBI and BJS have developed the National Incident-Based Reporting System (NIBRS) as a revision to the Uniform Crime Reporting Program. More than 20 states are in the early stages of implementing NIBRS. When operational, NIBRS will provide the most comprehensive crime information available in our nation. Based on the criminal incident, this system will capture information on a host of issues including crime victims and offenders, weapons use, the involvement of illegal drugs, and locations of crime. NIBRS represents a very important component of criminal justice information.

For the last three years, BJS has provided funding to states for implementation of NIBRS. Totaling \$3.9 million in FY1989, the grants serve as start-up monies for the new program. However, a much greater level of resources will be required to fully operationalize NIBRS nationwide. Local law enforcement agencies will need incentives to revise their recordkeeping systems—in the form of funding, technical assistance, and computer hardware. BJS is also funding CJSA to collect and analyze a sample of incident-based data to determine how it can be used for criminal justice decisionmaking, e.g., projecting crime trends, allocating resources, assessing criminal justice policies, and a host

of other analyses. This effort is important for developing methods to analyze incident-based data and ensuring that criminal justice policymakers and managers get the maximum benefit from NIBRS.

Recommendations for Improving Criminal Justice Information

Despite the fact that criminal justice is primarily a state and local function, federal leadership will ensure the success of statistical programs implemented at these levels. Therefore, federal programs designed to improve criminal justice information should be targeted at state and local agencies. CJSA strongly urges that a higher priority be placed on improving the quality and usefulness of criminal justice information and we offer five recommendations for accomplishing these objectives.

1. Increase Funding for Criminal Justice Statistical Analysis Centers

Due to the importance of SACs at the state-level, CJSA is recommending that federal support for these statistical centers be substantially increased. Currently, SACs are eligible for State-Level Statistical Program grants from BJS ranging from \$50,000 to a total of \$100,000. In FY1989, SACs received a nationwide total of less than \$2 million from this program. We recommend that the total amount of State-Level Statistical Program grants awarded directly to SACs be increased to \$4 million annually and that BJS place a greater emphasis on state statistical programs.

2. Support State/Federal Partnerships for Justice Information

Federal and state collaboration provides a strong foundation for developing and improving criminal justice information. CJSA recommends that the federal government increase support for state/federal partnerships that bring together federal, state, and local officials to focus on data development and analysis for addressing

specific policy issues. For example, an area ripe for collaboration is corrections. As states implement programs to serve as intermediate sanctions, policymakers will need information to assist in evaluating program effectiveness. By establishing a partnership now, information on these intermediate sanctions can be standardized across states to improve its usefulness for criminal justice decisionmaking.

3. Develop a National Plan for Improving Criminal Justice Information Systems

Many criminal justice information systems remain problematic in the 1990s. Fragmentation, incompatibility, missing data, and archaic technology contribute to the inability of these information systems to produce accurate, timely, and useful data. CJSA recommends that a national plan be developed for establishing, improving, and linking criminal justice information systems at the national, state, and local levels and that funds be provided to implement the plan.

4. Support Training for Building State Statistical Capabilities

Newly developed, highly sophisticated analytical tools are now available to assist criminal justice researchers and analysts. CJSA recommends that additional training resources be made available for building state-level capacities in the use of advanced analytic tools, appropriate methodologies for policy analysis and evaluation, and methods for improving and developing criminal justice information systems.

5. Provide Support for Implementing NIBRS

NIBRS represents an important advancement in developing a comprehensive, uniform crime information system. CJSA recommends that the federal government step up efforts to assist with implementing NIBRS at state and local levels and developing methods for analyzing incident-based data for criminal justice decisionmaking.

Thank you for the opportunity to discuss these issues today and I look forward to answering your questions.

Mr. SCHUMER. I understand the witnesses have a lot to say, and I have read the testimony, so I know they have a lot to say, but we have time deadlines here that we are always having to meet.

Our final witness comes from the great State of Illinois, and perhaps Mr. Sangmeister would like to say a few words.

Mr. SANGMEISTER. Yes. I know we all like to toot our own horn in our own States, but I think we can logically and with well founded facts toot our horn here.

Back in 1983, when the Criminal Justice Authority was created, frankly, I was in the senate at that time and had a lot of reservations about that whole authority and whether the Government was creating something to grandstand with or whether it was going to amount to something.

We have the director here with us this morning who was the original director back in 1983, I believe, when we established that.

David, you have done an exceptional job, and I might say to you, Mr. Chairman, that if you had books that you could look at like this—anything you want to know about crime in Illinois is right there. If we could only get that kind of reporting through here, because whatever you want to know is included. Cook County is like a separate State in Illinois, so if you want to compare Cook County to the rest of the State of Illinois, you can do that. You can fine any statistics, graphs; anything you want to know about crime statistics are in here. David, you should be complimented for that.

Mr. SCHUMER. I want to tell Mr. Coldren that Mr. Sangmeister has been one of the most active and knowledgeable participants in this committee, given his background both in the legislature and before that. So his words aren't taken lightly. I wish my State did as well as you guys have done and the other 47 that haven't been so positively cited.

Mr. SANGMEISTER. If David is not submitting this for the record, Mr. Chairman, I would like to put that in. David, if you would get me another copy—and I am sure that you will.

Mr. SCHUMER. We have a copy, and we will add it to the record, or at least certainly reference it to the record.¹

Mr. Coldren.

**STATEMENT OF J. DAVID COLDREN, EXECUTIVE DIRECTOR,
ILLINOIS CRIMINAL JUSTICE AUTHORITY, ON BEHALF OF THE
NATIONAL CRIMINAL JUSTICE ASSOCIATION**

Mr. COLDREN. Mr. Chairman and distinguished members of the committee, my name is David Coldren. I am executive director of the Illinois Criminal Justice Information Authority, a State agency headquartered in Chicago.

I am also appearing here today on behalf of the National Criminal Justice Association, a public interest group based here in Washington, DC, that represents the States on criminal justice and public safety issues and provides staff support to the National Governors Association. I am the past president of NCJA, having served two terms as its elected president.

¹ The publication is *Trends and Issues 89 Criminal and Juvenile Justice in Illinois*; Illinois Criminal Justice Information Authority; March 1989.

As has been indicated here several times, accurate, complete, and timely information about the victims of crime, criminal offenders, and the criminal justice process itself is essential to the efficient and effective operation of the criminal justice system.

At the tactical information level, what we don't know can literally kill us. At the strategic information level, what we don't know can cost us millions, and even billions, of dollars in misdirected resource allocations.

Today, despite the major advances in information technology of the past two decades and the substantial sums of money spent by the Federal Government, the States, and local agencies to apply that technology to criminal justice problems, our criminal justice information systems are still woefully inadequate for the enormous demands being placed upon them.

Our criminal history records are being used now, more than ever before, for crucial decisions within the criminal justice system itself. And noncriminal justice agencies are now gaining access, high volume and routine access, through legislation to our criminal history records for regulatory purposes. Further, even private organizations in some jurisdictions now have statutory access to criminal history records for employment screening.

And yet, whenever our criminal justice information systems are audited, as we do in Illinois, for their accuracy, for their completeness and timeliness, we find, for example, that we are missing disposition information for more than one-half of the arrests in automated files and that we are even missing a significant number of felony arrest reports.

Criminal justice officials in the judiciary and in corrections commit huge sums of money in public resources to treatment and rehabilitation programs in both the public and the private sectors, and they have very little reliable information on the efficacy and cost-effectiveness of those programs.

The root of the problem is not generally ignorance or incompetence on the part of criminal justice officials in charge of those record systems. We are painfully aware of the shortcomings of our systems.

The problem, it seems to me, is that the resources necessary to maintain accurate, complete, and timely criminal history records and other management information have simply not been made available on a sustained basis to those officials.

Many large law enforcement agencies, courts, and correctional facilities are operating on systems originally designed to meet their needs more than two decades ago. With the exception of automated fingerprint identification systems, implementation within major criminal justice information systems of current state-of-the-art technology is largely where it was 15 years ago, and much of the credit for those innovations is due to the States' decisions in the 1970's to allocate substantial portions of their law enforcement assistance block grant funds to information systems development.

Moreover, the Federal Government played a very constructive role in helping State and local governments deploy what was then state-of-the-art technology by hosting regular workshops and forums where those of us involved in information systems develop-

ment could compare notes and meet with our colleagues in the private sector.

I will go even further. What is particularly striking when one reviews the history of Federal support over the years for State and local criminal justice agencies, especially in the information systems area, is that nearly all the major advances that are now indispensable to the criminal justice system came about as a direct result of the Federal block grant program and the Federal, State, and private sector partnerships that it fostered. But we haven't kept up.

I believe the time has come to rejuvenate our Federal, State, and local criminal justice information systems with some major investments directed toward applying certain emerging information systems technologies in the criminal justice field. I also believe this is a proper role for the Federal Government and that Federal leadership will be essential for the success of a program of this scope and importance.

Mr. Chairman, in the written testimony I have prepared for this hearing, I identified three emerging information system technologies that I believe have the potential for vastly improving the accuracy, completeness, and timeliness of criminal justice records.

First, I recommend that the committee consider making substantial Federal criminal justice block grant funds available through the Department of Justice, specifically for: One; auditing independent audits of State repositories for criminal justice records and; two, improvements for those systems found to be deficient in the measures of accuracy, completeness, and timeliness.

Although independent auditing of record systems is not an emerging technology in the private sector, it is not a commonplace practice in criminal justice agencies, and I believe that some new automated techniques that we have developed at the authority can help make such audits feasible and productive.

Second, I urge this committee to consider providing some multiyear research and development funds to select State and local criminal justice agencies to stimulate work in three specific branches of the computer science known as artificial intelligence; that is, pattern recognition, dynamic knowledge bases, and natural language processing.

Although there is some work going on in these fields within the Federal Government, the enormous potential value of these emerging technologies has not yet trickled down to many State and local criminal justice agencies. I believe that by 1995 we could have some powerful, successful new tools in our information systems arsenal that would move us forward in dramatic ways.

Finally, I would encourage this committee to consider providing multiyear block grant funding to State and local law enforcement, prosecution, corrections, and judicial agencies to develop an implement imaging systems that will help us overcome the paperwork burdens that impede our efficient and effective operations. The use of lasers and optical data storage techniques has revolutionized the entertainment industry with compact discs and digital audio recording. Those technologies can be effectively applied to criminal justice records as well.

In the process of developing those systems, we will have to step back and reexamine how and why we keep records, and that process in itself will be healthy for the whole system, and it is time we got on with that task.

In conclusion, Mr. Chairman, after 20 years in harness for the State of Illinois and 18 years immersed in the daily operations of information systems for criminal justice, I believe the most exciting times are ahead of us. I believe that we can build and maintain records that are accurate and complete and timely and can serve the demands being placed upon them by Federal and State legislatures. We can do this by taking advantage of new technological tools that have emerged from the research and development labs of American industry.

I believe there is a general recognition throughout the Nation of the increasing importance of tactical strategic and management information to the effective operation of criminal justice agencies.

By the year 2000, with the judicious applications of sufficient resources, I believe that we will have solved the problems your committee has identified in order to tackle the ones we haven't heard about yet.

Thank you for giving me the opportunity to present my testimony. I am prepared to answer your questions.

Mr. SCHUMER. Mr. Coldren, it may have been done quickly, but it was comprehensive and excellent.

Mr. COLDREN. Thank you.

[The prepared statement of Mr. Coldren follows:]

PREPARED STATEMENT OF J. DAVID COLDREN, EXECUTIVE DIRECTOR, ILLINOIS CRIMINAL JUSTICE INFORMATION AUTHORITY, ON BEHALF OF THE NATIONAL CRIMINAL JUSTICE ASSOCIATION

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Mr. Chairman and Distinguished Members of the Committee:

My name is J. David Coldren. I am the Executive Director of the Illinois Criminal Justice Information Authority, a State agency headquartered in Chicago, Illinois. I have been the Director of the Authority since its inception in 1983. Prior to that I was the Director of Criminal Justice Information Systems for the Illinois Law Enforcement Commission, an assistant to Governor Richard B. Ogilvie, and an assistant to Illinois' first Director of Corrections, Peter B. Bensinger. I will complete my twentieth year of service in Illinois' criminal justice system on June 30th of this year. I am a graduate of Antioch College in Yellow Springs, Ohio during which time I served as a co-op student here for six months in the office of Congressman John M. Ashbrook.

I am also appearing today on behalf of the National Criminal Justice Association (NCJA), a public interest group based here in Washington, D.C. that represents the States on criminal justice and public safety issues and provides staff support to the National Governors' Association Committee on Justice and Public Safety. I am a Past President of NCJA, having served two terms as its elected President.

Summary

Accurate, complete, and timely information about the victims of crime, criminal offenders, and the criminal justice process itself is essential to the efficient and effective operation of the criminal justice system. At the *tactical* information level, what we don't know can, literally, kill us. At the *strategic* information level, what we don't know can cost us millions -- even billions -- of dollars in misdirected resource allocations.

Today, despite the major advances in information technology of the past two decades and the substantial sums of money spent by the federal government, the States, and local agencies to apply that technology to criminal justice problems, our criminal justice information systems are still woefully inadequate for the enormous demands being placed on them.

Our criminal history records are being used more than ever before for crucial decisions within the criminal justice system itself. Non-criminal justice agencies are now gaining routine, high-volume access -- through legislation -- to our

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criminal history records for regulatory purposes. Even private organizations in some jurisdictions now have statutory access to criminal history records for employment screening.

And yet, whenever our criminal justice information systems are audited for their accuracy, completeness, and timeliness, we find, for example, that we are missing disposition information for more than one-half of the arrests in our automated files and that we're even missing a significant number of felony arrest records. The criminal justice officials in the judiciary and in corrections commit huge sums of public resources to treatment and rehabilitation programs in both the public and private sectors and they have very little reliable information on the efficacy and cost-effectiveness of those programs.

The root of the problem is not, generally, ignorance or incompetence on the part of the criminal justice officials in charge of those records systems; we are painfully aware of the shortcomings in our systems.

The problem, it seems to me, is that the resources necessary to maintain accurate, complete, and timely criminal history records and other management information have simply not been made available to those officials. Many large law enforcement agencies, courts, and correctional facilities are operating on systems originally designed to meet their needs more than two decades ago. With the exception of Automated Fingerprint Identification Systems, the implementation within major criminal justice information systems of "state of the art" technology is largely where it was fifteen years ago.

Much of the credit for those innovations is due to the States' decisions in the 1970's to allocate substantial portions of their Law Enforcement Assistance block grant funds to information systems development. Moreover, the federal government played a very constructive role in helping State and local governments deploy what was then state of the art technology by hosting regular workshops and forums where those of us involved in information systems development could compare notes and meet with our colleagues in the private sector.

I believe that the time has come to rejuvenate our federal, State, and local criminal justice information systems with some major investments directed toward applying certain emerging information system technologies to the criminal justice field. I also believe that this is a proper role for the federal government and that

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federal leadership will be essential for the success of a program of this scope and importance.

The National Criminal Justice Association

The National Criminal Justice Association (NCJA) is a public interest group based here in Washington, D.C. that represents the States on criminal justice and public safety issues and provides staff support to the National Governors' Association Committee on Justice and Public Safety. Through its consultative process with State criminal justice officials, NCJA helps shape national policy in the criminal justice field and helps State officials develop solutions to State criminal justice problems.

In recent years, NCJA has worked extensively on issues relating to State and federal drug control policies, controlled substances acts and other laws affecting drug control, assets seizure and forfeiture, privatization of prisons, drug testing, drug treatment for offenders, and money laundering.

NCJA works closely with other national criminal justice public interest groups such as the International Association of Chiefs of Police, the National Sheriffs' Association, the National District Attorneys' Association, the American Correctional Association, and the National Association of Attorneys General to promote coordinated programs throughout the criminal justice community to achieve policy goals established by the Congress and the State legislatures.

The Illinois Criminal Justice Information Authority

The Illinois Criminal Justice Information Authority is an agency of State government created in 1983 by an Executive Order of Governor James R. Thompson with conforming legislation passed by the Illinois General Assembly. The Authority is the successor to the former Illinois Law Enforcement Commission (ILEC) which was the "State planning agency" primarily responsible for the administration of the former federal Law Enforcement Assistance Administration (LEAA) program in Illinois. In contrast, the Authority's initial focus was the improvement of the administration of criminal justice in Illinois through the effective use of information and information technology at the State, county, and municipal levels of government. With the resurrection of the federal criminal justice block grant program, the Authority's responsibilities now include

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the development of Illinois' Statewide Strategy for Drug Law Enforcement pursuant to the Anti-Drug Abuse Act of 1988 and the administration of the Victims of Crime Act.

Statutory Duties and Responsibilities

The specific powers and duties of the Illinois Criminal Justice Information Authority are spelled out in the Illinois Criminal Justice Information Act (Illinois Revised Statutes, chapter 28, paragraphs 210-1 *et seq.*). They include the following:

- Developing and, where appropriate, operating information systems for the improvement and coordination of law enforcement, prosecution, and corrections.
- Monitoring the operation of criminal justice information systems in order to protect the constitutional rights and privacy of citizens.
- Serving as a clearinghouse for information and research on criminal justice.
- Undertaking research studies to improve the administration of criminal justice.
- Establishing general policies, rules, and regulations concerning criminal justice information and advising the Governor and the General Assembly on criminal justice policies.
- Acting as the sole administrative appeal body in Illinois to conduct hearings and make final determinations concerning citizens' challenges to the completeness and accuracy of their criminal history records.
- Serving as the sole criminal justice body in the State to audit the state central repositories for criminal history record information.
- Developing and implementing comprehensive strategies for the use of criminal justice funds awarded to Illinois by the federal government.

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Authority Membership

By statute, the Authority's membership includes:

- Two municipal police chiefs: the Superintendent of the Chicago Police Department and another police chief appointed by the Governor.
- Two state's attorneys: the State's Attorney of Cook County and a state's attorney from another county appointed by the Governor.
- Two sheriffs: the Sheriff of Cook County and a sheriff from another county appointed by the Governor.
- Four state officials: the Attorney General, the Director of Corrections, the Director of State Police, and the Director of the Office of the State's Attorneys Appellate Prosecutor.
- Five members of the public appointed by the Governor.

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The current members of the Illinois Criminal Justice Information Authority are:

- **William I. Gould (Chairman)**, business executive
- **Kenneth R. Boyle**, Director of the Office of the State's Attorneys Appellate Prosecutor
- **Jane Buckwalter**, Associate Chancellor of the University of Illinois
- **Fred Foreman**, State's Attorney of Lake County
- **Neil Hartigan**, Attorney General of Illinois (represented by Joseph Clapps, First Assistant Attorney General)
- **Donald Hubert**, attorney-at-law
- **Jeremy Margolis**, Director of the Illinois State Police
- **LeRoy Martin**, Superintendent of the Chicago Police Department
- **Kenneth McGinnis**, Director of the Department of Corrections
- **Robert Nall**, Sheriff of Adams County
- **James O'Grady**, Sheriff of Cook County
- **Cecil Partee**, State's Attorney of Cook County
- **Roger Richards**, Chief of Police, Fairview Heights
- **James Sprowl (Vice Chairman)**, attorney-at-law
- **Dan Webb**, attorney-at-law

The Governor also designates a chairman from among the agency's fifteen members. Authority members are not paid, but are reimbursed for expenses related to their official duties with the agency.

The Authority meets in open public meetings at least four times a year. Members also serve on two or more standing committees that meet frequently during the year to carry out the Authority's responsibilities.

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Authority Staff

The Authority's staff is headed by an Executive Director appointed by the Governor and confirmed by the Illinois Senate. The Executive Director employs a professional staff of 93 employees organized as follows:

- o Office of the Executive Director
- o Office of General Counsel
- o Office of Administrative Services
- o Office of Personnel and Budget
- o Office of Public Information
- o Office of Federal Assistance Programs
 - Victims of Crime Act
 - Justice Assistance Act
 - State and Local Law Enforcement Assistance Act
 - Anti-Drug Abuse Act of 1988
 - Statewide MCGRUFF crime prevention campaign
- o Office of Information Management and Research
 - Information Resource Center
 - Management Operations and Audits Center
 - Statistical Analysis Center
 - Systems Development Center
 - Quality Assurance Center
 - Systems Operations Center
 - Telecommunications Center
 - Microcomputer Support Center
- o Police Systems Unit
 - Police Information Management System (PIMS)
 - Area-wide Law Enforcement Radio Terminal System (ALERTS)
- o Prosecution Systems Unit
 - Rapid Automated Prosecution System (RAPS)
- o Corrections Systems Unit
 - Correctional Institution Management Information System (CIMIS)

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Authority Appropriations

The Authority's appropriation for state fiscal year (SFY) 1990 totalled \$17,724,800. Of that amount, \$3,575,100 is from the state general revenue fund for agency operations, \$640,000 is from the state general revenue fund for matching federal grants, \$1,420,700 is from fees paid by users of the Authority's information systems, and \$12,089,000 is from federal grants to the Authority for State and local criminal justice agencies and providers of services to victims of crime. The Governor is requesting an appropriation of \$23,519,000 for SFY91 with most of the increase due to the additional funds received pursuant to the Anti-Drug Abuse Act of 1988.

Who's in Charge Here?

Unlike many other government functions, the criminal justice system is an amalgam of many agencies representing many levels of government. An offender who is arrested by a municipal police department with assistance from a federal, state, and county task force may be detained in a county jail, tried in a multi-county judicial circuit, represented by a county public defender, and incarcerated in a state prison. His or her appeal of the conviction may then be presented by the State Appellate Defender and defended by the State Appellate Prosecutor before the State Appellate Courts and the State Supreme Court with the State Attorney General representing the State before the federal courts. And influencing the entire process are state legislators and the Governor as well as the President and the Congress of the United States, who enact our criminal laws and appropriate resources for criminal justice, and the state and federal judges who determine how those laws and resources are to be used.

There is a Constitutional basis for this seemingly dysfunctional approach to criminal justice leaving the State and federal executive, legislative, and judicial branches of government to cope with a criminal justice system that appears to be capable of consuming infinite amounts of the public's resources without being able to satisfy the public's legitimate and Constitutional rights to be secure in their person and property.

Nearly everybody in the criminal justice community acknowledges that the long-term solutions to this Nation's crime problems lie outside the criminal justice

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system: in better education, economic development, jobs, and other social services. It is not my purpose in this forum to deal with those issues.

Nearly everybody in the criminal justice community also acknowledges that we can and must do a better job in managing the individual components of the criminal justice process and in approaching that task in a systemic way. For that we need access to complete and accurate information about not only about the offenders in the system but also about the how the criminal justice process itself is working.

In creating the Illinois Criminal Justice Information Authority, Governor Thompson directed us to focus the resources made available to us on

- (1) improving the public's understanding of the criminal justice system -- it's successes and it's failures -- so that public policy decisions could be informed by a solid information base;
- (2) enhancing the capability of law enforcement agencies to more efficiently investigate crimes, make arrests, prosecute offenders, and manage correctional institutions with modern tactical and management information systems; and
- (3) providing strategic information to assist individual criminal justice agency administrators as well as State, county, and local policy makers make better resource allocations for the future.

Improving Public Understanding of Criminal Justice

Since it didn't seem likely that we could stop the criminal justice system in it's tracks and install modern, integrated statistical information systems in all of the criminal justice agencies in Illinois, the Authority invested substantial resources in cataloging and examining the existing data collection procedures in use throughout the State. We published our findings regularly and issued guides to criminal justice data along with caveats about the quality of the data and the ways in which the data should be interpreted. We tried to respond quickly to requests for data and analyses from the media and the research community because we

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believed that they could contribute enormously to public understanding about crime and justice if they could get timely, accurate information.

In 1988, we published the first edition of **Trends and Issues: Criminal and Juvenile Justice in Illinois**. We intended this annual publication to be both (1) a reference manual describing the structure of the criminal justice system in Illinois -- the constitutional and statutory responsibilities of each component of the system -- and (2) a comprehensible analysis of what recent statistical data -- collected system wide -- can tell us about trends in criminal justice.

This publication has been adopted by a number of high schools, colleges, and universities as a textbook for criminal justice students. Judging by the number of requests for additional copies and more detailed information, it has become a useful and reliable reference for the media and, of particular interest to this Committee, the legislative staffs in the Congress and General Assembly of Illinois. I am also pleased to report that **Trends and Issues** received the 1988 EXCELLENCE IN ANALYSIS AWARD from the Criminal Justice Statistics Association.

Our 1989 edition focused on the issue of substance abuse and how illegal drugs are impacting the criminal justice system in Illinois. In this edition, we projected the current trends into the future and predicted, among other things, that the number of adult arrests for drug crimes could increase another 80 percent by the year 2000.

This Spring, we will release the 1990 edition of **Trends and Issues** and it will provide the first statewide analysis of the costs of criminal justice in Illinois along with an updated report on the progress of Illinois' approach to substance abuse by law enforcement agencies.

Although most of the actual costs of publishing and distributing **Trends and Issues** are paid for with State funds, a significant portion of the years of research, statistical analysis, and methodology development that preceded publication was accomplished with federal assistance from the Bureau of Justice Statistics and the Bureau of Justice Assistance.

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Tactical and Management Information

Criminal justice agency administrators normally do not come to their positions with extensive backgrounds in modern management techniques or with Master of Business Administration degrees where the values of data collection and analysis for tactical decision making and strategic planning are well understood. They are usually promoted up through the ranks and their priorities, when it comes to resource allocation are, understandably, not focused on information systems. Their top priorities are usually more sworn officers, squad cars, prosecutors, judges, court rooms, guards, prison cells, and other necessities that help them get their jobs done from day to day.

When confronted with a breakdown in their data systems, they are often confronted with monolithic State, county, or municipal data processing departments that have very primitive understandings of the tactical information needs of a criminal justice agency. Those centralized, all-purpose data processing agencies operate with a rhythm that is totally foreign to a modern police department, jail, or prosecutor's office. When the chief of police needs a new way to track gangs who are dealing drugs, he will frequently be told by the head of the data systems agency, "Tell us what you need and we'll get to it as soon as possible."

There are two problems here. First, the chief and his command staff are not trained to articulate their information needs in a way that can be successfully implemented by a (usually junior level and temporary) data processing analyst or even a high-priced consultant from an accounting firm. Furthermore, the problem may not be a strictly data processing problem. It might be related to the department's organizational structure or its communications system or officer training. Few data processing departments -- even those imbedded within police departments, prosecutor's offices or correctional systems -- have license to implement solutions that require a readjustment of the basic operational procedures of an agency.

Second, if "as soon as possible" means several months, as is normally the case in busy data processing departments, the chief can't wait and he'll just do the best he can with what he's got. Therein lies the genesis of many of the problems we face today.

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When I managed the criminal justice information systems program for the Illinois Law Enforcement Commission and oversaw the LEAA grants in Illinois for a number of systems, we made a lot of mistakes. But I think we learned from that experience and when Governor Thompson made the decision to create the Illinois Criminal Justice Information Authority with a mandate to focus on information systems and to involve the top criminal justice officials at the State, county, and municipal levels in a systemic approach to information system development, he made it possible for us to start again and to do it right.

We operate on the following general principles:

- Criminal justice agencies are not in business to create statistics or management information.
- The most reliable statistics and management information will be derived as a by-product of tactical systems that are used by operational personnel to perform their primary missions (e.g. investigating crimes, arresting perpetrators, prosecuting offenders, managing inmates).
- Although most criminal justice agencies operate in similar ways and have similar information needs, the most robust tactical information systems are produced when multiple agencies pool their expertise and collaborate on the design, development, and implementation of such systems.
- The ability to share tactical information across jurisdictional boundaries and among different components of the criminal justice system is critical to the success of any information system.
- No information system is ever functionally complete. Systems must evolve with new requirements imposed from outside the criminal justice community and from new approaches to policing, prosecuting, and corrections developed within the criminal justice system.
- No information system is ever technologically complete. Computer hardware, software, telecommunications, and other information technologies are changing at a dizzyingly rapid pace. It is irresponsible to use obsolete, inefficient tools for a mission as critical as public safety and justice, so

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criminal justice agencies must adapt to, and find resources for, a constantly changing technological environment.

- Nobody is smart enough to develop a single, comprehensive criminal justice information system for all components of that system. The key, therefore, is a stable network of component systems that can communicate certain information with one another while keeping other information confidential.
- Information systems will not *per se* allow an agency to reduce its overall expenditures, but they will permit agencies to keep pace with the constant stream of new demands upon them in a more efficient and effective manner.
- The strategy used in introducing new or updated technologies (including information systems) into organizations as complex as most criminal justice agencies is as important as the hardware or the software. Commitment by top management is needed first. Then comes training, training, training.
- Once systems are implemented, they must be audited for accuracy and completeness and evaluated for effectiveness *vis-a-vis* the agency's operational objectives. Such audits and evaluations should be conducted regularly by the agency itself and periodically by an independent criminal justice agency.

Based on these principles, the Illinois Criminal Justice Information Authority has embarked upon a program of developing, maintaining, and supporting information systems for State, county, and local law enforcement, prosecution, and corrections agencies within Illinois.

Police Information Management System

The Police Information Management System was originally developed with federal block grant funds from the Bureau of Justice Assistance. Continuous software development and maintenance is provided by the Police Systems Unit of the Illinois Criminal Justice Information Authority with State general revenue funds. Approximately 75% of the costs of operations (24-hours a day, 7-days a week) for computer operators, telecommunications, and user training are paid by users' fees from PIMS agencies. The remainder of the operations costs are subsidized by

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State general revenue funds. PIMS users buy the terminals, printers, graphics, and telecommunications devices installed in their agencies and are responsible for the maintenance and upkeep of that equipment (although service calls are coordinated by the Authority).

Forty-nine police departments in Illinois now use PIMS, providing service to nearly 2 million people in eight counties (two-thirds of the population of Illinois outside of Chicago). The system runs on six large mini-computers: four in Chicago, one in Rockford, and one in Galesburg. All of the systems are linked together in a single network for redundancy and for efficient information sharing.

Although PIMS does not now include Computer Aided Dispatching (CAD) capabilities, PIMS tracks all police department calls for service from the initial call through final disposition and interfaces to CAD systems. Many PIMS departments have implemented an optional geographic crime-mapping module and can produce maps and other graphic presentations of crime data on micro-computers. The software for the crime-mapping technology was developed by the Authority under a grant from the Bureau of Justice Statistics ("Spatial and Temporal Analysis of Crime Project").

PIMS produces automatically each month incident-based statistics for the Illinois Uniform Crime Reports maintained by the Illinois State Police. This saves from 2 to 5 person-days per month per PIMS user that was formerly used in preparing a much less comprehensive report manually. The Authority will convert to the recently promulgated FBI National Incident Based Reporting System when the State Police has converted their system to accept those reports.

The Authority gets regular feedback from PIMS users through the PIMS Advisory Board, composed of police department chief executives, and the PIMS Managers' Group, made up of the personnel who coordinate the use of PIMS in each agency.

One of the enhancement requests from the users' groups was support for mobile data terminals (MDT) in order to provide more efficient communications between officers on patrol in squad cars and to reduce the contention for scarce radio communications bandwidth.

Using federal funds from the Bureau of Justice Assistance, the Authority developed and deployed the Area-wide Law Enforcement Radio Terminal System

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(ALERTS). Grant funds were used to install antennas, mobile communications base stations, and the radio network processor in the Authority's computer center.

Each ALERTS user agency is responsible for purchasing, installing, and maintaining its mobile data terminals. In addition, ALERTS agencies pay users' fees to the Authority for on-going operations support and training. The fees are based on the number of terminals installed by the user.

ALERTS provides direct access to license plate information, driver registrations, wanted persons, stolen vehicles, as well as information maintained in PIMS. Car-to-car and car-to-headquarters communications are supported. Currently, 33 agencies in 5 counties are using ALERTS. The network is growing rapidly and the Authority this month authorized an expansion of the ALERTS infrastructure into more parts of the State using federal funds from the Bureau of Justice Assistance.

Correctional Institution Management Information System

County jails are not immune from the dramatic increase in the workload experienced by all parts of the criminal justice system in the past several years. In 1973, the Authority's predecessor agency, the Illinois Law Enforcement Commission, developed the Correctional Institution Management Information System (CIMIS) for the Cook County Department of Corrections using LEAA funds. The Authority now provides software maintenance support for that system and has developed a smaller version of CIMIS for other county jails. As is the case with PIMS, continuous software development and support is paid for with State general revenue funds and fees are paid to the Authority by each CIMIS user for operational support and training. Each county has its own mini-computer system and all the systems are linked into a network through the Authority.

CIMIS provides comprehensive support for jail management, court appearance scheduling, and the calculation of sentences. In addition, CIMIS supports inmate trust fund accounting, commissary transactions, and other management functions.

CIMIS is now in use in 10 counties and 4 additional counties are awaiting county board approval to join the network.

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Rapid Automated Prosecution System

Prosecutors sought the Authority's assistance in helping them meet their responsibilities under the Illinois Crime Victims' Bill of Rights, which requires notification of victims and witnesses about the status of cases pending before the courts.

Using federal funds from the Bureau of Justice Assistance, the Authority has provided the Rapid Automated Prosecution System (RAPS) software and micro-computer hardware to State's Attorneys in 31 counties. Ongoing software development costs are borne by the State general revenue fund with fees from RAPS users paying for operational support and training.

RAPS provides case tracking, docketing, forms preparation, and letter writing capabilities. In addition, RAPS can communicate with the Authority's network so that prosecutors can exchange information with one another and access the State criminal history system.

Criminal History Record System Audits

In any discipline, decision making improves when decision makers have access to a broad range of information. But more information does not guarantee better decisions if the information itself is inaccurate or incomplete when it is needed. In criminal justice, where decisions are made every day affecting public safety and the rights of individuals, data quality is crucial.

Since it began operations in 1983, the Authority has worked to improve the quality of criminal justice data in Illinois, particularly criminal history record information. This is because the entire criminal justice system -- law enforcement agencies, prosecutors, the judges, and corrections officials -- relies on criminal history record information for its most important decisions: charges, bail setting, pretrial release, sentencing, and custodial classification of inmates.

To monitor the quality of criminal history record information in Illinois, the Illinois Criminal Justice Information Authority during fiscal year 1989 audited once again the State's Computerized Criminal History (CCH) system, the state central repository for rap sheets maintained and operated by the Illinois State

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Police. This was the sixth Authority CCH audit and the first since the State Police completed a major five-year redesign of the system.

In general, the Authority found that the quality of the criminal history records on the system had improved markedly since the redesign. But it found that the majority of arrests, even those created under the redesigned system, were still missing disposition information from State's Attorneys and the courts. Missing dispositions, the Authority pointed out, compromise the integrity of CCH information and its usefulness to criminal justice decision makers at all levels in Illinois.

To address the problem, the Authority recommended a variety of solutions, including monitoring of missing dispositions and those agencies that are not reporting them. Some of these recommendations have already been implemented by the State Police. How effective they are will be shown in future CCH audits by the Authority.

This year, our audit focused on the major contributor to the CCH system: the Chicago Police Department. I have provided the Committee staff with a complete copy of the audit, but the first four findings and recommendations will give the Committee an idea of the audit's content:

Finding Number One

The Chicago Police Department's criminal history record information system is fragmented, inefficient, and outdated, and negatively affects the quality, timeliness, and usefulness of rap sheet information maintained by the Chicago Police Department and the Illinois State Police.

The Chicago Police Department does not operate a comprehensive criminal history record information "system" *per se*, but rather, maintains many isolated criminal history record systems throughout the Department. The maintenance of criminal history records by the Chicago Police Department is extremely inefficient, since much of the information contained in these multiple, stand-alone record systems is redundant. Moreover, delays in the arrestee identification process result from a lack of integration of these systems.

The methods used by the Chicago Police Department to collect and maintain criminal history record information are labor intensive, time-consuming, and outdated, having changed little in the past fifty years. Because the Chicago Police Department's criminal history record information systems are paper dependent, many personnel hours are required to sort, type, file and retrieve the information in each of these systems.

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As a result of these fragmented and duplicative criminal history record information systems:

- o valuable personnel time is wasted on repetitive data collection and maintenance tasks;
- o valuable physical space is wasted by storing redundant information on arrestees and arrest events;
- o the potential for data errors increases, resulting in inconsistent and incorrect data for the same arrests, both within the various Chicago Police Department systems and between the two criminal history record information systems maintained by the Chicago Police Department and the Illinois State Police;
- o potentially useful arrest tracking information is not readily available to Department personnel; and
- o existing technologies such as the Chicago Police Department's Automated Fingerprint Identification System, are not utilized to their full potential.

Recommendation Number One

The Chicago Police Department should eliminate its multiple stand-alone systems, both manual and automated, in favor of a comprehensive, integrated, fully automated criminal history record information management system. This system should integrate all aspects of arrest processing, facilitate information sharing and exchange throughout the Department and with other criminal justice agencies, and fulfill the Department's current and future information requirements.

The lack of timely and accurate information across criminal justice functions and jurisdictions is a major impediment to the efficient and effective administration of justice in Cook County. The redesign of the Chicago Police Department's criminal history record information system should encompass regional information sharing and access capabilities. The Chicago Police Department should work with the Cook County State's Attorney's Office, the Cook County Circuit Clerk's Office, the Cook County Probation Department, the Cook County Department of Corrections, the Cook County Sheriff's Office, and other Cook County criminal justice agencies with a legitimate need for this information. In addition, the Chicago Police Department should also work with the Illinois State Police to ensure that all criminal history record information maintained by the two repositories is integrated and consistent.

In the long term, the Chicago Police Department should consider eliminating its independent, historical database for Chicago offenders. Efforts should be made by the Chicago Police Department to ensure that the Illinois State Police, as the state central repository, has accurate and complete information regarding all Chicago offenders and arrest events. Consideration should also be given to legislative and/or policy changes which will accomplish this goal.

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Also, on-line automated access to the state's criminal history record information should be made available to all Cook County criminal justice agencies, including the Chicago Police Department, by the Illinois State Police. These efforts will ultimately eliminate duplicative criminal history information collection and maintenance at the state and local levels, and will allow local resources that are currently being expended on these activities to be directed toward other priorities.

Adequate resources should be provided to the Chicago Police Department by the City of Chicago to implement a new criminal history record information management system.

Finding Number Two

The Chicago Police Department is not in compliance with the Uniform Disposition Reporting law which requires arrest information to be reported to the Illinois State Police for all felony and Class A and B misdemeanors. Consequently, the nature and extent of offenders' criminal activity in Chicago is seriously underrepresented on the state's computerized criminal history system.

Based upon the audit sample, the Chicago Police Department reported less than one-third (32%) of the arrests it was required to report by state law during the first ten months of 1988. Of the 336 arrests in the audit sample involving one or more *reportable* offenses, only 107 arrests were reported to the Illinois State Police by the Chicago Police Department. Of the 229 Chicago Police Department arrests not reported to the Illinois State Police, 16% (36) included one or more felony charges. Among the felony charges that the Chicago Police Department failed to report were charges for armed robbery, aggravated criminal sexual assault, and residential burglary. Over half of the unreported Chicago Police Department arrests included *reportable* drug charges. Due to the fact that many of the Chicago Police Department arrest events not reported to the Illinois State Police contained multiple *reportable* offense charges, the number of *reportable charges* not forwarded to the Illinois State Police would be even higher.

The 107 arrest events that were reported to the Illinois State Police by the Chicago Police Department also did not include all of the *reportable charges* for those arrests. Eleven percent (15) of the 136 arrest charges associated with these arrest events were not reported to the Illinois State Police. Therefore, even the relatively small proportion of Chicago Police Department arrests that were reported to the Illinois State Police underreported the total number of arrest charges.

Recommendation Number Two

The completeness of criminal history record information is critical to its integrity, reliability, and usefulness. The state computerized criminal history system is dependent on the information reported by local agencies. Because the Chicago Police Department is the largest single contributor of arrest information to the Illinois State Police, non-compliance with the Uniform Disposition Reporting law has a serious negative impact on the quality of the Illinois State Police's criminal history record information. The Chicago Police Department's practice of not reporting the required information to the Illinois State Police seriously compromises the utility of state computerized criminal history report sheets for offenders with Chicago-based criminal histories. It also underscores the critical need for

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the Illinois State Police to fulfill the federal requirement to conduct local agency audits to ensure compliance with all aspects of state and federal regulations governing criminal history record information.

Therefore, the Chicago Police Department should take immediate steps to ensure that information concerning all *reportable* arrests is provided to the Illinois State Police, as required by the Uniform Disposition Reporting law. Policies and procedures should be developed at the district level that will ensure complete and accurate reporting of criminal history record information on state fingerprint cards. Adequate training should be provided to Chicago Police Department personnel in all districts to ensure compliance with the reporting requirements of the Uniform Disposition Reporting law. In addition, adequate procedures should be established in the Identification Section to monitor the level of arrest reporting to the Illinois State Police by the districts, as well as the timeliness of that reporting. Adequate resources should be provided by the City of Chicago to the Chicago Police Department for these efforts.

Also, as has been recommended in past audits by the Illinois Criminal Justice Information Authority, the Illinois State Police should institute a program of regular, periodic audits of local criminal justice agencies required to report criminal history information to the state central repository. Such audits should address compliance with all aspects of the federal and state laws governing criminal history record information.

Finding Number Three

Certain Chicago Police Department procedures artificially inflate the number of arrests reflected on individual criminal history records maintained by the Illinois State Police.

The Chicago Police Department has no formal procedures for notifying the Illinois State Police of decisions to release arrestees without charging in instances where the arrests were previously reported, as is required by law. The Chicago Police Department also has no formal mechanism for informing its own Identification Section of decisions to release without charging after the Chicago Police Department fingerprint cards have already been forwarded to the Section. In addition, the Chicago Police Department improperly reports arrest information to the Illinois State Police for arrests made by other agencies that are processed in Chicago Police Department lockups. Because the Chicago Police Department and the arresting agencies both report these arrests to the Illinois State Police, duplicate arrests are erroneously entered on the state's criminal history records in such instances.

The above Chicago Police Department procedures have a direct negative impact on the quality of criminal history record information maintained by both the Chicago Police Department and the Illinois State Police. Double reporting artificially inflates the number of arrests attributable to a record subject at both the state and local repositories, and contributes to the problem of missing dispositions.

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Recommendation Number Three

The Chicago Police Department should immediately review its policies for reporting arrest information to the Illinois State Police, and should institute procedures to ensure that decisions to release arrestees without charging are reported, and that double reporting is eliminated. Procedures should be developed and implemented at the district level that will ensure complete and accurate reporting of criminal history record information to the Illinois State Police. Adequate training should be provided to all Chicago Police Department districts to ensure compliance with these procedures.

Finding Number Four

Backlogs in processing criminal history record information at the Chicago Police Department seriously undermine the quality, timeliness, and usefulness of Chicago Police Department rap sheets, and consequently, undermine the effective administration of justice. The failure of the Chicago Police Department to add criminal history record information, particularly disposition information, to its rap sheets in a timely manner means that local law enforcement officials cannot always obtain complete criminal history record information from the Department when it is needed.

Backlogs in adding disposition information to Chicago Police Department rap sheets constitute one of the Department's most pressing problems with respect to criminal history record information. Due to the twelve-month delays for posting court disposition information and the four-week backlogs for creating and filing new offender rap sheets, complete criminal history record information is not available to law enforcement personnel in a timely manner. Also, eight-month backlogs in processing noncriminal justice agency requests for criminal history record information make it difficult for these agencies to comply with licensing and hiring policies.

In addition, requests for rap sheets that are backlogged are not being updated prior to dissemination. Since criminal justice decisions are based upon these incomplete rap sheets, record subjects may not be prosecuted to the full extent of the law in cases where such action is warranted. Conversely, "open" arrests may cause prejudice against record subjects acquitted for such offenses.

These backlogs are attributable to a variety of factors, including manual system inefficiencies, lack of reliable personnel, lack of basic equipment such as photocopiers, and increasing volumes of Chicago Police Department arrests. In addition, excessive absenteeism and collective bargaining restrictions which limit the ability of administrative personnel to effectively deal with this problem undermine the productivity of the Identification Section.

Recommendation Number Four

Because complete up-to-date criminal history record information is critical to criminal justice decision-making, the Chicago Police Department should take immediate steps to eliminate all backlogs in posting arrest and disposition information to its rap sheets. The Department should provide additional personnel and equipment to accomplish this goal.

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As indicated in Recommendation Number One, the Chicago Police Department should eliminate its multiple stand-alone record systems, both manual and automated, in favor of a comprehensive, integrated, fully automated criminal history record information management system. This system should integrate all aspects of arrest processing, facilitate information sharing and exchange throughout the Department and with other criminal justice agencies, and fulfill the Department's current and future information requirements.

In the long term, the Chicago Police Department should consider eliminating its independent, historical database for Chicago offenders. Efforts should be made by the Chicago Police Department to ensure that the Illinois State Police, as the state central repository, has accurate and complete information regarding *all* Chicago offenders and arrest events. Consideration should also be given to legislative and/or policy changes which will accomplish this goal.

Also, on-line automated access to the state's criminal history record information should be made available to all Cook County criminal justice agencies, including the Chicago Police Department, by the Illinois State Police. These efforts will ultimately eliminate duplicative criminal history information collection and maintenance at the state and local levels, and will allow local resources that are currently being expended on these activities to be directed toward other priorities.

Adequate resources should be made available to the Chicago Police Department by the City of Chicago for these efforts.

In its formal response to the Audit, the Chicago Police Department agreed with the findings and asked for the Authority's assistance in implementing the recommendations.

The Federal Role

Federal assistance has been crucial in developing Illinois' criminal justice information systems as well as for many of the other important innovations that are now taken for granted.

During much of the 1970s and 1980s, governments at all levels in Illinois relied on federal money to support both basic law enforcement activities as well as special programs and services. These federal funds came from two primary sources: federal revenue sharing and the Law Enforcement Assistance Administration (LEAA).

Under revenue sharing, the federal government each year provided all municipalities and counties in the state with a sum of money proportional to their

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population and the amount of federal taxes paid by their citizens. For the most part, local governments were free to use these federal funds for any of a variety of programs and services, including law enforcement. Federal revenue sharing reached its peak in the mid-1970s, declined sharply during the 1980s, and ceased altogether by 1988.

In terms of supporting law enforcement activities, federal revenue sharing was especially important to the counties. The federal money was deposited in each county's general revenue fund, from which the activities of the sheriff's office, as well as many other county agencies, are financed. And although federal revenue sharing made up a relatively small percentage of the counties' total receipts, the federal funds did support a sizable level of criminal justice services, particularly in the sheriffs' departments.

In 1975, for example, nearly 40 percent of the money that all Illinois counties outside Cook spent on police and public safety came from federal revenue sharing, and in 1976, the figure was still 35 percent. These 101 counties spent nearly \$50 million in federal revenue sharing on police and public safety in 1974 alone, and more than \$20 million a year (in constant 1988 dollars) during most of the 1970s.

By 1986, however, the overall amount of federal revenue sharing to all levels of government had dropped sharply, and the amount of these federal funds that Illinois counties spent on police and public safety had fallen as well. That year, counties outside Cook spent less than \$8 million (in constant 1988 dollars) in federal revenue sharing money on police and public safety, or only 7 percent of all county expenditures for these activities. In 1987, county receipts from federal revenue sharing had all but ceased, and by 1988 they had stopped completely.

During the 1970s and early 1980s, municipalities also devoted federal revenue sharing money to their law enforcement activities, but to a lesser extent proportionally than counties, it appears. Although data on municipal expenditures of federal revenue sharing are incomplete, indications are that these federal dollars made up a relatively small percentage of total municipal police expenditures. In 1978, for example, federal revenue sharing accounted for approximately 5 percent of the money spent on municipal police departments in Illinois, excluding Chicago. In Chicago in 1978, about 6 percent of the total police force were employed through various federally funded programs, including CETA, HUD, and the Beat Representative program. These federally funded employees

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made up less than 1 percent of the force by 1981, however, and had been terminated altogether by 1987.

Unlike federal revenue sharing, LEAA funds -- the other source of federal money for law enforcement in Illinois -- were not allocated directly to local units of government, but instead were awarded through the Illinois Law Enforcement Commission (ILEC). And these funds were used not just for law enforcement, but for all components of the criminal justice system in Illinois and for various system planning and coordination activities.

The LEAA money devoted to law enforcement was used primarily to improve the delivery of services -- for example, increasing (or in some cases initiating) routine patrol capabilities in rural sheriffs' departments or funding multi-jurisdictional, special-purpose units to combat organized crime and narcotics.

In 1974, one of the peak years for LEAA funds, almost 20 percent of the grants distributed by ILEC went for law enforcement activities. That year, these awards totaled more than \$13 million (in constant 1988 dollars). They supported programs such as narcotics squads, emergency hire-back programs, and rural projects. For example, ILEC funded 30 counties under the Rural Crime Program in 1974. These small awards, no larger than \$10,000 each, enabled rural sheriffs to hire additional deputies, thereby increasing patrols and reducing police response time in their counties.

ILEC also established various police program models. Three of the most notable were social workers in police departments, eligibility and programmatic guidelines for police crime prevention bureaus, and guidelines and operating procedures for police-based victim/witness assistance programs. Large amounts of LEAA money were also dedicated to law enforcement training. Basic courses at the Police Training Institute were expanded, and a variety of new, specialized courses were developed. Training manuals were also written and distributed statewide.

The LEAA was formally terminated in April 1982. Two years later, however, Congress began developing new, more focused, and more modest programs of federal assistance to state and local governments. The first of these programs, the Justice Assistance Act (JAA) of 1984, was designed to improve the functioning of the criminal justice system, with a special emphasis on violent crime and serious offenders. In 1986, the State and Local Law Enforcement Assistance Act

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(SLEEA) was enacted specifically to improve state and local drug law enforcement. Two years later, the JAA and SLEEA programs were combined under the Anti-Drug Abuse Act of 1988 into one grant program aimed at controlling drug abuse and violent crime. In Illinois, all of these programs have been administered by the Illinois Criminal Justice Information Authority.

Between federal fiscal years 1985 and 1990, Illinois was allocated more than \$36.3 million under these federal grant programs to support law enforcement and other criminal justice programs. This money, which represents only a fraction of a percentage point of the total spending on law enforcement in the state during that time, has gone to both units of local government (approximately two-thirds of the money) and state agencies (approximately one-third). Some of local law enforcement programs that have been funded include expansion of multi-jurisdictional drug enforcement units, upgraded crime laboratory facilities, and computerized information and communications systems for police and sheriffs' departments. Some of the state-level enforcement programs that have been funded include expansion of the Illinois State Police (ISP) crime labs and enhancement of its telefacsimile network for processing fingerprints and identifying offenders.

All federal money that ISP receives, either directly from the federal government or through other state agencies such as the Authority, is deposited in the department's Federal Projects Fund. In addition to the crime lab upgrade, ISP's drug education and eradication efforts have been supported with money deposited in the fund. In fiscal year 1988, the Federal Projects Fund totaled more than \$2.6 million, or nearly 2 percent of ISP's total funding sources. In 1972, by contrast, federal sources accounted for more than 6 percent of all state police expenditures.

What is particularly striking in reviewing the history of federal support over the years for State and local criminal justice agencies – especially in the information systems area – is that nearly all of the major advances that are now indispensable to the criminal justice system came about as the direct result of federal block grants. Some of the innovations were actually paid for with federal funds; others came about as a result of the comprehensive planning process that was required (and financially supported) by the Bureau of Justice Assistance, the Bureau of Justice Statistics, the National Institute of Justice, and the Office for Victims of Crime.

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It is also fair to say that with the decline in the amount of federal funds made available to the States, some of the earlier programs have atrophied (e.g. the Law Enforcement Education Assistance Program, which provided higher education opportunities for many of today's criminal justice executives) and the infrastructure improvements of the 70's (e.g. multi-jurisdictional radio communications systems and court information systems) are showing their age and need replacement or repair.

States, counties, and local units of government are struggling to cope with the end of federal revenue sharing at the same time that dramatic workload increases have come upon them as a result of the nation's drug abuse crisis. The Authority projects that Illinois will spend more than \$40 billion for criminal justice services during the 1990's. Even though the number of federal dollars for State and local criminal justice is a tiny fraction of the total criminal justice budget in Illinois, State and local governments expect federal leadership and financial support for criminal justice programs -- especially those statewide and multi-jurisdictional programs that are difficult to organize, finance, and operate.

Future Directions and Priorities

The start of a new decade is as good a time as any to take a renewed look at the state of affairs in criminal justice. To that end, the Illinois Criminal Justice Information Authority has organized *Trends and Issues for the 1990s: An Illinois Criminal Justice Forum*, to be held in Chicago from July 8-12, 1990. For five days, an expected 750 criminal justice officials, mayors, county board members, state legislators, researchers, and the media will come together to discuss the demands that are being placed on the justice system and the resources that will be needed to meet them.

The Forum is being presented in cooperation with the Illinois Association of Chiefs of Police, the Illinois Sheriffs' Association, and the Illinois State's Attorneys Association. Those associations, in concert with the Authority, intend to use the discussions that take place at the Forum to begin the process of developing a statewide strategy for improving the administration of justice in Illinois and that strategy will be the basis for future federal criminal justice block grant programs administered by the Authority.

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The start of a new decade is also a good time for the Congress to review its role in improving the quality of justice in the United States and I appreciate very much the work of this committee and its Chairman, Congressman Schumer.

Three programs in the criminal justice information systems area seem to me to offer the greatest leverage for future improvements at the State and local level and I think they are each worthy of this Committee's examination for federal block grant assistance through the Bureau of Justice Assistance, Bureau of Justice Statistics, and National Institute of Justice: improving the quality of criminal history records, researching and developing the emerging technology of artificial intelligence for State and local criminal justice information systems, and deploying imaging technology to help State and local law enforcement agencies cope with their overwhelming workloads.

Improving the Quality of Criminal History Records

Each year for the last several years, legislatures in Illinois and other states have opened up criminal history records for access by non-criminal justice agencies. These records are now routinely used by regulatory agencies for licensing and by private companies for employee screening. At the same time, criminal justice agencies are facing enormous demands for these same records in order to make tactical decisions (e.g. setting bail, sentencing, releasing inmates on electronic monitoring, etc.) and for strategic resource allocation decisions. The demand for accurate, timely, and complete criminal history record information shows no signs of abating. And yet, as the Authority's audits of both the state central repository for criminal history record information as well as local criminal justice information systems demonstrate, those records are still unacceptably inaccurate and incomplete and the information is clearly not available in a timely manner.

Auditing of records is a touchy issue. Some agencies, while acknowledging serious deficiencies in their records systems, prefer not to "air dirty laundry in public." The Authority's audits are not the most popular things we do. And yet, they are an essential element of any sound records management program. What we don't know can kill us.

When the Authority this year released an audit highly critical of the Chicago Police Department's criminal history records, Superintendent LeRoy Martin and

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Mayor Richard M. Daley complimented the Authority on both its findings and its recommendations. The front page newspaper stories and extended television coverage of the audit highlighted the problem of what happens when a law enforcement agency does not have the resources to stay abreast of modern information technology.

The good news is: the Authority was able to make available some federal criminal justice block grant funds (approximately \$250,000) to enable the Chicago Police Department to immediately embark upon a long-range strategic information systems planning process.

Most states do not have in place an independent auditing program for their state central repositories of criminal history record information. Most criminal justice agencies do not have regular independent audits of their criminal records systems.

I think this Committee should consider making federal criminal justice block grant funds available, through the Department of Justice, for (1) audits of state central repositories for criminal history record information and (2) improvements for those systems found to be deficient in the measures of accuracy, completeness, and timeliness.

Although I am usually reluctant to seek additional federal requirements on the use of criminal justice block grant funds, I think my colleagues in the States would find a requirement for criminal justice record system audits (with the provision of federal funds for that purpose) a welcome requirement.

Artificial Intelligence

I have been following as closely as our resources will permit the developments in the field of computer science called "artificial intelligence." For years, this field has been long on promise and short on performance. Now, however, I have seen some interesting applications in the private sector of "expert systems", "knowledge bases," and "natural language processing" -- all usually classified under the rubric of "artificial intelligence" -- that can be of great utility to criminal justice agencies.

In Illinois, our PIMS users, for example, are not without a lot of good, reliable data. They are buried in data that comes across the telecommunications lines and onto their screens and printouts every day. What they need is some way to find

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trends in that data so that they can adjust their tactical and strategic operations. They need to be able to detect small changes in the times and places where crimes are likely to occur so they can get there when the criminals are there and institute crime prevention programs.

One particularly promising branch of expert systems technology is computer-based pattern recognition. By scanning vast amounts of data, computers can detect changes in data (e.g. incident reports, arrests, etc.) long before those changes become obvious to humans pouring over monthly, quarterly, or annual reports.

Knowledge bases are another promising branch of expert systems technology that couple large databases with an agency's rules or "common sense" in a way that helps the users detect errors or other perturbations in the system. Although the application of this technology to criminal intelligence or investigative programs is an obvious candidate for further research and development, I believe that there is an even greater potential in the use of this technology for generally improving the quality of our criminal justice data.

For instance, if the "rule of thumb" is that certain felony dispositions should normally be posted to a law enforcement criminal history record within, say, 90 days of the arrest, then the regular application of this rule to the database could detect "violations" of this rule and generate inquiries to the prosecution or court information system to determine what, if any, action the law enforcement agency could take to move things along. If the crime lab report wasn't yet available, for instance, then an appropriate message to the lab could be generated. If, as is more likely the case, the disposition had occurred but had simply been "lost" in all the paperwork, then the computer could post that disposition thus improving -- without a lot of manual intervention -- the system's accuracy, completeness, and timeliness.

Natural language processing is, in my view, still an immature science, but one that is rapidly becoming feasible with the availability of larger databases managed by faster and smaller computers. This computer technique allows a software program to "understand" plain English text and it can be used by ordinary mortals to make sophisticated queries of the database (e.g. "Where and when do most armed robberies where cocaine is found on the premises occur?") or to scan vast files of, for instance, computerized incident and arrest narrative reports to look for key word associations.

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Some very good work in these fields is going on in the FBI and other federal agencies, but -- to use the "trickle down" metaphor -- the benefit of their work has not yet trickled down to State and local criminal justice information systems.

I would urge this Committee to consider providing some multi-year research and development funds to select State and local criminal justice agencies to stimulate work in these fields. By 1995, we could have some powerful, successful tools in our information system arsenal that would move us forward in dramatic ways.

Imaging Technology

At the Illinois Criminal Justice Information Authority, we are now beginning to deploy first generation imaging systems by making available "mug shots" on-line for our CIMIS and PIMS users. We are also using video technology in courts and jails to reduce the transportation of inmates back and forth.

But our police departments, prosecutors, jails, and courts are still inundated with paper. Rooms full of overflowing file cabinets. Boxes stuffed with practically irretrievable information.

In the 1990's, we need to develop and deploy the techniques being used now by insurance companies and other private sector organizations to conquer our paperwork. And that may mean changing the way we do business in some radical -- for criminal justice agencies -- ways.

Automated Fingerprint Identification Systems (AFIS) allow us to digitize, store, and retrieve fingerprint images, but we still keep paper fingerprint cards because we need the photos, signatures, and other information. Prosecutors still lug around cartons of evidence that could as easily be displayed on video screens. Jails still keep paper inmate inventories because of the need to produce the signatures.

Yes, we do use microfilming, but microfilm systems aren't generally considered to be an active database; they're archival records.

The technology exists today to electronically scan and store most of our paper records, convert the data to computer-readable information for indexing and

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searching, and reproduce it on demand. But this technology has not reached most of the criminal justice agencies who need it.

I would encourage this Committee to consider providing multi-year block grant funding to State and local law enforcement, prosecution, corrections, and judicial agencies to develop and implement modern imaging systems that will help us overcome the paperwork burdens that impede our efficient and effective operations.

Conclusion

Mr. Chairman, after twenty years in harness for the State of Illinois and eighteen years immersed in the daily operations of those systems at the State and local level, I believe that the most exciting times for us lie ahead. I believe that we can build and maintain accurate, complete, and timely information systems that can serve the demands being placed upon them by federal and State legislatures with the new tools that are emerging. I believe there is general recognition throughout the Nation of the increasing importance of tactical, strategic, and management information to the effective operation of criminal justice agencies.

By the year 2000, with the judicious application of sufficient resources, I believe we will have solved the problems your Committee has identified and be ready to tackle the ones we're not even aware of today.

Thank you for giving me the opportunity to testify before the Committee and I am prepared to try to answer your questions.

Mr. SCHUMER. All three of the witnesses here really have helped out tremendously, and, again, I wish we could stay here all day, but we have about 10 more minutes and then at least the chairman has to go; the members can stay as long as they wish.

I want to ask you one question, and that is, what would be your view if what Mr. Wilson, the gentleman from the Federal Bureau of Investigation, testified about would come true—in other words, that those 147 people would be cut from that Division of the FBI and the UCR system, with the new NIBRS stuff that everyone seems to be fairly excited about—just, at the very least, that kind of disruption is going to hurt it, and unless they find a place in the Justice Department to do that kind of massive undertaking, it could end. What is your view of that?

Dr. SHERMAN. Before I would let it end, I would propose to privatize it. The sale of those documents might sustain the program. The uniform crime reports—I don't know how many copies it sells—it is widely used all over the country, and I would imagine you could sell 100,000 copies a year at maybe \$20 apiece.

Mr. SCHUMER. At 100,000 copies a year, you would need to charge \$200 a copy to get the \$20 million.

Dr. SHERMAN. But you might be able to do it cheaper. That is one of the advantages of privatization.

Mr. SCHUMER. Yes.

Dr. SHERMAN. It wouldn't be as good, I don't think.

Mr. SCHUMER. Do you think we need UCR to continue?

Dr. SHERMAN. I think we absolutely have to have it.

Mr. SCHUMER. I guess part of the Justice Department's thinking in these cuts is that the Census surveys are doing the job, at least for the beginning of the system, but I am shocked at this. I don't know what you think.

What about you, Mr. Rickman?

Mr. RICKMAN. I am very dismayed. One of our recommendations was that we expedite the development of NIBRS. But as a person who deals with statistics at the State and local level, in spite of the shortfalls of the UCR system, it is something that we just greatly rely on. Any time we are called upon to make any rough comparisons with how we are doing with other States, sometimes you don't want to analyze your own crime problem, and you have to have a context, so you need other numbers, you need some kind of standard measurement. Without that, we would really be in trouble. So I am very dismayed.

Mr. SCHUMER. Mr. Coldren.

Mr. COLDREN. At the risk of being somewhat heretical—

Mr. SCHUMER. I suspect you don't mind doing that every so often. Mr. Coldren.

Mr. COLDREN. Not at all.

There are probably some numbers that are not terribly useful to us for decisionmaking. And, frankly, at the State and local level, we are interested in operational systems to get our jobs done; to keep us safe from day to day. The numbers that drop out of those systems are important to communicate, and we make our decisions on strategic resource allocations based on those numbers.

I am certain that, should something terrible befall the FBI system, the States would find which ones of those numbers and

which sets of statistics are relevant and keep producing them in a cooperative way.

My devout hope is that the system does not go away from the FBI, that they continue their operation, but I will say that I think too much focus is placed on national numbers for local problems, because most law enforcement in America is done on the streets, in the communities, in the neighborhoods, and not at the national level.

Mr. SCHUMER. Your State is at the head of the pack in this, as you know, and we have a lot of States that aren't, and I think we and the States need those kinds of numbers, and they haven't put the energy, time, resources, or whatever into doing them. But I understand your point.

Mr. DeWine.

Mr. DEWINE. Thank you, Mr. Chairman.

Mr. Coldren, I wonder if you could give us some examples of what policy decisions were made as a result of good information or good statistics in Illinois. I know you are not supposed to make policy, but you get the information—

Mr. COLDREN. I am allowed to wander in that area.

Mr. DEWINE. I imagine you do a little. It is not a foreign area to you.

Mr. COLDREN. No.

I think clearly in the area of drugs, where you are trying to identify the nature and extent of drug abuse in a system, and the effective response of the law enforcement community, you need data that is available and timely and which comes to you at least monthly, not annually, not quarterly, and not every 4 years.

Other areas, I think, are less sensitive to daily changes in data; certainly things like prison buildings programs. In Illinois, we are building prisons as fast as we can based on hard, solid data that tells us we are going to have an increasingly large prison population for the foreseeable future, and it costs a lot of money when you use that data. You have to really believe in it to commit money to those kinds of facilities.

I think that, again, most of the data we have talks about whether or not it is smart to deploy more resources to a certain parking lot or to a certain tavern. Because that is what you are trying to do: Prevent people from getting hurt. And the numbers will reflect that if you do your job right in the streets. Frankly most cops, police chiefs, and sheriffs I work with don't look at national numbers to come up with that information. They look at their own numbers, and those numbers always are better if they are the result of a tactical system, a system that gets them through the day. In jails, a system that counts inmates four times a day. If they can go home when the computer and the head count don't agree, it is not a good system. If overtime goes up because they can't get that right, you get better data very quickly.

It is true with law enforcement also; it is true with prosecutors. I know we have prosecutors on the panel here. They like to have those conviction rates go up. You can't have that unless you have some data in there. So I don't think those are national numbers that are used, and I think, frankly, operational data is the most important data we can focus on.

Mr. DEWINE. Is that operational data not available to a local department? Let's say you don't have a good State system like you do and you don't have all this State information but the local chief of police is going to know, obviously, depending on—maybe not in Chicago, but let's take a smaller jurisdiction; he is going to know what the incidents of crime are, and he is going to have those trends locally, is he not?

Mr. COLDREN. That is right.

Mr. DEWINE. Whether you have a good State system or not.

Mr. COLDREN. The local chief will have an intuitive knowledge of what is happening, he thinks, in his community. It is amazing how often that knowledge is wrong.

Dr. SHERMAN. If I may, Mr. DeWine, we discovered that 3 percent of the addresses in Minneapolis produce over 50 percent of the calls for service. We plotted those hot spots, the top 250 addresses for crime in the city, and we showed them to the police officials and the police officers in the streets. None of them knew that those were the top locations; they were surprised. That is what computerization can do for you.

But, again, they didn't have the money to do that themselves, we had to do it for them with a Federal grant from the National Institute of Justice.

Mr. DEWINE. I think the point is certainly well taken that what is going to get it done is if the local department can get information that is useful to them. They couldn't care less about whether national statistics are there, whether State statistics are there, or anything else. I mean, they are dealing with crime every day, it would seem to me, and they want something that is going to help them do their job on a daily basis.

Dr. SHERMAN. Although I think they do care if crime is going up in their community more than it is nationally. It is that kind of benchmark point of reference. If we are all going to hell in a hand basket, they want to know that, whereas if their city is the armpit of the Nation, they want to know that, too.

Mr. DEWINE. Yes, but human nature being what it is, I mean we all deal with our own immediate problems. If it satisfies my immediate problem, I am certainly going to put more resources on it than if it is something for the general good that I am going to do.

Thank you, Mr. Chairman.

Mr. SCHUMER. Thank you.

Mr. Sangmeister.

Mr. SANGMEISTER. I know time is running short, and I am not sure you have the information to answer this question, but what did we appropriate in the last fiscal year, something like \$11 billion or \$12 billion to fight the war on drugs? A certain amount of that money would be allocated to keeping statistics. How much of those dollars are filtering down to any of these agencies?

Dr. SHERMAN. Zero.

Mr. COLDREN. Very little.

Dr. SHERMAN. Not one penny for R&D went into that drug war. Everything went into more bullets, and nothing into where to aim them.

Mr. COLDREN. In Illinois, we do allocate some money, and we have in the past allocated significant amounts of Federal dollars to

information systems development. A system serving your district called police information management systems was developed with Federal dollars. Our prosecutors in over half the State have federally developed systems. The same is true with our correctional institutions. So we do devote a lot of Federal dollars to that but nothing near in proportion to the size of the problem. We are coming nowhere near to putting enough dollars into solving Chicago's problems. As you may have seen in my testimony, Chicago has got a serious problem with records. It is going to cost millions and millions of dollars to fix that problem, and it is not going to come exclusively from Federal funds.

Mr. RICKMAN. We don't have enough data to really adequately define the drug problem at this point. We really are relying on a lot of indirect measures, and so we really don't have a handle on just what we are attacking.

An interesting side note: I just finished talking with some researchers that received a grant, and their idea of measuring drug use is to go into prisons and ask inmates whether or not they use drugs. I mean that kind of information is not going to be very useful to us.

Mr. SANGMEISTER. That is also something we need to take into consideration here, too.

Mr. SCHUMER. I think you are right.

Mr. SANGMEISTER. Thank you.

Mr. SCHUMER. OK. I want to thank all of our witnesses. This has really been an excellent hearing in so many ways, and hopefully it will spur this body on to do something about the problems we have discussed.

Dr. Sherman, Mr. Rickman, Mr. Coldren, thank you.

We are adjourned.

[Whereupon, at 12:55 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

**OVERSIGHT HEARINGS ON EMERGING
CRIMINAL JUSTICE ISSUES**
**(Sentencing Options and Alternatives for Drug-
Dependent Offenders)**

TUESDAY, JULY 23, 1990

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIMINAL JUSTICE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met, pursuant to notice, at 10 a.m., in room 2237, Rayburn House Office Building, Hon. Charles E. Schumer (chairman of the subcommittee) presiding.

Present: Representatives Charles E. Schumer, George W. Gekas, and Howard Coble.

Also present: Don Goldberg, professional staff member; Teresa Faunce, clerk; and Raymond V. Smietanka, minority counsel.

Mr. SCHUMER. The hearing will come to order. I would like to welcome everybody to part 3 of this subcommittee's hearings on emerging criminal justices issues.

Today's hearing is on what we need to be doing to address the growing number of drug dependent offenders in the criminal justice system.

I think this is an extremely important topic, perhaps even urgent topic for a number of reasons. First, as we have heard in previous hearings, the number of offenders entering the criminal justice system who are testing positive for drug use is simply staggering.

As evidence from the drug use forecasting survey revealed before this subcommittee, that evidence shows that more than 80 percent of the males arrested in my city of New York test positive for drugs. In Los Angeles, it is 75 percent. In Chicago it is 80 percent.

So we obviously have a big problem. A high percentage of those persons being arrested in this country are drug users, and I think everybody knows that.

Second, is the fact that drug use appears to be closely related to crime, another fact that people are quite aware of. Chronic heroin and cocaine users with extensive criminal histories commit dozens of robberies, scores of burglaries, and perhaps thousands of drug transactions a year.

But the third point and the real point of this hearing is that the criminal justice system may offer the best chance we have of getting these people treatment for their drug habits.

That is the area that really has not been focused on, at least in my opinion, commensurate with its potential. I want to make it clear that this is a very different issue than voluntary treatment or any treatment on demand.

What I am talking about here, I think one of the things we want to explore is what is so-called coerced treatment, either in prison itself or else as required as a condition of release, probation, bail or reduced sentences.

If coerced treatment has a chance of working, it may be the best way to get some of these drug abusers out of the criminal justice system and reduce recidivism rates.

So today we are going to examine first what the administration thinks about it and is doing about treatment in the prisons and in the criminal justice system in general.

We will hear from the Bureau of Prisons about its programs and needs, and then we will hear from one of the true experts in the field, Dr. Doug Lipton of Narcotic and Drug Research, Inc., in New York City.

My interest in this whole topic was inspired when I visited NDRI in New York and heard about the studies they have done which he will talk about, but they are mindboggling.

They are virtually phenomenal in terms of stating the effect and cost of drug treatment, coerced drug treatment in the prisons.

It might add 10 percent to the cost of incarcerating a prisoner a year, but the recidivism rates of those who go through this program in terms of committing crime are astoundingly low.

So we are looking forward to hearing from everyone, and particularly our first witnesses. He was very kind to come and reschedule, Dr. Herbert Kleber. He is a very distinguished professional in the field. He is sort of carrying the ball, I think, for the drug czar, Mr. Bennett, in these areas, and he is very kind to come.

Of course, we also have Michael Quinlan, another witness who also when he comes before this subcommittee has intelligent elucidating things to say.

I am glad they are both here, but before asking them to testify, I want to recognize our ranking republican, George Gekas.

Mr. GEKAS. I thank you.

I think he is elusive sometimes. No, no. That was on another matter.

I couldn't locate you except in South Carolina. You finally got back. I, too, am very much interested in the subject, as we should all be, because it is timely.

The issue that rivets my attention more than any of them in the field is what we can do to impose conditions on prerelease, release halfway housing, and even reduced sentencing or other kinds of bargaining that we can do with the drug offender to put him on a drug treatment program.

I think that is a way that we must explore fully, and how this describes in with the Sentencing Commission and all of that worries me because I don't see it clearly, but I do believe we must explore it.

So any light that we can shed on that will be very well received. Thank you.

Mr. SCHUMER. Thank you.

Now our first witness, as I mentioned, is Dr. Herbert Kleber. Dr. Kleber, we appreciate your being here. We will read your entire statement into the record. You may proceed as you wish.

**STATEMENT OF HERBERT KLEBER, M.D., DEPUTY DIRECTOR,
OFFICE OF NATIONAL DRUG POLICY**

Dr. KLEBER. Thank you, Mr. Chairman.

What I will try and do is summarize my statement so I don't take up time from the committee, and we have more time for questions and discussions. I appreciate the opportunity to testify on the important relationship between drug treatment and the criminal system.

The expansion of the role of drug treatment within the criminal justice system and the improvement of coordination between the two are high priorities in the President's National Drug Control Strategy.

Although often you hear that the two, that is the criminal justice system and treatment, are diametrically opposed, they are not. They have much in common, and they complement each other.

Drug addiction, as we know, is often closely connected with criminal behavior not directly involving drugs, and so our response to the problem of drug users has been not only through the health care system but also through the criminal justice system.

We know that good treatment is not, as some think, an easy route away from drugs. Drug treatment that really works is demanding, difficult, often physically and emotionally exhausting.

It stresses personal accountability and adherence to rules, similar aspects that characterize the criminal justice system.

There is now an impressive amount of evidence to suggest that when drug treatment contains these elements, we get good results. I am delighted that you have people like Doug Lipton here to testify because he is one of the individuals the treatment community has relied on for many years who has shown that treatment can work in the criminal justice system.

Frequently, trouble with the law is the impetus for an addict entering drug treatment. According to the ADAMHA 1989 treatment outcome prospective study, as many as one out of two individuals in the public drug treatment programs got there by either direct or indirect legal pressures.

It is becoming increasingly common for arrestees in pretrial detention to be evaluated to determine if they are using drugs, and to evaluate what possible alternatives could occur as opposed to just sending them to prison.

There are a number of alternatives. Treatment as a condition of pretrial release, as a condition for deferred prosecution in lieu of incarceration, as part of a reduced prison sentence, as terms for probation or parole or while serving a full prison sentence.

Many people are not aware of the data, showing that individuals that enter treatment under coercion do just as well and sometimes better than those who enter voluntarily.

The study of the California civil addict program, much of that work being done by Doug Anglin in California, showed that the

participants had lower rates of drug use, fewer self-reported crimes, fewer re-arrests and higher rates of employment than those who had not participated in the program. The TOPS study also found that those under drug treatment tended to do better than those who sought treatment on their own.

This is not surprising. The studies that my colleagues and I did at Yale in the mid-1970's came to a similar conclusion, that addicts who entered our treatment program under legal pressure did just as well as those who were there as so-called volunteers. In fact, the reality is, if you look at the people entering treatment, there are very few real volunteers.

Even the so-called volunteers are, for the most part, under some sort of pressure. If it isn't criminal justice, it is often from a family, or from an employer.

It is rare that the individual would wake up one morning and say, "I don't want to use drugs anymore."

The President's National Drug Control Strategy stresses the importance of expanding and improving drug treatment within the criminal justice system as well as in the wider community. For fiscal year 1991, we have requested \$1.5 billion for drug treatment, an increase of 68 percent over 2 years ago. The money will be used to expand block grants and to increase categorical programs which support research and demonstrate ways to improve the quality of treatment through centralized treatment evaluation and referral systems, better coordination of citywide programs, development of so-called treatment campuses, more effective treatment for pregnant women and other high-priority groups.

We also have some initiatives to expand and improve treatment in the criminal justice system. Under the Department of Health and Human Services, especially its ADAMHA branch, we are pursuing two primary initiatives.

First, we have proposed legislation to increase the accountability of treatment programs through the State treatment plans, by which each State must evaluate the needs in their State and then show how the money that we are giving them goes to meet those needs.

We would expect if we can get that legislation through Congress that one of the things we will ask States to do is to examine very carefully how much money they are putting into treatment in the criminal justice system, and that will be one of the issues that will need to be addressed as part of their satisfying the State treatment plans.

At this point we do not intend to set a firm percentage, but we do want to look at how each State evaluates the need in their own criminal justice system and what kind of funds and for what programs they are going to put into that. I should add here that the new emphasis on linking community-based treatment with the criminal justice system is part of our whole strategy that we need not just rehabilitation but habilitation, and especially those individuals who often find themselves in the criminal justice system are those most badly in need of habilitation.

They do not have the vocational, educational or interpersonal skills to be able to cope in a complex industrial society. We know

that those addicts who do have such skills are much more likely to do better in treatment.

The second initiative is through ADAMHA's new Office of Treatment Improvement. In fiscal year 1990, they will award a series of grants totaling \$8 million for model projects to demonstrate promising drug treatment programs in prisons and in jails as well as in other parts of the criminal justice system. Beginning in 1990, 8 to 10 prisons or jail-based treatment programs will be supported, and another 7 to 9 grants to States will support model diversion to treatment programs.

These new programs are being closely coordinated with the Department of Justice, and we propose to markedly expand the effort in 1991, and beyond.

In addition, OTI has expanded technical assistance, training and evaluation support activities designed to assist State and local departments of corrections.

I should note that these vigorously evaluated demonstration projects, including those at NIDA, are extremely important to any future efforts to expand and improve treatment programs in prisons.

Currently we are hampered by the paucity of good research data on what works for different criminal population subgroups and which treatment incarcerated models are most effective in terms of treatment outcomes.

The New York Stay'n Out Program, at the Arthur Kill Prison, based on the therapeutic community model, and which Doug Lipton has been affiliated with, is one of the few such programs to receive thorough evaluation.

As an aside, even though I feel strongly about the success of the Stay'n Out Program, you will hear different opinions as to whether the programs modeled on the TC that were widely spread through the State and Federal criminal justice system programs in the 1970's were successful.

I happen to believe they were. There are many people who believe they are not, so I think there is a need for additional evaluation and additional models.

The President's National Drug Control Strategy also lays out a major and expanding role for the Department of Justice in encouraging the adoption of effective drug treatment programs for offenders.

Justice's role in this area differs from that of HHS. HHS has two principal missions, first, to support research and model projects, to develop and demonstrate promising approaches to treatment within the CJS, and second, to ensure that planning for the use of Federal treatment dollars addresses the needs of offender population. Justice, on the other hand, primarily provides assistance to State and local criminal justice system offender management functions.

This includes identifying offenders in need of treatment, encouraging or coercing them to enroll in treatment, and supervising their operation in treatment. The Department of Justice provides State and local criminal justice system with a great deal of technical assistance.

They support comprehensive technical assistance and training for the treatment alternative to street crime program [TASC], as well as joint training for probation, parole, and community treatment providers. Through the BJA block grant, they provide flexible funds which local authorities can use to improve the identification, processing, and referral of offenders with drug problems.

We estimate that about 20 percent of the BJA block grant is currently being spent by the States on programs related to drug treatment, including testing and supervision. Through the National Institute of Corrections, a variety of technical assistance projects are supported, as well as studies such as the national task force on correctional substance abuse strategies, whose report will be released later on this year.

Finally, the Bureau of Prisons funds directly a broad range of treatment services in virtually all Federal facilities, and we will hear more about that in a few minutes. DOJ initiatives would in the President's National Drug Control Strategy, include \$8 million for drug treatment programs in Federal prisons, nearly four times the amount allocated just 2 years ago.

Mr. Quinlan will describe the activities of the Bureau of Prisons in greater detail, but I would want to call your attention to that, that just a few years ago it was only \$2 million, now we are requesting \$8 million.

The administration has also submitted legislation to condition the receipt of Federal justice funds upon States adopting drug testing programs that will include arrestees, prisoners, parolees and those on bail, and require States to use test results appropriately in bail, sentencing, early release, probation and parole decisions.

I think it is a disgrace that in many of our prisons drugs are even more widely available than they are on the streets, and if we have any hope of rehabilitating such individuals, we need to do a far better job of doing that, and it is possible.

In the days before widespread drug testing, I spent 2 years at Lexington, in the early 1960's, and we were able to keep drugs out of that prison, so it is possible. It is difficult, it is very difficult, but it is doable.

In addition to these initiatives, the Federal judiciary is asking \$48.5 million for substance abuse treatment programs within the U.S. Probation Office, to be used for probationers and releases required by court order to receive treatment. I think we need to do much more on that.

There are a number of initiatives. One of the things I kept trying to get done when I was in Connecticut was to get parole and probation to require that anyone who is released from prison get tested weekly, and the first dirty urine, if they are heroin addicts, they get started on a narcotic blocker such as naltrexone.

They should have been started on it before they left because we know the most relapses occur within the first 30 days. It would have been nice if when they left they were on a blocker. We were unsuccessful in getting that done.

As you can see, Mr. Chairman, the administration is committed to both improving and expanding drug treatment throughout all aspects of the criminal justice system. We don't pretend to have all the answers or the solutions, but we are moving ahead in a number

of promising directions, both through the Department of Health and Human Services and the Department of Justice.

We are working hard to improve coordination among these agencies through the demand reduction working group, a meeting of which, by the way, we have this afternoon.

One of the questions we get asked is why the drop in discretionary funding for treatment by Justice, and that we see as one of our coordinated functions. In the days when Justice was doing that, there was no Office of Treatment Improvement.

We now feel that this is more appropriately done by HHS through the Office of Treatment Improvement, but done in conjunction with the Department of Justice.

Thank you for your time.

I will be pleased to answer any questions and respond to any of your concerns in any way that I can.

Mr. SCHUMER. Thank you, Dr. Kleber.

[The prepared statement of Dr. Kleber follows:]

PREPARED STATEMENT OF HERBERT D. KLEBER, M.D., OFFICE OF NATIONAL DRUG
POLICY

Mr. Chairman, I appreciate the opportunity to testify on the important relationship between drug treatment and the criminal justice system. The expansion of the role of drug treatment within the criminal justice system, and the improvement of coordination between the two systems are high priorities in the President's National Drug Control Strategy.

Although much public debate has framed the criminal justice system and the health care system as diametrically opposed, they are not. In fact, they have much in common, and one complements the other. Indeed, drug addiction is often closely connected with other kinds of criminal behavior. That is why our response to the problem of drug use has been not only through the health care system, but also through the criminal justice system.

There is a common tendency to think of drug treatment as a soft, nurturing, and easy route away from drugs -- nothing could be further from the truth. To the drug addict, genuine drug treatment that works is demanding, difficult, and physically and emotionally exhausting. The ethos of personal accountability and adherence to rules that pervades the criminal justice system is frequently a part of effective drug treatment. Good treatment programs insist on a code of conduct, individual responsibility,

personal sacrifice, and sanctions for misbehavior. There is now an impressive amount of evidence to suggest that when drug treatment contains these elements we get results, and addicts change their self-destructive pattern of behavior and stop or dramatically reduce their drug use.

Frequently, trouble with the law is the impetus for an addict entering drug treatment. In fact, according to the 1989 ADAMHA's Treatment Outcome Prospective Study (TOPS) conducted by the Research Triangle Institute, as many as one out of two people in public drug treatment programs entered under either direct or indirect legal pressure. It is becoming increasingly common for arrestees in pretrial detention to be professionally evaluated to determine if they are, in fact, using drugs. If it is determined that an arrestee is drug-dependent, the criminal justice system can offer drug treatment to offenders in a number of circumstances: as a condition of pretrial release; as a condition for deferred prosecution; in lieu of incarceration; as part of a reduced prison sentence; as terms for probation or parole; or while serving a full prison sentence.

Research has found that those who enter treatment under some form of coercion are likely to do at least as well as -- sometimes better than -- those who enter voluntarily. A study of California's Civil Addict Program, which referred drug dependent criminal offenders to compulsory drug treatment under court order, learned that participants had lower rates of drug use,

fewer self-reported crimes, fewer rearrests, and higher rates of employment than those offenders who had not participated in the program. The 1988 TOPS study also found that those under legal pressure to undergo treatment tended to do as well as or better than those who sought treatment on their own. They do better, in part, because legal pressure keeps an addict in treatment for a longer period of time, and virtually all studies agree that the longer an addict receives treatment, the better are his chances for long-term success.

As I stated at the outset, the President's National Drug Control Strategy stresses the importance of expanding and improving drug treatment within the criminal justice system as well as in the wider community. For FY 1991, the President has requested \$1.5 billion for drug treatment, an increase of 68 percent over two years ago. This money will be used to expand block grants to the States, and to increase categorical programs which support research and demonstrate ways to improve the quality of treatment -- through centralized intake and referral systems, more effective coordination of citywide treatment programs, the development of large multi-modality treatment campuses, the demonstration of more effective treatment methods for pregnant women, and other high priority programs.

A number of initiatives in the Strategy are designed to expand and improve treatment in the criminal justice context. At the

Department of Health and Human Services' Alcohol, Drug, and Mental Health Administration (ADAMHA), we are pursuing two initiatives in this area:

o The Administration has proposed legislation to greatly improve the accountability of treatment programs through the requirement as a condition of funding of State Treatment Plans, by which each State must carefully and methodically assess its treatment needs and present a comprehensive plan to meet those needs using Federal ADMS block grant funds. One of the needs which the States must examine in their plans is the expansion and improvement of treatment in the State's criminal justice system -- not only in State prisons, but also in probation, parole, and other contexts. In addition, HHS will be encouraging States to use a portion -- determined by the State -- of their increased block grant funds for this purpose.

I should add that the new emphasis on linking community-based treatment with the criminal justice system is part of a broader strategy to encourage drug treatment programs to address the "habilitation" needs of addicts, beyond just medical treatment, in order to improve the effectiveness of drug treatment. Those addicts who have job skills, families, and a reasonably good education are more amenable to rehabilitation through drug treatment. But for many addicts -- especially those who are under the supervision of the criminal justice system -- who have

no skills, no education, and weak family ties, there must be habilitation. Through State Plans, the States will be required to include in their comprehensive planning efforts to improve coordination with social service, vocational, medical, and educational programs.

o ADAMHA's new Office for Treatment Improvement will, in FY 1990, award a series of grants totalling \$8 million for model projects to demonstrate promising drug treatment programs in prisons and jails. Beginning in 1990, eight to ten prisons or jail-based treatment programs will be supported. Another seven to nine grants to States will support model "diversion to treatment" programs. These new programs are being coordinated closely with the Department of Justice, and we propose to markedly expand the effort in FY 1991 and beyond. In addition, OTI has initiated technical assistance, training, and evaluation support activities designed to assist State and local departments of corrections with the development of treatment structures and coordinating mechanisms.

I should note that rigorously evaluated demonstration projects, such as those supported by HHS, including those at the National Institute on Drug Abuse (NIDA), are extremely important to any future efforts to expand and improve treatment programs in prisons. Currently, we are hampered by the paucity of good research data on what works for different criminal population

subgroups, and which treatment/incarceration models are the most effective in terms of treatment outcomes. New York's Stay N' Out program at Arthur Kill Prison, based on the therapeutic community model, is one of the few such programs to receive thorough evaluation. Clearly we need much more work in this area.

The President's National Drug Control Strategy also lays out a major and expanding role for the Department of Justice in encouraging the adoption of effective drug treatment programs for offenders. Justice's role in this area differs from that of HHS. The Department of Health and Human Services has two principal missions: first, to support research and model projects to develop and demonstrate promising approaches to treatment within the criminal justice system; and second, to ensure that planning for the use of Federal treatment dollars addresses the needs of offender populations. The Department of Justice primarily provides assistance to State and local criminal justice systems' offender management functions. This assistance includes identifying offenders in need of treatment, encouraging or coercing them to enroll in treatment, and supervising their participation in treatment. The Department provides State and local criminal justice systems with a great deal of technical assistance. They support comprehensive technical assistance and training for TASC (Treatment Alternatives to Street Crime), technical assistance for jails on drug treatment in a jail setting, and joint training for probation and parole and community treatment providers. Through the Bureau of Justice

Assistance Block Grant, they provide flexible funds which local authorities can use to improve the identification, processing, and referral of offenders with drug problems. We estimate that about 20 percent of the BJA block grant is currently being spent by the States on programs related to drug treatment, including drug testing and supervision. Through the National Institute of Corrections, a variety of technical assistance projects are supported, as well as studies such as the National Task Force on Correctional Substance Abuse Strategies, whose report will be released in later this year. Finally, the Bureau of Prisons funds directly a broad range of treatment services in virtually all Federal facilities.

Department of Justice initiatives outlined in the National Drug Control Strategy include:

- o The Administration is requesting \$8 million for drug treatment programs in Federal prisons, nearly four times the amount allotted just two years ago. Mr. Quinlan will describe the activities of the Bureau of Prisons in greater detail.

- o The Administration has submitted legislation to condition the receipt of Federal criminal justice funds upon States adopting drug-testing programs that will include arrestees, prisoners, parolees, and those on bail, and require States to use test results appropriately in bail, sentencing, early

release, probation, and parole decisions.

In addition to these Administration initiatives, the Federal Judiciary is seeking \$48.5 million for substance abuse treatment programs within the U.S. probation office, to be used for probationers and releasees required by court order to receive treatment.

As you can see, Mr. Chairman, the Administration is committed to both improving and expanding drug treatment throughout all aspects of the criminal justice system. We don't pretend to know all the answers or to have all the solutions. But we are moving ahead in a number of promising directions through the Department of Health and Human Services and the Department of Justice, and we are working hard to improve coordination among these agencies through the ONDCP-chaired Demand Reduction Working Group.

I would be happy to respond to your questions.

Mr. SCHUMER. I was told that you had to leave at a certain time.
Dr. KLEBER. If I can get out by 11, that would be fine.

Mr. SCHUMER. Then Mr. Quinlan, we have time for your testimony and we will ask both questions.

Thank you for coming.

**STATEMENT OF J. MICHAEL QUINLAN, DIRECTOR, FEDERAL
BUREAU OF PRISONS, U.S. DEPARTMENT OF JUSTICE**

Mr. QUINLAN. Thank you very much, Mr. Chairman and members of the subcommittee.

I would like also to have my remarks entered into the record, and if I could just summarize them briefly.

Mr. SCHUMER. Without objection.

Mr. QUINLAN. Drug abuse treatment in the Bureau of Prisons is something we are concerned about and something we are putting a great deal of emphasis on. We have been in the drug treatment system since the early 1970's.

We had treatment programs at Lexington and Danbury. We were using the narcotic addict rehabilitation act and have now since gone into a new program.

We currently have about 3,800 or our 37,000 prisoners enrolled in drug abuse treatment programs in the Bureau of Prisons. We estimate 47 percent of our inmate population, or about 28,000 prisoners, have serious, moderate to serious substance abuse problems.

Most of them are poly-abusers. They use not only marijuana, cocaine, alcohol, just about any substance.

Now, I would like to underscore that these 47 percent were addicted prior to incarceration.

We firmly believe that we have a very good grasp on the use of drugs in prison, as Dr. Kleber pointed out. That is an incredibly important component of any kind of a drug program.

Our drug testing, for example, in the last fiscal year, in 1989, encompassed 68,000 tests, of which 2.1 percent were positive, and about 40 percent of those that were positive were positive for THC or marijuana, about 22 percent, cocaine, 25 percent opiates.

The most, I think, telling statistic, though, in our random testing, since 1986, we have seen a 49-percent reduction in positive urinalysis test results, and I think that is the result of some very good testing procedures.

Mr. SCHUMER. Excuse me, if I just might, this is testing while incarcerated or—

Mr. QUINLAN. That is only testing while incarcerated. Mr. Chairman.

Mr. SCHUMER. Not at the moment of first incarceration?

Mr. QUINLAN. No, sir. It is during incarceration.

Mr. SCHUMER. Thank you.

Sorry to interrupt you.

Mr. QUINLAN. No problem.

Our current strategy includes a drug education program and a counseling program which is now available in about 85 percent of our facilities.

The education program is mandatory for all offenders who come in with a crime that is related to drug use, and it is a 40-hour pro-

gram to teach them a little bit about the history and the involvement of drugs in their lives. We have a couple of incentives that we use to ensure that prisoners complete the program.

If they don't successfully complete that program, their pay in their work in the institution is going to be limited to the lowest pay grade, and they will not be eligible when they get close to release for halfway house consideration.

In terms of our counseling program, these are basically outpatient programs, prisoners continue to live in their regular units and work in the institution wherever they are assigned.

These are programs offered by professional psychologists and drug treatment specialists, and they involve both group and individual counseling, and therapy groups, both AA and Narcotics Anonymous.

The goals of the programs are to enhance self-esteem, develop proper social values, promote personal responsibility, and positive coping skills. They are available to all inmates in the Federal prison system who volunteer at any point.

We now have initiated or are in the process of initiating comprehensive residential drug treatment units in five institutions, and hopefully in future years in a number of other units.

These are highly specialized program units, starting out with an individual assessment, 500 hours of programming over a 9-month period, group and individual treatment focusing on positive behavior skills training, techniques that enhance coping skills with situations that lead to drug abuse, changing faulty thinking patterns, including criminal thinking, values clarification, criminal values confrontation and proper social values development, relapse prevention, where the goal is to prevent a return to drug use when released to the community, and they encounter the stressors, as Dr. Kleber pointed out, during that first 90-day period, and situations that have led to substance abuse in the past.

The use of self-help support groups, such as AA and Narcotics Anonymous. Inherent in the comprehensive program units is the concept of personal responsibility, accountability, and self-education.

We also have three pilot programs which we consider sort of our research programs. They are similar in many respects to the comprehensive units, but they also have a very strong research emphasis.

The treatment that will be included in this program is 1,000 hours instead of the 500 hours in the comprehensive programs and will cover a 12-month period.

The treatment to participant ratio is one staff member for each 12 participants. We have just recently signed a \$3 million inter-agency agreement with NIDA to assist us in conducting long-term outcome research on these intensive drug treatment participants.

We are also emphasizing very strongly transitional services. Again, I think what we have maybe failed to do in the past is recognize the critical importance of that 90-day period or so after the offender is released after the custody of the Bureau of Prisons.

We think that that program is incredibly important to provide followup services in the individual's preparation for release and

will continue to be monitored and stronger links will be developed with community resources to further develop this program.

We are very excited about these initiatives, as Dr. Kleber pointed out. We have now vested a great deal more money than we ever had before in drug treatment programs in the Bureau of Prisons.

As we said, that 47 percent of our population are addicted to substances, and it is important, I think, that we do everything we can while they are in our custody to ensure that when they are released they have the coping skills and the ability to stay away from substances that will let them into trouble.

I would be delighted to answer any questions you might have about the Bureau of Prisons programs.

Mr. SCHUMER. Thank you very much, Director Quinlan, both of you for testimony in what I think is going to be a burgeoning and a growing area in terms of people's focus.

[The prepared statement of Mr. Quinlan follows:]

PREPARED STATEMENT OF J. MICHAEL QUINLAN, DIRECTOR, FEDERAL BUREAU OF PRISONS

Mr. Chairman and members of the Committee, I appreciate the opportunity to appear before the committee and discuss ongoing and planned drug treatment initiatives within the Federal Bureau of Prisons.

The Bureau of Prisons views the problem of drug abuse in our country as a whole to be of such magnitude that strong initiatives must be taken within the criminal justice system as opportunities permit. We have a long history of offering substance abuse treatment programs to federal inmates. Beginning with the Narcotic Addict Rehabilitation Act in the 1960's, the Bureau has made substance abuse education and treatment programs available to inmates sincerely interested in seeking help for their substance abuse problems. Programs have been available system wide from the 1960's to the present time.

At present, approximately 3800 individuals are enrolled in drug education and/or treatment programs within the Bureau. Approximately 47 percent of the current Bureau population had a moderate to severe drug abuse problem prior to incarceration. We will continue to assess the percentage of individuals entering the system with drug problems. Additional studies planned in June, 1990, will assist us in responding to offender needs in this area.

Several major initiatives have been undertaken to provide services to individuals entering the system with drug abuse problems. These initiatives constitute a drug abuse treatment

strategy for the Bureau which consists of three separate and distinct program components:

- (1) Drug Abuse Education and Counseling Programs in every institution;
- (2) Comprehensive Residential Drug Abuse Treatment Programs at five locations; and,
- (3) Three pilot Intensive Drug Abuse Treatment Programs with a strong program evaluation component.

I would like to summarize for you a description of each of these program components.

(1) Drug Abuse Education and Counseling

All facilities throughout the Federal Bureau of Prisons will offer Drug Education programs consisting of a minimum 40 classroom hours of instruction and training. The program will cover all of the major drug group classifications, including alcohol, and give considerable attention to the process of addiction and the impact of drug use on the individual, family and larger society. The program must be completed within the first 6 months of incarceration.

Drug Education will be a mandatory program for inmates with a substance abuse history related to their offense. The program will also be offered to others who wish to participate on a voluntary basis. If offenders with a substance abuse history refuse to participate in the drug education program or do not complete the

program, then incentives will be applied to further encourage their involvement. These offenders will be restricted to the lowest pay grades in institution work programs, and declared ineligible for community activities and halfway house placements during the latter portions of their sentences. The Drug Education Program will be standardized across the Bureau and will be the only administratively mandated level of specialized drug programming for offenders.

In concert with the Drug Education Programs, Drug Counseling Program services will be available. These services are available to all offenders at any point during their incarceration. The services are delivered on an "out-patient" basis, while still living and working as a member of the general inmate population. These services are similar to those which have been available to drug offenders in the Bureau of Prisons over the past several years. All treatment services beyond Drug Education Programs are offered on a volunteer basis.

Drug Counseling Program Services consist of individual and group psychological services delivered to individuals with substance abuse histories. These services include a wide variety of self-help and support groups, such as Alcoholics and Narcotics Anonymous. Additional time limited seminars and therapy groups are offered to the members of the prison population on a series of topics designed to enhance self-esteem, self-improvement, and promote personal responsibility and positive coping skills development.

(2) Comprehensive Residential Drug Abuse Treatment Programs at five locations.

During 1989 and 1990, five Comprehensive Drug Abuse Treatment Program Units have been initiated. These specialized program units require participants to complete 500 treatment hours over a nine month period. The programs are voluntary but do require, as a prerequisite, the completion of the 40-hour Drug Abuse Education program.

Individualized assessments and individualized treatment plan development are required of each comprehensive program participant. Group and individual treatment targets the development of behavioral skills, cognitive skills, family issues, vocational and educational issues, criminal thinking confrontation, pro-social values development, relapse prevention, and involvement in support group, and elective self-help groups such as are found in the community (Alcoholics Anonymous, Narcotics Anonymous).

Individuals who participate in the comprehensive treatment program units will also participate in a transitional care program, involving additional treatment and frequent urine surveillance, which prepares them for release to the community.

One proposal under consideration is that during the last six months of their sentences, participants will be enrolled in community treatment centers operated or contracted by the Bureau. Treatment services could continue at a high level, emphasizing the development of stable employment, positive family relations, and

avoidance of and/or coping with high risk relapse situations. Due to the high rate of relapse to drug use upon return to the community, a relapse prevention plan would be custom tailored to each offender's needs. Additional services will be coordinated with the United States Probation Office in this regard.

(3) Three Pilot Intensive Drug Abuse Treatment Programs.

Perhaps the most exciting initiative in the treatment strategy for the Bureau is the development of three Pilot Intensive Drug Abuse Treatment Programs. These programs are located at the Federal Correctional Institutions in Butner, North Carolina, Tallahassee, Florida, and Lexington, Kentucky.

These intensive programs incorporate all of the elements of the Comprehensive Treatment Units, with three major additions. First, the treatment staff to inmate ratio is 1:12 as compared to 1:24 in the Comprehensive Unit, insuring a more intensive level of service delivery. Second, the three pilot units require a full 12 month commitment and approximately 1000 hours of treatment, twice the amount of the comprehensive units.

Third, a very strong research and evaluation component is associated with these programs, which will help determine both the future direction of clinical approaches as well as optimal resource allocation. Our Drug Abuse Program Coordinators and staff from the Office of Research and Evaluation have established the groundwork for one of the most complete, longitudinal evaluations ever

conducted with correctional populations as to the effectiveness of professionally operated drug education and treatment programs in prison settings. We have worked closely with professionals from the National Institute on Drug Abuse and have recently signed an agreement with them which provides the Bureau with nearly 3 million dollars to fund a five year evaluation of our treatment programs. This evaluation should add greatly to our knowledge about what types of drug treatment programs work best for offenders in prison settings.

An important focus of all treatment programs will be on the development of a wellness lifestyle. Over 100 hours of training in personal wellness activities will be required. The importance of proper diet and nutrition, exercise and physical activities can not be underestimated in dealing with substance abusing individuals. We believe that the problem of addiction is as much a lifestyle issue, and values issue, as it is a medical problem. The wellness lifestyle offers a pro-social alternative to coping with the pressures of daily living, and is incompatible with drug use.

In closing, I would like to point out that the creation of the five comprehensive new Residential treatment units and the three Pilot Intensive Treatment programs will provide nearly 1000 individuals with substance abuse treatment when fully operational. Additional programs are planned based upon future projections of substance abuse in our population. We are totally committed to providing these much-needed services.

Mr. Chairman and members of the committee, thank you for the opportunity to appear before you this morning and describe the Federal Bureau of Prisons Drug Abuse Treatment Program initiatives. I will be pleased to respond to any questions that you may have at this point.

Mr. SCHUMER. Dr. Kleber, this is not necessarily a "soft approach." I mean, I am interested in redoing crime as much as possible, and sometimes these types of approaches do a better job than some of the others, and one didn't exclude the other. Let me ask some general questions first.

I heard you say the jury is still out that treatment in the prisons can be an effective way to reduce crime. Looking at nothing else other than just reduction of crime are we pretty much convinced that it does some good, and if it does do some good, where in the hierarchy does it stand?

Dr. KLEBER. Let me take the first look at it.

Mr. SCHUMER. Director Quinlan, the same question.

Dr. KLEBER. I think the jury is still out. That is, the Stay'n Out Program which has been so beautifully evaluated, unfortunately is one of the few that has been extensively evaluated. We do not have a lot of studies that show how well such programs can work. What we have is a belief on the part of experienced professionals that see it clinically.

We have a few programs that have been extensively evaluated, but not the breadth of evaluation experience that we would like to have and that is why we are trying to get more models. That also relates to what I said about the 1970's where some people said that those programs worked and other said that they didn't, and—

Mr. SCHUMER. Can you give me a little more detail about. Were there coercive programs in the prisons in the 1970's?

Dr. KLEBER. Oh, yes. I ran a therapeutic community in four different prisons in Connecticut in the early 1970's. We had one in the Federal prison at Danbury and one in three of the State prisons, and we thought they were very successful.

They ran for about 2 or 3 years each, and then the State, in an attempt to save money, kept the programs but cut out the middle man. That is, we were running it as part of our program.

They then cut Yale out and took it over themselves. I think that was a mistake because it took a way a layer of supervision and experience in treating addicts. A year or two later they concluded that it wasn't working and closed down the programs. Unfortunately, even when we did it, when I say it worked, we believed it worked, but we did not have formal evaluation. We did not have the kind of sophisticated evaluation that Doug has done at Stay'n Out, so we didn't have the data to say this really worked.

So I really don't have the numbers to back up that clinical conviction.

Mr. SCHUMER. And no one did any impressionistic followup on these programs later on?

Dr. KLEBER. To the best of my knowledge, no.

Director Quinlan may know of something I don't know of.

Mr. QUINLAN. I don't know off the top of my head.

Mr. SCHUMER. And, of course, those programs where the percentage of people in crack and cocaine was much smaller, I presume, and the percentage of people with heroin and opiate based addictions was higher. Is that right.

Dr. KLEBER. I would say these were almost exclusively heroin and polydrug. Cocaine didn't really begin much until 1975, and it

wasn't until the advent of crack in about 1984 that you saw a lot of cocaine being pervasive in the criminal population.

Mr. SCHUMER. Mr. Quinlan, do you believe the jury is still out?

Mr. QUINLAN. Oh, I definitely think the jury is still out, Mr. Chairman.

I think that the research effort that we intend to make over the next couple of years on the intensive programs that we are going to be providing are going to be very constructive in that regard, but I am cautiously optimistic that this is money well spent, that the results have been, I think, successful enough in a couple of drug treatment programs outside the prison indicate to me that we have a very good opportunity here that we should not pass up to give these individuals an intensive program that will hopefully aid them in staying off of substances when they are back.

Mr. SCHUMER. When will your studies—don't you have to wait approximately 5 years to really know if they work or—I mean, I know most of the evidence shows that recidivism will occur close to release.

When we are starting these exciting programs right now, when are we going to have some numbers?

Mr. QUINLAN. We expect, and I will let Dr. Kleber answer this also if I could, but we expect that within 2 to 3 years of the beginning of the initiative that we will have our first results.

Now, it is a longitudinal study. That means that we will be continuing to look at the results over time, but the first results hopefully will be available within 2 to 3 years.

Dr. KLEBER. Yes, I think that is a realistic time estimate. I don't think the jury is still out on the larger issue of whether treatment works. The evidence overall is clear that it does.

The issue, however, is what kind of treatment works for which individual, and that is where we still need much more in the way of research. I certainly am a firm believer that treatment works, and our office is very much on record as saying that.

Mr. SCHUMER. We don't have proof about anything that really works.

I guess if we sentenced every user to life imprisonment, we know that would work, and we are not willing to do that as a society, at least at this point, but are there other—

Dr. KLEBER. Well, the interchange between treatment and the criminal justice system is a very important one. Treatment will work better with consistent pressure from the criminal justice system and with adequate room in prisons to put those who aren't willing to enter treatment or those who persistently lapse back to drugs if they are under a criminal justice sanction.

Without that stick, treatment won't work as well. We found in our therapeutic community, which has been repeated across the country, that if you have individuals in a program, a residential TC, Phoenix House or Daytop Village, who are under probation, if they leave prematurely they are supposed to be violated, and if they leave and nothing happens, not only did that make it more difficult for that individual to be rehabilitated, it makes it more difficult to keep people in the facilities who are also under criminal justice pressures. They know that there is going to be no penalty, and yet, because of the overcrowding in jails and the overloading of

the probation system, the most common reaction to someone leaving treatment prematurely under probation is nothing, and that has to change. We know that the two need to work very closely together.

Mr. SCHUMER. Is there any evidence that coercive treatment in jail, rather than in probation settings, works better? I am trying to factor out the idea, it is not very coercive in a probation setting, but let's say it were.

Do you have any sort of instinctive reaction to that?

Dr. KLEBER. Well, a study has never been done. What it would take is something that probably no judge would be willing to do, and that would be a random assignment of individuals to treatment under probation in the community and treatment in the criminal justice system while incarcerated. Judges would say that is no way to run a court system to sentence people by random assignment. But without that you will never really know whether that same individual could have been treated on the streets or in a TC as opposed to that.

There are some individuals clearly that are going to test the limits of the system, and no outpatient or even a residential facility outside the correctional system will be able to contain them. I think they probably are not the majority.

I think that they are a minority and a majority could be treated in some alternative method.

Mr. SCHUMER. Mr. Quinlan, you stated that 47 percent of the Federal prison inmates had severe drug abuse problems before incarceration. I wasn't aware of that number. Is that widely known at this point? I didn't know it was that high for Federal—

Mr. QUINLAN. Well, it is widely known within I think the Federal community.

Mr. SCHUMER. What percentage of the people in the Federal prison system are in there for a drug-related offense?

Mr. QUINLAN. Fifty percent today, and we estimate by 1995, 70 percent.

Mr. SCHUMER. There are only 3,800 enrolled in these education or treatment programs. Why don't we do it for the rest of them? Is it mainly financial?

Mr. QUINLAN. Well, Mr. Chairman, we are very proud of the fact that 2 years ago it was 1,800. We are up to 3,800.

Mr. SCHUMER. It is not by way of criticism.

Mr. QUINLAN. No, I don't look at it that way. At this point we are in an implementation stage of several initiatives that we have been working on over the last couple of years.

As I mentioned, the comprehensive units that will be ongoing in five of our institutions in addition to the three research programs that we now have ongoing, coupled with the mandatory drug education programs and the counseling programs, I think we will see some significant increases as we put these programs in place over the next couple of years.

With the addition of the resources for fiscal year 1991, if we receive them, we expect to be able to make some significant increases in the comprehensive units from 5 to 24 programs, and we expect that those numbers or people involved in treatment will increase dramatically.

Mr. SCHUMER. There are now 1,000 in the comprehensive, 1,000 people in the five programs?

Mr. QUINLAN. There are currently no prisoners in the programs. They are in the startup state Mr. Chairman. There will be about 1,000.

Mr. SCHUMER. When it goes from 5 to 24, it will go from close to 1,000 to 5,000?

Mr. QUINLAN. I don't have that figure for you, but I can provide it for you. I expect it will be sizable.

Mr. SCHUMER. It is not that the new centers are going to be much larger or smaller than the others?

Mr. QUINLAN. No.

Mr. SCHUMER. You say there will be a mandatory program for those who have substance abuse history related to their offense.

Mr. QUINLAN. That is correct.

Mr. SCHUMER. How many people did that entail, when will that happen?

In a year from now?

Mr. QUINLAN. No, that is starting right now. That program will entail probably somewhere around half of the people that come into the Federal Bureau of Prisons every year, so it is a significant number of people, I would guess in the range of about 4,000 people a year.

Mr. SCHUMER. That is the 40-hour education?

Mr. QUINLAN. That is the 40-hour education programs.

Mr. SCHUMER. Do you have any evidence that that alone, without any other kind of treatment, did some good?

Mr. QUINLAN. I have no evidence that it did any harm, and I don't believe that the good that it accomplishes is very lasting good.

It will certainly focus people's attention on the fact that the Bureau of Prisons will be looking for opportunities to help them with their drug addiction problems—for that purpose, I think it is extremely important, but for treatment purposes as such, I don't think it will serve much value.

Mr. SCHUMER. What about disincentives for those who don't participate? You talked about incentives for those who do, like parole or early release.

Mr. QUINLAN. Well, there will be in some incentives for those who are in the comprehensive and intensive programs in the sense that we will be providing to them intensive community based treatment programs for up to 6 months in the community, and that will not be available to prisoners who are not involved in the comprehensive or the intensive programs.

The incentives I mentioned in my remarks are really geared to those who even refuse to participate in the education program, and that would be keeping them at the pay of the lowest paid inmate and restricting them from—not allowing them from participating in any kind of a community based program when they are nearing release.

Mr. SCHUMER. The same question I asked Dr. Kleber, have any of the programs that have existed in the prison system in the past been evaluated for their effectiveness on a long-term basis?

Mr. QUINLAN. I don't think that they have been evaluated to the extent that they might have been or could have been, and I am not familiar with any evidence that shows that they were effective or not effective.

I think it was just a case of, quite honestly, doing some excellent work at the time and then assuming that these things would somehow be developed.

Mr. SCHUMER. It is very frustrating to us and to you because here finally we have the will to do something, and we are not sure what works.

Mr. QUINLAN. It is very frustrating.

Mr. SCHUMER. We have had a 20-year history, and it is almost like we burn our records of the previous Congresses or something before we start this one. Some might think that is a good idea. I don't know.

Mr. QUINLAN. I think in a sense that is true, Mr. Chairman, but on the other hand, I think a lot has been done in the community and a lot of research has been written. I think that the results of that research is very impactful on how we have designed our programs now for the 1990's.

Mr. SCHUMER. OK, my final two questions to both of you, one, if you had unlimited dollars, which obviously we don't have, and you have to make tough choices, but if finance were not the problem, would we be doing more treatment, education in our prisons, Federal and State, than we do right now?

I mean, in other words, I am trying to find out is it a financial barrier or is it a knowledge barrier, and, obviously, it is not either one or the other.

Second, just lay out the arguments for and against mandating treatment and paying for it, providing the money for it in the Federal prisons right now if Mr. Gekas and I got together and proposed an amendment to put it on the crime bill, and both of you can answer that. That is my last question. Feel free to—

Mr. QUINLAN. Let me try it first, Mr. Chairman.

First of all, with unlimited funds obviously we would put the programs that we have planned in place a little bit sooner, but I think in the direction we are heading we will have those programs at the level that they can effectively be put into place within the next 2 fiscal years.

Number two, mandatory programs is something that we have spent a lot of discussion on, and, you know, my personal feeling is that with the large number of offenders that we are dealing with who have moderate to severe drug histories, and with the small environment that prisons consist of, where there is not an awful lot of room for people who are disruptive, I would hate to see mandatory programs at this stage in the development of drug treatment programs.

I think that there is a need right now to concentrate on those who are most receptive to the idea of being-involved in drug treatment programs, and not create situations where people who are not that interested would be in any way inhibit those who are interested from successfully completing the programs.

I think until such time as it is demonstrated that with some certainty that mandatory programs would be successful in a prison

environment, I think we should take that posture. I do represent the view of those who think that mandatory programs work in other environments.

I think that it is very difficult when you are being coerced by your parent or being coerced by your court on a probation situation to get involved, and even though you are really not that interested in it.

I do think, though, there is probably a different outcome that would result from a coerced program where the prison administrator is called upon to provide that coercion.

Mr. SCHUMER. Dr. Kleber, the same two questions.

Dr. KLEBER. Let me address the second one first and followup from what Director Quinlan was saying. One of the wisest people that I know about therapeutic communities is Dave Deitch who founded Daytop Village in 1964, one of the oldest and most successful of the TC's. I remember talking to Dave about that a year or two ago and what he said was that mandatory treatment probably didn't work.

He believed the person always should have a choice of entering treatment or not, even if the alternative is prison, so that the feeling was that even when people are in prison, they should have a choice of treatment or staying in the general population. That should be their choice. In our current knowledge base of what we know about treatment, there are many people who do not want to change their behavior and to put them in a program with those who are trying to change ends up being extraordinarily disruptive and destructive to those who are trying to change.

It is not just that it may not help them, it is that it may hurt those who are trying to get help. At this point I would have to say, therefore, that everybody should be given the choice.

Let's say if we were thinking about prison or treatment, people should have the right to choose going to prison as opposed to treatment. We have that happening all the time. And within prison, they should have the choice of treatment within prison or remaining in the general population.

As far as what we would do if we had unlimited funds, a number of things. One, I was distressed to note that the amendment that we had put in that the States should be doing testing more extensively in the criminal justice system was recently voted down by the Judiciary Committee. I think that was a mistake because testing is an important instrument that lets us know what is happening and whether people are using drugs or not.

Until you do the testing, you often don't know. You may have a very misguided opinion as to how much drug use is going on, whether it is on parole, probation, in prison, et cetera. I believe that was a useful piece of legislation.

Unfortunately the States felt it would cost them too much money. I think that was a misunderstanding. It didn't tell them how much testing they had to do. They had to come up with a plan for how they were going to use testing.

I think it would have given us an important piece of information and guide as to how well they were doing in their various systems.

Two, I think it would be erroneous to say the system is expanding as fast as it could and that if more dollars were put in, it could

not expand faster. I don't think that we know to the exact dollar that this is the right amount to request.

However, I don't think we can expand at double or triple the rate that we are going because I think the knowledge base is not there, the trained professionals aren't there. So some more money could be helpful. Could treatment in the correction system expand quicker? Sure, but not at two or three times the current rate.

Mr. SCHUMER. Just one final, just Dr. Kleber.

Mr. Quinlan, do we have enough money to give people the option and do we project to in the next couple of years? Dr. Kleber pointed out some good points. Are we getting close to that?

What percentage, when given the option, want to take it in prison?

Mr. QUINLAN. I don't have that information.

Mr. SCHUMER. Could you submit that?

Mr. QUINLAN. I will submit that.

[The information follows:]

During fiscal year 1989, approximately 14 percent of those individuals with a history of moderate to severe drug abuse problems, volunteered for participation in our drug abuse programs throughout the Bureau.

Mr. QUINLAN. May I just make one other comment with regard to your previous question with regard to mandatory programs. Even though I don't think the mandatory programs are appropriate at this stage, I do think that it is highly important that the Bureau of Prisons and other people in these kinds of positions where you have control over individuals who have drug addiction problems must be working all the time to motivate people to get involved, to change their attitude from not being interested to becoming interested?

Mr. SCHUMER. Thank you.

Mr. Gekas.

Mr. GEKAS. That is what I want to follow up on. I think that the mandatory route is the only one that is left open to us to try to make sure that we are doing everything possible or a quasi-mandatory system.

I would like to dissect the things that you seem to agree on, that in the first 60 or 90 days after release are the vital or critical periods where we will know once and for all whether this individual is going to be able to sustain the program of treatment.

Did that presuppose that we are talking about the individual who has refused cooperation up to release date or hasn't participated in any education programs or in any way participated in any drug treatment program, is that the individual we are talking about here?

Mr. QUINLAN. No.

I think, Mr. Gekas, that we would be referring to the individual who was involved in one of the comprehensive or intense research drug treatment programs, that we will have in the Bureau of Prisons, and then after being convinced internally that they had cured the problem or beat the problem, they got back into the same environment from which they came prior to incarceration, and the same stressors hit them, and within 90 days they fell right into the same traps.

The people who don't get involved in drug treatment, we expect that within a day or so they are going back.

Mr. GEKAS. I would say 90 hours, let alone 90 days.

Mr. QUINLAN. That is right. I wish it could be 90 days.

Mr. GEKAS. So now you are giving more rationale for some kind of mandatory thing, at least to make sure that the one at the time of release date has the 90 days.

Mr. QUINLAN. Well, I am not sure that that necessarily follows, Mr. Gekas, because if they are not motivated to participate, and as Dr. Kleber points out, they are more disruptive than they are cooperative, and so the others in the program who are interested in getting help are not helped as much.

Mr. GEKAS. But when I say mandatory, I should say quasi or almost mandatory.

Mr. QUINLAN. But if this is not motivation internal to change, even though we spend thousands and thousands of dollars on trying to treat them, they will still not make it 90 hours, Mr. Gekas.

Mr. GEKAS. What about the incentive for early release?

Isn't that enough, you say? They would prefer to stay to the final moment rather than to engage in the program?

Mr. QUINLAN. In our view that is a significant motivation, as I mentioned to the chairman. I think that we in the Bureau of Prisons ought to find as many subtle and not so subtle ways to motivate people to get involved, and that 6-month or 90-day period in a community-based treatment facility might be enough to convince some that this is worth giving it a try. We hope it will be.

Mr. GEKAS. I have no further questions.

Mr. SCHUMER. Mr. Coble.

Mr. COBLE. Thank you, Mr. Chairman.

Gentlemen, good to have you all with us. The chairman touched on this briefly. I believe to extend it a bit if I may.

At previous hearings we have received testimony indicating that the number of male arrestees are either using drugs or have used illegal narcotics prior to their arrest in excess of 50 percent of the male arrestees.

I do not recall having heard testimony relating to female arrestees. As an aside, is that about the same percentage or do you?

Mr. QUINLAN. I will have to submit that, Mr. Coble, for the record. I do not know that off the top of my head.

[The information follows of follows:]

The best available information from fiscal year 1989 indicates that approximately one-third of the female offenders in the Federal Bureau of Prisons reported a prior history of moderate to severe drug abuse.

Mr. COBLE. OK, I would be interested in hearing about that.

Mr. SCHUMER. The record will remain open for an answer to Mr. Coble's question, if you could submit it within a week.

Mr. COBLE. Dr. Kleber, you mentioned in your testimony, to the surprise of none of us, that drugs are available often times as readily available inside the walls as they are on the streets.

Now, I assumed you were referring to penal institutions generally or were you specifically referring to the U.S. Bureau of Prisons?

Dr. KLEBER. No, I think the U.S. Bureau of Prisons has done a much better job than the State prisons have in keeping drugs out

partially because or maybe primarily because of the extensive testing system that they put into place within the Federal prisons. There is a certain—well, there is a circular mentality.

I remember giving a talk at a conference, a criminal justice conference last fall, and one of the wardens came up to me from a State prison and said, look, we don't want a test because if we do and we find out that a guy's positive, what are we going to do?

If we keep them longer, then we are even more overcrowded than we already are, so we don't want to know. That will just be discouraging to us. I believe that is part of the problem. The States feel that they can't do anything with the knowledge once they get it. I would disagree.

I think if they had that knowledge, that it could do a number of things. They could take away good time, keep people longer, and they could also make it clear to the citizens of that State that this is a problem in that institution, and they would be willing to do more to expand that so that you wouldn't have those kinds of situations.

I think that the work that the BOP has done at the Federal level has been salutatory in that regard.

Mr. COBLE. I agree. I think ignorance is not bliss. I think that information would indeed be helpful. I realize, gentlemen, that with the presence of the tempting presence of greed and humans involved, there are going to be some officials who are going to succumb to that.

It appears, however, Mr. Quinlan, that that is not an overriding problem, is it?

That is, the presence of drugs inside the walls as far as the U.S. Bureau of Prisons is concerned?

Mr. QUINLAN. No, Mr. Coble. In fact, last year our 68,000 tests only resulted in 2.1 percent positive hits.

Of course, any positive drug hits are something that we are going to try to deal with, but we deal very aggressively with offenders who attempt to use drugs, and we also deal very aggressively with any staff who might succumb to that greed that would engage them in this kind of an endeavor. So I think as we continue to work in this area, we will see a continued drop, I hope, in the percentage of positive urinalysis results in the Federal prisons.

Mr. COBLE. I noticed that of the three programs presently in operation in the U.S. Bureau, one is just outside of my congressional district in Butler, NC, and I have visited that facility, as you know. I guess a couple of years ago.

Mr. QUINLAN. Yes, sir, thank you.

Mr. COBLE. I was very favorably impressed with the facility generally, and in what you all have said today, I assume that you are pleased with the results of these three programs.

Mr. QUINLAN. Very definitely, Mr. Coble. It is still very early in their becoming operational, but thus far we are very pleased, and I hope to come back at some point to the committee and report very positive results from these programs.

Mr. COBLE. Good.

Thank you, gentlemen.

Thank you, Mr. Chairman.

Mr. SCHUMER. Thank you, Dr. Kleber, Director Quinlan. As usual your testimony was very helpful and very elucidating. We will be back to you on this topic I think many times.

Mr. QUINLAN. Thank you.

Dr. KLEBER. Thank you, Mr. Chairman.

It is an important topic, so stay on it.

Mr. SCHUMER. Our second panel this morning includes Dr. Douglas Lipton, the director of Narcotic and Drug Research Institute, Inc., New York City.

Dr. Lipton is a distinguished researcher in this field, nearly 30 years in the criminal justice area.

As I mentioned, I think his study is profoundly important and extremely exciting, and that is why—he whetted my interest in this particular issue.

Dr. Lipton has 30 years' experience, as I said, in the criminal justice area. He has not only served in many positions with the State of New York, but he has evaluated drug treatment programs throughout the world for the U.N.

Also on this panel is another very distinguished gentleman, Dr. William Butynski. He is the executive director of the National Association of State Alcohol and Drug Abuse Directors, more commonly known as NASADAD. He is going to report on what has been going on in the States, some of the interesting and exciting things there.

I want to thank both gentlemen. We have had to reschedule this hearing a couple times. I appreciate their patience and finally we are here.

Dr. Lipton, do you want to go?

Mr. LIPTON. He asked me if he could go first.

Mr. SCHUMER. I have no problem.

Our first witness will be Dr. Butynski. Your entire statement will be read into the record, so please proceed as you wish.

STATEMENT OF WILLIAM BUTYNSKI, PH.D., EXECUTIVE DIRECTOR, NATIONAL ASSOCIATION OF STATE ALCOHOL AND DRUG ABUSE DIRECTORS, INC.

Dr. BUTYNSKI. Thank you, Mr. Chairman.

I will try to summarize my remarks and leave most of the time for questions.

First, the NASADAD membership is composed of all the State alcohol and drug agency directors as you are probably aware.

In fact, the State governments put up most of the money for alcoholism and other drug dependency treatment. With so much discussion at the Federal level, there is sometimes the mistaken impression that the Federal Government plays the largest role in drug treatment.

That, regrettably, is not the case. In fact, Federal resources are only about one half of the level of State resources that go into drug presentation and drug treatment programs.

Our members are the persons appointed by the Governor to administer those drug prevention and treatment programs within the States. They have been working, obviously, with high risk populations, including drug dependent offenders for many years.

We feel that it is important to ensure that the full range of criminal justice sentencing options and alternatives includes attention to the alcohol and other drug treatment needs of the offenders.

The current prison overcrowding situation prevalent in most areas of the country provides an excellent opportunity to develop and to implement innovative and successful approaches that link community-based treatment programs, social service and education with criminal justice and corrections.

I think as some of the previous speakers indicated, the linkage between criminal justice and treatment in the past has not been as close as it should be. I won't go over the scope of the problem, since that is detailed in my testimony. I think you are familiar with it. Obviously, it is a massive problem.

As indicated in Mr. Quinlan's testimony, 40 percent of offenders in the Bureau of Prisons have drug problems. Certainly in terms of drug prisons and jails generally, the figures would be even higher.

Moving to the sentencing options and alternatives section of my testimony, I would emphasize that the criminal justice system does bring the drug problem to the surface. When people are arrested now in many cities through the Department of Justice initiative called DUF, the drug use forecasting system, there is drug testing now available, and so we have direct evidence of very high levels of drug use among offenders.

Clearly, it is a massive problem within the criminal justice system that we are really not beginning to address. Look at the figures presented by the previous representative from the Bureau of Prisons. The Bureau is well noted for running a reasonably good prison system, and yet even there, I think, the figures given to you were that only about 3,800 prisoners receive some type of drug education and everyone else in that system, as far as I know at least, receives nothing. So there is a tremendous need within the Bureau of Prisons.

The need, however, with State prisons and local jails is even greater. With overwhelming caseloads and court dockets, it is oftentimes difficult to provide, to even do the assessments required to determine the level of drug dependency among the offenders. However, there are a number of alternatives that are available and in place.

Probably the most well-known offender management program is Treatment Alternatives to Street Crime [TASC]. Currently TASC is active at over 100 sites throughout the United States. In fact, just looking at the States that you gentlemen represent, in New York there are eight TASC programs. In Pennsylvania, there are 12 TASC programs, plus a State coordinator. In North Carolina there are 11 TASC programs, plus a State coordinator. So, in fact, the States that you are representing are fairly active in running good TASC programs.

However, even these TASC programs need significant expansion. The sadder reality is that some States have no TASC programs and other States only have very few.

We have included with our testimony information on the TASC model critical elements as well as a list of all of the national TASC sites. As we look to, possible action that you might undertake, we would certainly recommend your encouraging the Bureau of Jus-

tice Assistance to take the TASC model of offender management and to expand it and related drug treatment programs for offenders even further.

For example, the focused offender disposition drug testing technology program is now attempting to determine whether or not certain profiles exist of various drug offenders, and based on the drug used, on the frequency of use, and investment in typical social norms to match the offender to the most effective treatment modality. This demonstration program was awarded by the Bureau of Justice Assistance to NASADAD, and we are working at sites throughout the country to, in fact, try to test that program as an intervention.

Clearly, as Dr. Kleber and Mr. Quinlan indicated, more research is needed, but I would like to reenforce the point that Dr. Kleber made, that there is no question with regard to the effectiveness of drug treatment.

Drug treatment is effective and clearly we should be providing much more of it than we are currently doing. When we have major waiting lists, even of voluntary people, you can imagine what the waiting lists are for offenders. In fact, for most offenders with serious drug problems who require treatment, there is no treatment readily available. The reality is when those people go back on the street, as indicated in your previous question, Mr. Gekas, within a day or a very few days, many of those people will be back on drugs. That is a sad commentary on the reality of more crime and also the reality that those people then will be funneled back into a criminal justice system that is not effective because it does not provide treatment.

Instead, we need to implement both within the institutional corrections system, the types of programs that my colleague here will be discussing as well as programs for probation and parole.

I would also like to emphasize the importance of followup to drug treatment. As indicated, in fact, in Mr. Quinlan's testimony, there will be not only internal programs within the Bureau of Prisons, but some community-based followup programs, and I think that is critical.

Followup in the community, including sentencing with options and sanctions held over the drug offender's head if he or she does not successfully complete treatment and stay clean, that he or she will go back into the criminal justice system and/or prison is essential.

The implementation of sanctions is essential for effective treatment with drug offenders. One of the sad realities today is that when people are out on the street, judges and others, because of the current prison overcrowding, are very reluctant to put people back into prison. This means that when drug treatment programs find offenders who are using drugs, even though they are in a drug program, sometimes probation, parole, and judges will not implement the sanctions necessary to put those offenders back into the criminal justice system. The overcrowding problem could be dealt with better if we brought out more of the people already in prisons and put them out into community-based drug treatment programs which implement the followup required to ensure that, in fact, they stay clean.

At this point in time I would be happy to respond to questions or to listen to the testimony of my colleague here at the table.
[The prepared statement of Dr. Butynski follows:]

PREPARED STATEMENT OF WILLIAM BUTYNSKI, PH.D., EXECUTIVE DIRECTOR, NATIONAL ASSOCIATION OF STATE ALCOHOL AND DRUG ABUSE DIRECTORS

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE. THANK YOU FOR THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY TO ADDRESS SENTENCING OPTIONS AND ALTERNATIVES FOR DRUG DEPENDENT OFFENDERS.

MY NAME IS WILLIAM BUTYNSKI. I AM EXECUTIVE DIRECTOR OF THE NATIONAL ASSOCIATION OF STATE ALCOHOL AND DRUG ABUSE DIRECTORS (NASADAD). NASADAD IS A NOT-FOR-PROFIT ORGANIZATION WHOSE MEMBERSHIP IS COMPRISED EXCLUSIVELY OF THE STATE AND TERRITORIAL OFFICIALS DESIGNATED BY THE GOVERNORS TO ADMINISTER THE PUBLICLY FUNDED ALCOHOL AND OTHER DRUG ABUSE TREATMENT AND PREVENTION SYSTEM. NASADAD'S BASIC PURPOSE IS TO FOSTER AND SUPPORT THE DEVELOPMENT OF EFFECTIVE ALCOHOL AND OTHER DRUG ABUSE PREVENTION, INTERVENTION AND TREATMENT PROGRAMS THROUGHOUT EVERY STATE.

DUE IN PART TO A VARIETY OF PREVENTION EFFORTS NATIONWIDE, THERE IS AN INDICATION THAT AMERICA'S HIGH SCHOOL YOUTH ARE DECREASING THEIR EXPERIMENTATION WITH DRUGS. THE MOST RECENT HOUSEHOLD SURVEYS AND SURVEYS OF HIGH SCHOOL SENIORS CONDUCTED BY THE NATIONAL INSTITUTE ON DRUG ABUSE (NIDA) REPORTED A MARKED DECREASE IN THE NUMBER OF STUDENTS INVOLVED WITH, OR EXPERIMENTING WITH, COCAINE. IT SEEMS AS IF THE NATIONAL EDUCATION AND PREVENTION EFFORTS HAVE BEGUN TO TAKE EFFECT. UNFORTUNATELY, THESE DATA ARE LIMITED IN THEIR SCOPE. THEY MEASURE THE EXACT POPULATIONS THAT ARE MOST LIKELY TO BE POSITIVELY EFFECTED BY NATIONAL EDUCATION EFFORTS; THAT IS, THEY ARE THE PERSONS LIVING AT HOME AND STILL IN SCHOOL THROUGH GRADE 12.

THE QUESTION THEN BECOMES, HOW SHOULD WE, AS POLICYMAKERS AND PRACTITIONERS, DEAL WITH THE POPULATIONS NOT INCLUDED IN THE NATIONAL SURVEYS -- THE HIGH SCHOOL DROPOUTS, INCARCERATED PERSONS, HOMELESS INDIVIDUALS, AND INSTITUTIONALIZED PERSONS. ALL THESE GROUPS REMAIN AT HIGH RISK FOR SUBSTANTIAL SUBSTANCE ABUSE AND EXTENDED CRIMINAL JUSTICE INVOLVEMENT.

THE STATE ALCOHOL AND DRUG ABUSE DIRECTORS RECOGNIZE THE IMPORTANCE OF FOCUSING ON THESE HIGH RISK POPULATIONS, INCLUDING DRUG DEPENDENT OFFENDERS, IN ORDER TO ENSURE THAT THE FULL RANGE OF SENTENCING OPTIONS AND ALTERNATIVES AVAILABLE INCLUDES ATTENTION TO THE ALCOHOL AND OTHER DRUG TREATMENT NEEDS OF THESE INDIVIDUALS. THE CURRENT PRISON OVERCROWDING SITUATION PREVALENT IN MOST AREAS OF THE COUNTRY PROVIDES AN EXCELLENT OPPORTUNITY TO DEVELOP AND IMPLEMENT INNOVATIVE AND SUCCESSFUL APPROACHES LINKING COMMUNITY BASED TREATMENT, SOCIAL SERVICE, AND EDUCATION SYSTEMS WITH CRIMINAL JUSTICE AND CORRECTIONS.

SCOPE OF THE PROBLEM - WHY SENTENCING OPTIONS ARE NEEDED

CRIMINAL JUSTICE PRACTITIONERS AT ALL LEVELS -- JUDGES, PROBATION/PAROLE OFFICERS, ATTORNEYS, CORRECTIONS OFFICIALS -- RECOGNIZE THE SEVERE SHORTAGE IN JAIL AND PRISON SPACE AND THE OVERWHELMING DEMANDS CURRENTLY PLACED ON THE SYSTEM. OVER THE PAST DECADE, STUDY UPON STUDY HAS SHOWN A SIGNIFICANT INCREASE IN THE

NUMBER OF OFFENDERS WHO TEST POSITIVE FOR DRUGS. IN FACT, IN RECENT DATA ACROSS 21 CITIES, 53 TO 90 PERCENT OF THE MALE ARRESTEES TESTED POSITIVE FOR ANY ILLEGAL DRUG. CITIES SUCH AS PHILADELPHIA, NEW YORK, SAN DIEGO AND WASHINGTON ALL SHOW SOME 75% OF OFFENDERS POSITIVE FOR COCAINE, ACCORDING TO THE NATIONAL INSTITUTE OF JUSTICE. THE RATE OF PREVALENCE FOR COCAINE USE IN THE OFFENDER POPULATION IS MORE THAN 10 TIMES THAT REPORTED IN SURVEYS OF THE GENERAL POPULATION.

THIS INCREASE IN DRUG-INVOLVED OFFENDERS HAS CAUSED RESEARCHERS TO NOTE THE POWERFUL RELATIONSHIP BETWEEN CRIMINAL ACTIVITY AND DRUG USE. THE BUREAU OF JUSTICE ASSISTANCE (BJA) IN ITS FY 1988 REPORT ON DRUG CONTROL, CONFIRMS THE FINDINGS FROM ALL STUDIES SINCE 1920 WHICH EXAMINE THE RELATIONSHIP BETWEEN DRUG USE AND CRIME: "THE LINK BETWEEN DRUG USE AND CRIME HAS BEEN FIRMLY ESTABLISHED, MAKING IT DIFFICULT TO DISCUSS ONE TO THE EXCLUSION OF THE OTHER."

ADDITIONALLY, THE NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM (NIAAA) HAS REPORTED THE FOLLOWING STATISTICS TO CONGRESS IN ALCOHOL AND HEALTH VI, ON CONVICTED OFFENDERS AND THEIR ALCOHOL USE:

- o 64 PERCENT OF INMATES CONVICTED OF PUBLIC-ORDER OFFENSES (INCLUDES WEAPONS AND TRAFFIC CRIMES) HAD USED ALCOHOL BEFORE THE OFFENSE;
- o OF OFFENDERS CONVICTED OF VIOLENT CRIMES, MORE THAN HALF

- (54 PERCENT) HAD USED ALCOHOL JUST BEFORE THE OFFENSE;
- o ALCOHOL INVOLVEMENT WAS PARTICULARLY PREVALENT IN CASES OF MANSLAUGHTER (68 PERCENT) AND ASSAULT (62 PERCENT);
- o 29 PERCENT OF OFFENDERS CONVICTED OF DRUG OFFENSES (TRAFFICKING AND POSSESSION) HAD USED ALCOHOL PRIOR TO THE OFFENSE.

MOST RECENT EVIDENCE SHOWS THAT PRISONS AND JAILS IN COMMUNITIES THROUGHOUT THE COUNTRY ARE FILLED TO OVERFLOWING WITH ALCOHOL AND OTHER DRUG ABUSERS AND OTHER OFFENDERS, AND THAT THE DEMAND FOR SPACE IS OUT OF CONTROL. RICHARD KOEHLER, COMMISSIONER OF THE NEW YORK CITY DEPARTMENT OF CORRECTIONS, TESTIFIED BEFORE CONGRESS LAST YEAR THAT AMONG 19,000 INMATES IN THE CITY'S JAILS IN MARCH OF 1989, 85 PERCENT REPORTED USING DRUGS AT LEAST ONCE A WEEK PRIOR TO ARREST; 39 PERCENT REPORTED USE OF MORE THAN ONE DRUG PRIOR TO ARREST; 74 PERCENT OF INMATES GIVEN URINE TESTS IN THE MANHATTAN CENTRAL BOOKING STATION TESTED POSITIVE FOR COCAINE; AND, OVER 18,000 INMATES ARE REQUIRED TO BE DETOXIFIED FROM OPIATE ADDICTION EACH YEAR.

IN 1988, THE LATEST YEAR FOR WHICH FIGURES ARE AVAILABLE, ABOUT ONE MILLION PEOPLE WERE IN PRISONS AND JAILS, UP 4.3 PERCENT FROM THE PREVIOUS YEAR, ACCORDING TO THE BUREAU OF JUSTICE STATISTICS. 2.3 MILLION PEOPLE WERE ON PROBATION, A 5 PERCENT INCREASE OVER THE YEAR BEFORE. STUDIES BY THE RAND CORPORATION

INDICATE THAT OVER THE LAST DECADE, PRISON POPULATIONS HAD INCREASED BY 45 PERCENT AND THE NUMBER OF OFFENDERS ON PROBATION JUMPED BY 75 PERCENT.

IT IS ESTIMATED THAT 70 TO 75 PERCENT OF THE PROBATIONERS ARE ADDICTED TO ALCOHOL OR OTHER DRUGS, YET ONLY A FRACTION ARE RECEIVING TREATMENT. FOR EXAMPLE, LOS ANGELES COUNTY, WHICH HAS THE LARGEST PROBATION DEPARTMENT IN THE NATION, SUPERVISES 85,000 PEOPLE. ONLY 11 PERCENT (10,000) OF THE PROBATIONERS ARE RECEIVING DRUG TESTING AND/OR TREATMENT PROGRAMS. LOS ANGELES OFFICIALS STATE THAT AT LEAST 60 PERCENT, AND PERHAPS AS MANY AS 80 PERCENT, OF THE 85,000 PROBATIONERS ACTUALLY NEED TREATMENT.

THE STEADILY INCREASING EXPENDITURES NECESSARY FOR INCARCERATION, AND THE DRAMATIC GROWTH IN CORRECTIONAL POPULATIONS, PRESENT STAGGERING ECONOMIC DILEMMAS. NARCOTIC AND DRUG RESEARCH, INC. (NDRI) PROJECTED THAT, IN 1990, INMATE COSTS WERE EXPECTED TO BE \$25,000 PER YEAR IN FEDERAL PRISONS, \$30,000 PER YEAR IN NEW YORK STATE PRISONS, AND \$50,000 PER YEAR IN NEW YCRK CITY JAILS. NDRI FURTHER PREDICTED THAT ANNUAL GOVERNMENT EXPENDITURES IN THE NATION FOR CORRECTIONS WOULD MORE THAN DOUBLE BETWEEN 1983 AND 1990, FROM \$8 BILLION TO \$21 BILLION PER YEAR.

IN TESTIMONY BEFORE THE HOUSE SELECT COMMITTEE LAST YEAR, NEW YORK STATE'S COMMISSIONER OF CORRECTIONS, THOMAS COUGHLIN, REPORTED THAT TAXPAYERS MUST NOW PAY \$100,000 TO BUILD A CELL, AND \$25,000

A YEAR TO HOUSE INMATES.

MOST PROFESSIONALS RECOGNIZE THAT ALTERNATIVES TO INCARCERATION MUST BE AVAILABLE, IN PART TO RELIEVE THE SWELLING COURT DOCKETS, TO HALT SKYROCKETING PRISON COSTS, AND TO MORE EFFECTIVELY ADDRESS THE DRUG PROBLEM IN THE OFFENDER'S LIFE WHICH INFLUENCES HIS CRIMINAL ACTIVITY. BY FAILING TO ADDRESS THE OFFENDER'S DRUG PROBLEM, HIS CONTINUED INVOLVEMENT WITH, OR ESCALATION TO, CRIMINAL ACTIVITY -- BE IT DEALING DRUGS, ASSAULT, PROSTITUTION, OR THEFT -- WILL ALMOST SURELY CONTINUE. THEREFORE, IT WOULD SEEM LOGICAL THAT THIS OFFENDER WOULD DEMAND SPECIFIC AND INTENSIVE MONITORING AND MANAGEMENT TO ALLEVIATE HIS/HER DRUG PROBLEM AND SET HIM/HER ON THE ROAD TO RECOVERY FROM ADDICTION AND REINTEGRATION INTO SOCIETY.

SENTENCING OPTIONS AND ALTERNATIVES

IT IS THE OFFENDER'S ENTRY INTO THE CRIMINAL JUSTICE SYSTEM THAT BRINGS HIS DRUG PROBLEM TO THE SURFACE. OFTEN JUDGES AND PROBATION OFFICERS ARE THE FIRST TO DEAL WITH THE DRUG PROBLEM AS IT RELATES TO BEHAVIOR. OVERWHELMING CASELOADS AND COURT DOCKETS MAKE IT DIFFICULT TO IMPOSSIBLE FOR EACH OFFICER TO DEDICATE SIGNIFICANT TIME TO OFFENDERS. IT IS AT THIS POINT THAT ALTERNATIVES TO SENTENCING/INCARCERATION BECOME PARTICULARLY USEFUL AND NECESSARY.

LUCKILY, SEVERAL ALTERNATIVES ARE AVAILABLE, AND MANY JURISDICTIONS HAVE PROGRAMS IN PLACE, PERHAPS THE MOST WELL-KNOWN OFFENDER MANAGEMENT PROGRAM IS THE TREATMENT ALTERNATIVES TO STREET CRIME (TASC) PROGRAM. ACTIVE AT OVER 100 SITES IN THE U.S., THIS WELL-ESTABLISHED PROGRAM ATTEMPTS TO BRIDGE THE VARIED INTERESTS OF BOTH THE CRIMINAL JUSTICE AND TREATMENT SYSTEMS IN DEALING WITH THE DRUG-INVOLVED OFFENDER.

TASC PROGRAMS SPECIALIZE IN THE ESSENTIAL ELEMENTS IN OFFENDER MANAGEMENT: IDENTIFICATION, ASSESSMENT, MONITORING AND REGULAR CONTACT. THESE ELEMENTS BRING INTO ACCOUNT THE NEED TO IDENTIFY THE OFFENDER'S DRUG PROBLEM, ASSESS THE EXTENT TO WHICH THE PROBLEM EXISTS AND REFER TO APPROPRIATE TREATMENT. EQUALLY IMPORTANT IS THE NEED TO MONITOR THE OFFENDER'S PROGRESS ONCE ASSIGNED TO A MODALITY. CASE MANAGEMENT AND CONSTANT CONTACT ARE AN ESSENTIAL ELEMENT OF OFFENDER SUCCESS IN TREATMENT, AND URINALYSIS IS A MOST EFFECTIVE MEANS OF DETERMINING OFFENDER COMPLIANCE, AND HAS BEEN WELL-RECEIVED IN MOST CITIES.

TODAY, TASC IS ACTIVE AT OVER 122 SITES AROUND THE COUNTRY. FLORIDA, NORTH CAROLINA, ILLINOIS, PENNSYLVANIA, WASHINGTON AND NEW YORK EMPLOY STATE-WIDE TASC PROGRAMS. INCLUDED WITH OUR TESTIMONY ARE COPIES OF THE TASC MODEL AND CRITICAL ELEMENTS, AS WELL AS A LIST OF ALL NATIONAL TASC SITES.

OTHER PROGRAMS CURRENTLY CONDUCTED BY THE DEPARTMENT OF

JUSTICE'S BUREAU OF JUSTICE ASSISTANCE (BJA) TAKE THE TASC MODEL OF OFFENDER MANAGEMENT AND FURTHER EXPAND IT. FOR EXAMPLE, THE FOCUSED OFFENDER DISPOSITION/DRUG TESTING TECHNOLOGY PROGRAM IS TESTING WHETHER OR NOT CERTAIN "PROFILES" EXIST OF VARIOUS DRUG OFFENDERS, BASED ON THEIR DRUGS USED, FREQUENCY OF USE, AND INVESTMENT IN TYPICAL SOCIAL NORMS. ADDITIONALLY, THIS DEMONSTRATION PROGRAM, AWARDED TO NASADAD BY BJA, SEEKS TO DETERMINE WHETHER OR NOT CERTAIN OFFENDERS MIGHT BENEFIT FROM DRUG TESTING ONLY AS AN INTERVENTION. THESE QUESTIONS ARE CRITICAL TO CRIMINAL JUSTICE AND TREATMENT PERSONNEL AS THEY DEAL WITH QUESTIONS ABOUT THE EFFECTIVENESS OF DRUG TESTING OVERALL, AND SEEK BOTH COST EFFECTIVE AND PROGRAM EFFECTIVE DRUG OFFENDER INTERVENTION STRATEGIES.

OFFENDER MANAGEMENT IS ALSO THE FOCUS OF A BJA FUNDED PROGRAM CONDUCTED JOINTLY BY NASADAD AND THE AMERICAN PROBATION AND PAROLE ASSOCIATION. THIS PROGRAM SEEKS TO IMPROVE DRUG-INVOLVED OFFENDER MANAGEMENT IN THE COMMUNITY VIA CROSS COMMUNICATION AND TRAINING. NASADAD SPECIFICALLY HOPES TO IMPROVE THE SOMETIMES ANTAGONISTIC RELATIONSHIP EXISTING BETWEEN PROBATION AND PAROLE AND DRUG TREATMENT PROVIDERS IN WORKING WITH THE DRUG-INVOLVED OFFENDER, A JOINT CLIENT IN BOTH SYSTEMS. THIS PROGRAM WILL BE ACCOMPLISHED WITH (1) A SURVEY OF SEVERAL HUNDRED DRUG TREATMENT AND CRIMINAL JUSTICE PRACTITIONERS; (2) THE DEVELOPMENT OF A CURRICULUM, AND; (3) THE CONDUCT OF A JOINT TRAINING OF PROBATION/PAROLE PERSONNEL AND DRUG TREATMENT PROVIDERS. TECHNICAL ASSISTANCE WILL ALSO BE A

PART OF THIS EFFORT WHICH WILL INCLUDE DEVELOPMENT OF A NATIONALLY COORDINATED OFFENDER MANAGEMENT PLAN.

IT IS IMPORTANT TO REMEMBER THAT ONE OF THE CRITICAL ELEMENTS IN THE SUCCESSFUL MANAGEMENT OF THE DRUG-INVOLVED OFFENDER INVOLVES WHAT ONE ALABAMA OFFICIAL TERMS, "PAIRED RESPONSE." PAIRED RESPONSE REFERS TO EQUAL AND COMPLEMENTARY RESPONSE BY BOTH THE CRIMINAL JUSTICE AND TREATMENT SYSTEMS WITH REGARD TO OFFENDER NON-COMPLIANCE. ESSENTIALLY, THIS MEANS CONSISTENT AND TIMELY CRIMINAL JUSTICE AND TREATMENT SANCTIONS FOR THE SUPERVISED OFFENDER WHO VIOLATES HIS/HER CRIMINAL JUSTICE MANDATE, TESTS POSITIVE FOR ILLICIT DRUGS, OR IS NOT RECEPTIVE TO TREATMENT.

THE OFFENDER RESPONDS TO TREATMENT IN LARGE PART BECAUSE THE JUDGE OR OTHER CRIMINAL JUSTICE AUTHORITY PROVIDES AN INCENTIVE FOR HIM TO DO SO. IN RETURN, THE JUDGE MUST BE ABLE TO SANCTION THE OFFENDER WHEN HE REFUSES THIS ALTERNATIVE. JUSTICE SANCTIONS SUCH AS INTENSIVE SUPERVISION PROBATION, HOME CONFINEMENT, SHOCK INCARCERATION, AND SURPRISE COURT CALLS SERVE AS A MEANS FOR THE JUSTICE SYSTEM TO SHOW THE OFFENDER THAT IT MEANS BUSINESS, WITHOUT FURTHER BURDENING COURTROOMS OR JAILS AND PRISONS. IT IS ABSOLUTELY CRUCIAL THAT THE OFFENDER FEELS A SENSE OF PRESSURE FROM BOTH SIDES OF THE SYSTEM TO COMPLETE A TREATMENT REGIMEN SUCCESSFULLY, AND REMAIN DRUG FREE AND CRIME FREE.

CONCLUSION

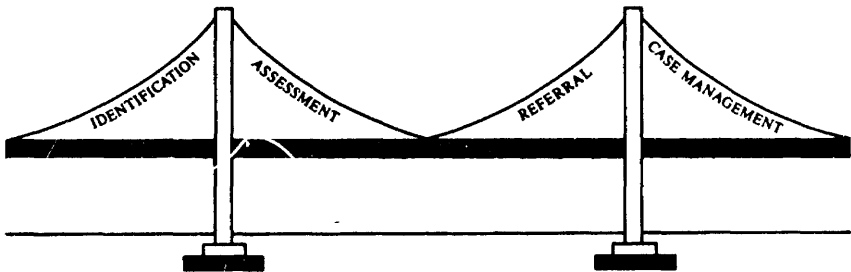
THE STATE ALCOHOL AND DRUG ABUSE DIRECTORS BELIEVE THAT A VARIETY OF PROGRAMS THAT ATTEMPT TO BREAK THE CYCLE OF ADDICTION AND PROVIDE OPPORTUNITIES FOR REHABILITATION, INCLUDING COUNSELING, EDUCATION, AND JOB TRAINING PROVIDE WORTHWHILE ALTERNATIVES TO INCARCERATION ALONE.

AS OUR TESTIMONY PROVIDES, PROGRAMS LIKE TREATMENT ALTERNATIVES TO STREET CRIMES (TASC) INTERRUPT THE PERSISTENT DRUG USING BEHAVIOR OF OFFENDERS BY LINKING THE SANCTIONS OF THE CRIMINAL JUSTICE SYSTEM TO THE THERAPEUTIC PROCESSES OF DRUG TREATMENT PROGRAMS. TASC PROGRAMS OFFER RENEWED HOPE TO DRUG AND ALCOHOL DEPENDENT PERSONS BY ENCOURAGING THEM TO ALTER THEIR LIFESTYLES WHILE REMAINING IN THEIR OWN COMMUNITIES. THEY ALSO OFFER HOPE TO SOCIETY FOR MORE EFFECTIVE AND SUCCESSFUL PROGRAMS THAT DECREASE BOTH DRUG USE AND CRIME.

OTHER ALTERNATIVES SUCH AS CROSS TRAINING ACTIVITIES FOR CORRECTIONS OFFICIALS AND TREATMENT PROVIDERS, AND PROGRAMS TO ASSIST CRIMINAL JUSTICE AUTHORITIES IN THE IDENTIFICATION, ASSESSMENT AND REFERRAL OF DRUG DEPENDENT OFFENDERS PROVIDE AN ARRAY OF IMPORTANT OPTIONS TO INCARCERATION.

NASADAD APPRECIATES THE OPPORTUNITY TO PRESENT OUR VIEWS AND I'LL BE HAPPY TO RESPOND TO ANY QUESTIONS THAT YOU MAY HAVE.

The TASC Bridge



Justice System

- legal sanctions
- community safety
- punishment

Treatment System

- therapeutic relationship
- changing individual behavior
- reducing personal suffering

Critical Program Elements and Performance Standards

TASC Program Elements

Organizational Elements

- Element 1
A broad base of support within the justice system with a protocol for continued and effective communication
- Element 2
A broad base of support within the treatment system with a protocol for continued and effective communication
- Element 3
An independent TASC unit with a designated administrator
- Element 4
Policies and procedures for required staff training
- Element 5
A data collection system to be used in program management and evaluation

Operational Elements

- Element 6
A number of agreed upon offender eligibility criteria
- Element 7
Procedures for the identification of eligible offenders that stress early justice and treatment intervention
- Element 8
Documented procedures for assessment and referral
- Element 9
Documented policies and procedures for random urinalysis and other physical tests
- Element 10
Procedures for offender monitoring that include criteria for success/failure, required frequency of contact, schedule of reporting and notification of termination to the justice system

Mr. SCHUMER. Dr. Butynski, I have been told you have a time problem as well?

Dr. BUTYNSKI. Yes.

Mr. SCHUMER. Then maybe with Dr. Lipton's OK—when do you have to be—

Dr. BUTYNSKI. I need to leave here about 11:30.

Mr. SCHUMER. Then maybe we can ask, if that is OK with Dr. Lipton, we will ask Dr. Butynski questions that we might have for him and then we will go to Dr. Lipton.

Let me ask you the question that I asked, although you really did answer it, but just to pinpoint that, I asked both Dr. Kleber and Director Quinlan, and that is, would it be premature to at least in the Federal system, but maybe in State systems, provided there weren't financial barriers in the way, to require some kind of mandatory treatment while people were incarcerated? Let's leave the probation part out of it for now.

Dr. BUTYNSKI. From my point of view, it would make sense to do that. The problem is due to fiscal constraints we are not even close to that reality. With the numbers presented, it seems to me what we can realistically talk about is significant expansion of what is already planned.

I think some of the problems raised by Dr. Kleber are real. When you put people into treatment who don't want to be there, they can cause problems, but also as Dr. Lipton and I were discussing, the motivation for treatment can and does vary over time.

I mean, offenders are just like the rest of us. Sometimes we want more help than we do at other times. I think it would be a mistake to say that people cannot be coerced into accepting treatment or that there are some people we must give up hope for completely, because they are not at a particular time willing to go into treatment. It may be that if we wait another month or another 6 months and present the option again, they may well, in fact, desire treatment.

So I would certainly support increased treatment availability within the Bureau of Prisons and within prisons generally.

Mr. SCHUMER. If you put incentives and disincentives, you are going to change the number that want to go into treatment as well?

Dr. BUTYNSKI. Correct.

Mr. SCHUMER. So you would say that the Federal Government is not moving quickly. They are doing some good work, and I don't deny that, but they are not moving quickly enough in the treatment area for those incarcerated?

Dr. BUTYNSKI. That is correct. I think clearly they are taking significant steps forward that we are supportive of. At the same time, it is not really nearly enough. Even from a fiscal point of view, it seems to me to be essential to treat those people who now leave prison without drug treatment, and again use drugs and again get involved in crime. We would save a great deal of money if only we provided the treatment that would break the vicious cycle of drugs and crime.

It is certainly worth your and the Congress considering how we might be able to find the resources to do that.

Mr. SCHUMER. You pointed out \$100,000 for a jail cell, \$3,000 for a treatment program. You don't have to have such a high rate of success to make it cost efficient.

What State is doing more for treatment, coercive treatment, in prisons on coercive treatment? Give us a few States that are really at the forefront that we might look at.

Dr. BUTYNSKI. I think certainly New York is a leader. Also, the Alabama Corrections Department appears to be doing a good job.

In terms of other States, I will have to check further and send the information to you.

[The information follows:]



National Association of State Alcohol and Drug Abuse Directors, Inc.

July 27, 1990

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John S. Gustafson
New York

First Vice President

Paul Behrke
Arkansas

Vice President for Alcohol Abuse Issues

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Kansas

Robert Anderson
South Dakota

Ed Zborower
Arizona

Ken Stark
Washington

Executive Director

William Butynski

The Honorable Charles Schumer
U.S. House of Representatives
126 Cannon House Office Building
Washington, D.C. 20515-3210

Dear Congressman Schumer:

Thank you once again for the opportunity you provided to NASADAD to testify before the Criminal Justice Subcommittee on July 23, 1990, on the subject of in-prison drug treatment and sentencing alternatives.

As part of your questioning, you asked whether certain states had any unique in-custody programs. I have gathered several names for your information. They include the following:

- o the Key Program in Delaware;
- o the Drug Abuse Treatment Unit in Wisconsin;
- o the Cornerstone Program in Oregon.

For further information on these programs you may wish to contact the individual State Departments of Corrections.

If you have any additional questions, please feel free to have your staff contact me, or Beth Weinman of my staff. She is Director of NASADAD's Criminal Justice Programs.

Good luck in your future legislative efforts in this most important area.

Sincerely,

William Butynski
William Butynski, Ph.D.
Executive Director

Mr. SCHUMER. But I take it no State is even close to the idea of giving mandatory coercive treatment?

Dr. BUTYNSKI. I think that is correct. I know Alabama's Corrections Department, for example, is beginning to do a lot more in terms of drug treatment. I am sure Dr. Lipton can tell you about his demonstration project and a number of States where they are beginning to implement important projects, but I would agree, no State is doing enough.

Mr. SCHUMER. Thank you, Dr. Butynski.

Mr. GEKAS. I don't want to totally display my ignorance in the formation of this question, but if we have a prisoner who is an addict and receives any kind of treatment, refuses to cooperate and is going to be in prison for 2½ years or 3 years, isn't he undergoing cold turkey treatment, as it were, by abstinence or by cleansing his system daily by nonuse, assuming that there is no drug distribution in the prison? Where does that enter into all of this or is cold turkey no more?

Dr. BUTYNSKI. Cold turkey by itself clearly is not sufficient.

First, as you point out, in many prisons he or she may not be going cold turkey, but may have drugs available there. However, even for those who do not obtain drugs in prison, simply discontinuing drug use for a period of time without meaningful treatment is not effective.

I think we have known that for a great deal of time. What is required is that sanctions be applied so that there is no further drug use and that, in fact, treatment does occur. Tough confrontations with that individual's own peer group, in terms of looking at his or her drug use over time, why that drug use is occurring, and what specifically can be done to stop that drug use in the future, is necessary.

I would guess that the success rate for simply going cold turkey alone may be 1 percent or less. Regrettably, it simply is not, by itself, effective.

Mr. GEKAS. NASADAD, does that include the liquor control board mechanisms in the States?

Dr. BUTYNSKI. No.

Most of our members cooperate with the liquor control board folks in their States, but they are separate agencies.

Our members are involved in treatment programs, education and prevention programs. Regrettably, many of the liquor control boards see their primary mandate as expanding liquor sales to increase State tax revenue, and our members would not agree with that priority.

Mr. GEKAS. What member agencies do you have in Pennsylvania?

Dr. BUTYNSKI. Our member in Pennsylvania is Jeannine Peterson. She serves as the alcohol and drug agency head within the Pennsylvania Health Department. There are also a large number of TASC programs in the State, and we have been in Pennsylvania offering both technical assistance and evaluation assistance a number of different times.

Mr. GEKAS. I have no further questions.

Mr. SCHUMER. Mr. Coble.

Mr. COBLE. Thank you.

Very briefly, Mr. Chairman, thank you, gentlemen. Good to have you here.

The question I put to the last panel, and Dr. Lipton, you looked as though you might know the answer to the last question, concerning the percentage of female arrestees, do you all have any information on that as opposed to—

Mr. LIPTON. It is higher than the male.

Mr. COBLE. It is higher than the male?

Mr. LIPTON. But that is a focus of who gets arrested and incarcerated who are female.

Females are rarely arrested and if they are arrested, it is usually more severe cases so that when you look at the rate of addiction among arrested women, it appears to be higher, particularly because of the proportion that are prostitutes who often are engaged in drug use. So it is in a way an artifact of how the arrest procedure works.

Mr. COBLE. Doctor, one final question.

I had to make a telephone call, and I heard you mention programs in North Carolina. Since I represent that State, could you elaborate a little in more detail about that?

Dr. BUTYNSKI. Yes.

North Carolina currently has 11 active TASC programs, plus a State office coordinator. It is one of the more active States in the Nation with regard to TASC. TASC essentially provides offender management for people once they get out of prisons and jails or sometimes in lieu of that in order to ensure that, in fact, offenders stay off of drugs.

I would reenforce the point, and I think Dr. Lipton would agree, that it is critical to look at drug treatment not only within but also in lieu of or in addition to prisons.

We certainly need to implement and to expand drug treatment in prison, but just as critical is the followup after people get out of prison and they are on probation and/or parole. It is absolutely essential that those people are followed up, that there is drug testing, that there is somebody looking over the shoulders of those offenders to make sure that they stay clean. The longer that they stay clean, the more likely it is that that will be for a life time rather than for just a few weeks or a few months.

Mr. COBLE. Thank you, gentlemen.

Thank you, Mr. Chairman.

Mr. SCHUMER. George Gekas' question made me ask one other.

I mean, I know in New York State most of the State prisons and the city jails are loaded with drugs. Does it make it harder to get the kind of therapeutic treatment in prisons mandatory if that is the case? That is sort of related to George's question.

Dr. BUTYNSKI. I am sure that it is.

Mr. SCHUMER. The Federal Metropolitan Facility has a much lower rate.

Dr. BUTYNSKI. The sad reality is that drugs are prevalent in many, if not most, prisons and jails, and it would be much better to get those people into drug treatment programs because there, clearly, drugs are not prevalent. Drug use may be a problem in some treatment programs, but certainly in a much lower proportion than the level of drug use that you find in prisons. If we

moved many offenders from prison to drug treatment, we would do a lot better, i.e., save money and prevent drug use and crime.

I thank you very much for the opportunity to testify.

Mr. SCHUMER. Thank you.

We very much appreciate your being here and your testimony.

Our next and final witness is someone I have been waiting to hear his testimony for a while, Dr. Lipton. Your entire statement will be read into the record. You may proceed as you wish.

STATEMENT OF DR. DOUGLAS S. LIPTON, DIRECTOR, RESEARCH INSTITUTE OF NARCOTIC AND DRUG RESEARCH, INC., NEW YORK, NY

Dr. LIPTON. Mr. Chairman, members of the committee, I am Douglas Lipton. I am director of the Research Institute of Narcotic and Drug Research, Inc., of New York City.

It is a not-for-profit corporation which since 1967 has conducted drug-related research and evaluation projects.

Today NDRI maintains a research institute, a training institute, and an AIDS outreach and prevention bureau. We have 220 persons who are engaged in about 40 drug abuse-related projects.

I just want to mention that we have concentrated in three areas, AIDS and IV drug use, the relationship between crime and drugs, and drug abuse treatment evaluation studies. We have 70 professional researchers, and I am very proud to say we have about 80 ex-addict, ex-offender professionals whose knowledge and insights about the street and drug world have proven invaluable in our research efforts.

Now, I want to go right to my statement.

It is a pleasure to appear before you to discuss this as an area of great concern to me. I believe we can improve the substance abuse treatment system within the criminal justice system.

Addiction treatment is a critical component of the Nation's war on drugs, and the incarceration of persons found guilty of various crimes who are also chronic substance abusers presents an opportunity for treatment that I believe is very propitious. It is propitious because these persons would be unlikely to seek treatment on their own, and without treatment they are very apt to continue their drug use and criminality after release, and we now have cost-effective technologies to effectively treat them while in custody and alter their life styles from criminal to prosocial.

I come with an intention of sharing with you the optimism I feel with respect to how successful we can be with persons generally considered irredeemable; namely, chronic heroin and cocaine users with extensive predatory criminal histories.

It is worth noting, Mr. Chairman, that with high rate addict-offenders such as these, who each commit 40 to 60 robberies a year, 70 to 100 burglaries a year, and more than 4,000 drug transactions a year, a meager 10-percent reduction in recidivism means a substantial improvement in our quality of life; and we consistently have been able to substantiate more than a 25-percent reduction.

The field of corrections has not been notable for its rehabilitative successes, and I am responsible, in part, for the pervasive notion that "nothing works" which emerged from a summary by Martin-

son of the book I wrote with two colleagues, Bob Martinson and Judith Wilks that was published in 1975 called *The Effectiveness of Correctional Treatment*.

The book emerged at a time when the national media and the social climate were ripe for a shift from the so-called rehabilitative era.

Now, I come from a background of skepticism. I am not from Missouri, but I sound like it. So when I see successful outcomes for correctional programming, and see it repeated year after year, with a group of offenders unlikely to succeed, it certainly makes me sit up and take notice.

When I say success, I am referring to reducing recidivism to a statistically significant degree, and by recidivism I mean returning to prior forms of conduct. I not only want to share with you the success of the Stay'n Out project but also of other programs that have been successful with drug abusing offenders.

You have heard testimony already about the scope of the problem, so I am not going to dwell on that. I do want to say, however, at the other end of the criminal justice funnel, at the incarceration level, I believe it is a safe assumption that the proportion of drug using offenders among those incarcerated is higher than even their proportion among arrestees, which is the DUF data.

These men and women in many instances are not just users of single drugs, but use many different drugs and use them mostly in combination with each other and with alcohol. If they are chronic users, their drug use pervades their lifestyles and preoccupies their daily hours. Most of these persons have avoided treatment while active in the community although some have experienced detoxification several times.

Their entry into the country's crowded jails and prisons stills their criminal acts for a while, but the problems of prison crowding are of such enormity that for each person incarcerated there is one bound to be released and he or she is highly likely to be an untreated drug user.

At least 45 percent of arrestees charged with violent crimes or income-generating crimes like robbery, burglary and theft tested positive for use of one or more drugs according to NIJ reports.

The relationship between drugs and crime is indisputable. There is a decade of research that documents this, and we know that during periods of active addiction, the rate of criminality rises six to eight times.

All but eight States are under some kind of court mandate to relieve prison crowding. Much of this prison crowding pressure is directly due to the righteous public outrage regarding drug-related crime and the resultant tougher sentencing practices that have been enacted for repeat offenders and criminals committing drug-related crimes, as well as just the dramatic increase in arrests directly related to crime increases generally.

Drug using offenders are a substantial proportion of the pool of persons now flooding the prisons and jails, and this trend of the 1980's appears likely to continue undiminished in the current decade. Furthermore, the repeater rate of drug offenders is quite high. Up to two-thirds of inmates in some States like Oregon and Texas are drug-involved former probationers and parolees.

Although data vary across studies, it would appear that drug-using felons are also a primary source of failure on parole. That is, they constitute a disproportionate share of the repeat offenders.

Sixty to 75 percent of untreated parolees with histories of heroin and/or cocaine use are reported to return to heroin and/or cocaine use within 3 months after release, and become reinvolved in criminal activity.

The "revolving door" analogy epitomizes the situation with hard drug-using offenders. Since a great proportion of American drug users are processed through some part of the criminal justice system during their drug using careers, it makes a great deal of sense to consider that system as a location for treatment.

Most inmates have not been treated in the community and State, when asked, that they have no particular interest in entering treatment. Thus the criminal justice system is a major opportunity to bring to bear the state-of-the-art in drug abuse treatment for this otherwise elusive population.

Overall, then, the U.S. prison population has grown about 55 percent over the past 8 years largely fueled by the major influx of drugs using offenders. These offenders, largely recidivists, are responsible for a relatively large amount of crime, and among them, the most predatory, the heroin-using "violent predators," when compared with nondrug using offenders committed 15 times as many robberies, 20 times as many burglaries, and 10 times as many thefts. Active drug use not only accelerates the users' crime rate, but also the crime quality is at least as violent, or more so, than that of nondrug using counterparts.

Very few inmates, despite the demonstrated need for treatment services, actually receive treatment for their addiction, either before, during or after their incarceration.

DUF data show that on the average only 4 percent of arrestees are receiving treatment at the time of arrest, and about 22 percent of arrestees have ever received treatment services of any kind.

In 1979, the National Institute on Drug Abuse conducted a comprehensive survey of drug abuse treatment programs. The survey identified 160 prison treatment programs serving about 10,000 inmates. That is about 4 percent of the prison population.

In 1987, Chaiken estimated that 11.1 percent of the inmates in the 50 States were in drug treatment programs. This represents a sizable increase from 10,500 inmates in 1979 to 51,500 inmates in 1987. However, the bulk of the vast majority of inmates do not receive treatment while in prison.

While there is still no consensus about the percentage of offenders being treated for drug use, recent incomplete surveys of treatment for incarcerated drug abusers show the following: 39 States using preliminary assessment procedures with newly sentenced inmates; 44 States allowing Narcotics Anonymous, Cocaine Anonymous or Alcoholics Anonymous self-help group meetings once or twice a week; 44 States having some form of short-term—35 to 50 hours—drug education programming; 31 States having some form of individual counseling available for drug users where a counselor or therapist meets with an individual inmate occasionally during the week usually one or two times; 36 States having group counseling in which small groups of inmates meet once or twice weekly

with a therapist; and 30 States having some type of intensive residential program, often based on the therapeutic community model. Most optimistically, less than 20 percent of identified drug using offenders are believed to be served by these programs.

Prior to 1980, relatively few outcome research studies of therapeutic communities in prison settings had been conducted. Recently, my colleagues and I and Gary Field in Oregon, who conducted an evaluation of the cornerstone program, have published reports that substantiate the significant accomplishments of correctional based TC's with incarcerated drug abusing felons.

The Stay'n Out Program is a therapeutic community for the treatment of incarcerated drug offenders which has been identified as a national model.

Stay'n Out began as a joint effort by the New York State Division of Substance Abuse Services, which funded the program during its first years, New York Therapeutic Communities, which operates it, and the New York State Department of Correctional Services which currently funds it. It has two sites: A program for male offenders is at Arthur Kill Correctional Facility on Staten Island in New York and the female facility opened in 1978 at the Bayview Correctional Facility in New York City.

Currently, there are three treatment units at the Arthur Kill Correctional Facility, with about 35 beds per unit—a total capacity of 146 beds—and one female treatment unit at the Bayview Correctional Facility, with 40 beds.

I might add a parenthetical that there is now a fourth unit at Arthur Kill, which consists of people who have already finished the program and is being used as a training site, where many of the people coming are correctional administrators, police officials, probation officials, and other rehabilitation workers from around the country, and the faculty are inmates who are still in the program.

I might add, it is a very interesting thing to see.

In 1984, the National Institute on Drug Abuse provided a grant to NDRI to evaluate Stay'n Out and compare it to other prison drug abuse treatment programs. The evaluation was designed to test the proposition that effective treatment of substance abusers is possible within prison.

A large-scale, quantitative analysis was conducted relating several measures of treatment outcome to both client characteristics and program attributes such as time in program and termination status.

The study included males and females as well as treatment and no-treatment comparison groups. Statistical analyses were performed to test several hypotheses, that the Stay'n Out therapeutic community is more effective at reducing recidivism than no treatment and alternative prison-based drug treatment modalities, and that increases in time in program would be related to reductions in recidivism. These two hypotheses were confirmed, with the main finding being that as time in therapeutic community increases recidivism declines significantly.

Over 1,500 people were involved in the study, and the Stay'n Out Programs at Arthur Kill and Bayview were the two sites.

Just to give a brief description of what the program is, during the early phase of treatment, the major clinical thrust involves ob-

servation and assessment of client needs and problem areas. Orientation to the prison therapeutic community procedures occurs through individual counseling, encounter sessions and seminars.

At the outset clients are given low-level jobs and granted little status. During the latter phases of the recovery process, residents are given opportunities to earn higher level positions and increased status through sincere involvement in the program and hard work.

Encounter groups and counseling sessions are more indepth, and focus on the areas of self-discipline, self-worth, self-awareness, respect for authority, and acceptance of guidance for problem areas. Seminars take on a more intellectual nature as time goes on. Debate is encouraged to enhance self-expression and to increase self-confidence.

Stay'n Out clients, and this is quite important, are housed in units isolated from the general prison population. They do eat in a common dining room, however, and attend some morning activities with other prisoners. Most program staff are ex-addicts who are graduates of community-based therapeutic communities as well as ex-offenders.

Employed by New York Therapeutic Communities, Inc., they act a role models demonstrating successful rehabilitation. NYTC is contracted with annually by the New York State Department of Correctional Services to provide the entire Stay'n Out Program at both facilities. All but one of the units are staffed by a unit director and three counselors; one unit at Arthur Kill has only two counselors.

I might add, again, parenthetically, that Ronnie Williams who is the director of the program is a recovered ex-addict who graduated from Phoenix House himself about 20 years ago.

Upon release, participants are encouraged to seek further substance abuse treatment at cooperating community-based therapeutic communities. About half the program graduates actually continue in residential programs. Extensive involvement with a network of such community TC's is central to the program's operation.

Staff and upper residents of community TC's visit Stay'n Out on a regular basis to recruit resident inmates for their programs. These visitors provide inspiration since they are ex-addicts and ex-felon role models also who are leading now productive lives.

Now, without going into detail about all the statistical analyses that we perform, suffice it to say that male and female Stay'n Out clients do better on parole if they remain in the program for 9 to 12 months rather than terminating earlier or later.

Furthermore, similar lengths of time spent in comparison modalities, and we compared it to milieu therapy, 2-day-a-week group counseling, 1 day a week group counseling and no treatment at all. What we found is that similar lengths of time spent in the comparison modalities do not produce a positive effect.

This pattern was found to be consistent for the other outcome variables as well, leading to the firm conclusion that Stay'n Out is more effective than no treatment and alternative treatments, especially so when clients remain in treatment for an optimal period.

Let me just add that the percentage of success for those spending 9 to 12 months was 77.3 percent. That is for males. For females, it was 92 percent success.

Now, those levels of success compare to the levels of success achieved by the comparison group.

Mr. SCHUMER. Will you just define success for us, Doctor?

Dr. LIPTON. Success, sir, is the not rearrested nor reincarcerated, and when we interviewed successes individually, we found that they had not returned to drugs, had been employed in socially productive lifestyles.

Now, they were not only less likely to recidivate, the clients who spent less time in treatment, but they also did better than clients who remained in treatment over 1 year. In other words, there is a point of release at 9- to 12-months when we achieve optimum success.

I might add that when we looked at people who were failures, who were in this program who were in the failure group, they stayed out significantly longer than persons in the other comparison modalities, so that not only were the failures more successful, but they also stayed out productively during that period, so to me this is a robust, central conclusion.

I come from a ground of skepticism. Stay'n Out research is that hardcore drug abusers who remain in the prison-based therapeutic community longer are more likely to succeed than those who leave earlier and that 9 to 12 months appears to be the optimal duration for treatment.

Now, let me say that Stay'n Out is not the only program that has been evaluated. The Cornerstone program, which is in Oregon, has been evaluated twice, and the results published in 1978, 1979, and most recently in 1990. The results are almost identical, strangely enough, with populations different from Oregon to compared with New York.

Now, moving ahead, that is also a 3-year followup. I might say that the followup that we did in New York followed up people as long as 9 years. We have 6 years of solid followup data, and, interestingly, when you look at cohort after cohort, the results achieved are the same year after year, and it is very significant in the field of sociological analysis—what is going on, everybody is leaving?

Mr. SCHUMER. That is the bells that we are going to begin to go into session, but we still have 15 minutes.

Dr. LIPTON. I will hurry up.

Mr. SCHUMER. Don't hurry up, really.

Dr. LIPTON. Let me just say that the results that we have are consistent year after year with cohort after cohort, and that is very, very different from most sociological outcomes or psychological outcomes to have consistency in findings year after year. It is significant, I think, to note that the success of this type of holistic treatment is probably due to the fact that it deals with many of the social and psychological impediments to returning to acceptable social functioning that inmates possess. It deals with the myriad problems associated with the lifestyle of addiction as well as the drug use, and is, therefore, more likely to be successful in the long run than treatment programs that focus mainly on drug abuse.

The cost-effectiveness of the treatment makes the case for implementing such programs even more imperative. Programs like Stay'n Out cost about \$3,000 to \$4,000 more than the standard correctional cost per inmate per year. Programs like Cornerstone with

more professional staff and one-fourth the caseload per staff member cost a little over twice as much for the same time period.

The savings produced in crime-related and drug use-associated costs, however, pay for the cost of the treatment in about 2 to 3 years.

It is an inescapable conclusion that treatment lowers crime and health costs as well as associated social and criminal justice costs. Moreover, the higher the investment in rehabilitating the most severe offender addicts, the greater the probable impact.

You see, the most serious, chronic—

Mr. SCHUMER. Just say that last sentence again.

Dr. LIPTON. Yes, sir.

Moreover, the higher the investment in rehabilitating the most severe offender addicts, the greater the probably impact, and to explain that, the most serious, chronic heroin and cocaine users, about 3 percent to 10 percent of all offenders, depending on the jurisdiction, are each responsible for a high volume of predatory crime.

Any substantial reduction in such criminality among this group immediately has an impact on our quality of life. Without intervention, this group will return to crime and drug use 9 times out of 10 after release, and most will be back in custody within 3 years.

With appropriate intervention, more than three out of four will succeed, that is, reenter the community and lead a socially acceptable life style, not choirboys, mind you, but socially acceptable. This highly predatory group is amenable to long-term, 9- to 12-month, therapeutic community treatment while incarcerated, and is unlikely to benefit much from less intensive treatment.

Now, parenthetically out of my prepared remarks, I would like to address a question that was raised earlier to Dr. Kleber and Mr. Quinlan. There was an issue raised about the success of therapeutic communities and the early history back in the late 1960's, middle 1970's.

We looked at that question. We looked at all of the therapeutic communities that were in existence during that period and tried to find out what happened to them. We reinterviewed the people who were directors of those programs, prison officials and so forth, who were related to them. Very few were closed because they failed. They averaged 9½ years in existence, which is longer than most programs. They were largely successful anecdotally, but most of them produced no empirical evidence.

Why were they closed? They were closed because budgets were changed, because prison administrators came in with different orientations, but rarely because programs were failures. So there is a great deal of anecdotal evidence about success.

Unfortunately, as Dr. Kleber explained about the four programs he was involved with in Connecticut, there is really a paucity of data. I think that makes the data we have developed here with respect to Stay'n Out and that Gary Field has with respect to Cornerstone all the more salient, but let me tell you about Project REFORM.

Dissemination of the results we received with respect to this program has already generated an important impact on the field. There is a good deal of interest that now has been generated, espe-

cially with respect to the prison administrators around the country.

In 1987, the Bureau of Justice Assistance of the Federal Department of Justice funded our organization, which was NDRI, to initiate Project REFORM, to provide technical assistance to State departments of correction to help them plan statewide comprehensive drug abuse treatment strategies for correctional inmates and implement the plans that developed.

In the 2 years that NDRI's Project REFORM has been in operation, 11 State departments of corrections, Alabama, California, Connecticut, Delaware, Florida, Hawaii, New Jersey, New Mexico, New York, Oregon, and Washington, have received technical assistance in developing or enhancing their comprehensive prison-based drug abuse treatment systems from NDRI's technical assistance and training team.

In the REFORM States that have completed at least 8 months of implementation, Alabama, Connecticut, Delaware, Florida, New Mexico, New York and Oregon, the number of drug abuse treatment system components now operating as a direct consequence of our technical assistance are 72 assessment and referral programs; 118 drug education programs; 71 drug abuse resource centers; 82 in-prison self-help 12-step programs; 15 urine monitoring programs; 128 prerelease counseling and/or referral programs; 49 post-release treatment programs; and 77 isolated unit therapeutic communities that were initiated or improved.

Now, the latter are the kinds of programs that were described earlier, like Stay'n Out.

Now, let me just say that they are not all 9 to 12 months. They are of different lengths of time. The reason for this, in part, is because the length of imprisonment that is possible in Florida. For example, Florida decided to initiate short term as well as long term, and to also allocate people to them based upon need.

As a direct consequence of Project REFORM's work, for example, the New York Legislature recently adopted a coordinated approach to treatment in its omnibus prison bill, a \$1 billion package emphasizing treatment with Stay'n Out as the model program. It makes an alcohol and substance abuse treatment facility of 750 beds and seven 200-bed substance abuse annexes the core of its expansion. These facilities will utilize outside contractors for providing drug treatment for inmates, who are within 2 years of parole eligibility, and will guarantee participating inmates a slot in their noncorrectional treatment facilities upon release. The bill also provides \$500,000 to train up to an additional 300 counselors to be used as part of intensified drug treatment programs.

Now, again, parenthetically, let me note that in Alabama, which had no program whatsoever, they now have five therapeutic communities. They now have every prison on line with respect to drug abuse urine monitoring. They have drug abuse resource centers and education going on in every institution, and that is solely with the total investment of about a half million dollars.

Now, they went from no program whatsoever to a really sophisticated level of programming so the tremendous insight, I think, lies there is that a little bit of seed money really turned loose dormant

energy; it was a catalytic role in just spawning a tremendous amount of program.

Incidentally, their rate of drug use in the institutions went from 28 percent down to less than 2 percent within short order by utilizing in-prison urine tests to determine whether people were using drugs while incarcerated.

Now, recently we conducted a 3-day workshop in correctional drug abuse treatment for 6 more States, Colorado, North Carolina, Virginia, Georgia, Michigan and Pennsylvania.

I am sorry our two colleagues left because I would like to have noted that to them. This was in June of this year.

This workshop was sponsored by the office of treatment improvement of ADAMHA and another workshop is tentatively planned for the fall for six more States.

Now, BJA has terminated the program, asserting that their goal was to stimulate the States to action and let the initial 10 States serve as models for the rest of the States using their block grant money.

OTI, under the leadership of Dr. Beny Primm, has eagerly picked up the program, and the program manager is Nicholas Demos, an unusually dedicated public servant who ran the corrections program for BJA.

One conclusion I would draw from our work with the States and from recent surveys has been that there is an enormous interest in doing rehabilitation among correctional administrators, an interest which has been lying dormant for about 15 years, and strong attitudes on the part of the public in support of rehabilitation as opposed to incapacitation and punishment.

It is significant to note, Mr. Chairman, that there were many more applicants for the program than could be afforded. It is apparent, moreover, that seed money provided by the BJA and the original reform effort was catalytic in stimulating the interest of the States and was sufficient to generate State revenues far in excess of the Federal investment.

The Federal BJA portion amounted to about \$500,000 per State, for both planning and implementation. The States, in consequence, without being required to, have appropriated about four to 10 times that much out of their own tax levying moneys to make the programs happen.

For this Federal investment of about \$5 million, a great deal of programming was generated. The OTI's current commitment of \$4 million for this purpose will allow the mission to continue but at a very slow pace. It is my hope that my testimony today will encourage this committee's consideration of expanding this program to provide funds to stimulate planning and implementation for correctional drug abuse treatment to all the States following the BJA model that has been so successful.

Do I need to stop because of that bell?

Mr. SCHUMER. No.

Dr. LIPTON. All right.

Let me just briefly mention that the programs don't stop at the walls. They have to continue into the community, so you need continuity of care or continuity of treatment.

AA programs are not enough. They have never been evaluated. Although I am sure they do some good, the drop out rate from those programs is very, very high, particularly MA and CA programs.

Mr. SCHUMER. Does Stay'n Out have an after-prison component?

Dr. LIPTON. Now it does.

Mr. SCHUMER. But it didn't during the 5-year study?

Dr. LIPTON. About 55 percent went to community-based treatment programs like Phoenix House and others in the community, Samaritan House, JCAP and a few others in New York.

Mr. SCHUMER. There was a statistical difference?

Dr. LIPTON. Yes. Those who went to those programs did better than those who did not.

Mr. SCHUMER. Do you have those numbers?

Dr. LIPTON. Not off hand.

Mr. SCHUMER. If you could submit them?

Dr. LIPTON. I would be glad to.

[The information follows:]

After Stay'n Out

Differences between the groups are more conspicuous after Stay'n Out, as might be expected, since the Successes are defined essentially by their remaining free from crime. Table 5-3 presents some of the variables which provide an indication of the changes in lifestyle that occurred after the Stay'n Out treatment program. The nature of parole release after Stay'n Out shows that 80% of the Failures were released directly to the community from Stay'n Out as opposed to 50% of the Successes. Closer examination of the data shows that while only 10 of the Successes were referred to continued treatment, 13 went on to community TCs. Although four Failures were paroled to TCs, only two engaged in treatment for more than a month.

Perhaps the most important difference between the two groups is that the Successes spent significantly more time in in-patient drug treatment (a community-based TC) than the Failures. The mean number of months in treatment for the Success group was 8.9, while for the Failure group it was 0.25 ($p < .001$). One reason that Stay'n Out graduates drop out of community-based TCs is because they have difficulty adjusting to their new status. Having risen in the Stay'n Out hierarchy, they find themselves beginning over at the bottom of the hierarchy in the community-based TC.

Source: Wexler, HX; Falkin, GP; and Lipton, DS. "A Model for Prison Based Drug Treatment," New York: NDRI, 1988.

Table 5-3
Experience After Stay'n Out

Experiences	<u>Successes</u> (n=20)	<u>Failures</u> (n=20)
Nature of parole release after Stay'n Out		
To community	50%	80%
To TC ^a	50%	20%
Mean number of months in inpatient drug treatment (TC) after Stay'n Out	8.9	0.3***
Satisfaction with treatment in TC after Stay'n Out ^b	8.4	4.6**
Parole officer satisfaction with respondent ^b	8.1	6.0*
Number of threats by parole officer	.2	.8*
Continued contact with Stay'n Out since release ^c	88%	25%***
Took college courses after Stay'n Out	55%	25%
Had problems with living arrangements on release from Stay'n Out	16%	35%
Had problems with employment on release from Stay'n Out	37%	55%
Number of Jobs since Stay'n Out	2.1	2.6
Number of months employed since Stay'n Out	44.2	13.3*
Longest time (in months) on a single job since Stay'n Out	35.4	9.3**
Had some job training since Stay'n Out	60%	20%*
Number of promotions since Stay'n Out ^c		
None	37%	95%***
One	32%	0%
Several	32%	5%

a. Therapeutic Community

b. Magnitude scale from 0 (lowest rating) to 10 (highest rating).

c. Sample size varies for the success group (n<20).

* p<.05

** p<.01

***p<.005

Dr. LIPTON. As I noted earlier, Mr. Chairman, I am a researcher, and it would be unseemly, then, if I did not recommend that research be funded in this important area.

I see the need in three arenas.

First, there are no data regarding the success of treatment programs for institutionalized youths who were drug abusers before arrest or who were at high risk for becoming abusers. Nor do we know the extent of the need for treatment within this population, that is, the incarcerated youthful offenders. We suspect, of course, that it is high.

There is also a need for study to evaluate such programs for incarcerated women. Stay'n Out is the only one so far that has looked at this question.

Second, much of the information we assembled during the 1970's and 1980's came from studies with heroin users. The vast numbers of persons being incarcerated today are cocaine abusers, particularly abusers of crack.

We need to know much more than we do about the treatment of crack cocaine and whether the treatments that were developed and successful, I might add, during earlier periods still have validity for crack users.

Mr. SCHUMER. May I interrupt you there.

But Stay'n Out, it seems, looking at the numbers, a large percentage were crack users; is that correct?

Dr. LIPTON. Not crack. Cocaine.

Mr. SCHUMER. Cocaine, I mean. You can't draw an analogy, you think, or can you, between cocaine and crack in terms of your study's validity for crack? I will ask you that later.

Dr. LIPTON. OK.

We actually have a proposal before NIDA right now which has been approved to, in fact, do the same study, do the study that we did with Stay'n Out for crack users.

Third, there is a need for studies of innovative techniques, like hair analysis, sputum analysis, electronic monitoring for monitoring the criminally involved drug abuser for surveillance purposes, clinical purposes and research purposes.

With better techniques, we can assure the safety of the community while treating persons in the community where it is less costly. We can release persons earlier, relieving the overcrowding situation.

Another point I wish to emphasize, Mr. Chairman, is the need to include a wide variety of services to meet the needs of the imprisoned population. These persons, largely from minority groups and from well below average income backgrounds, lack social and vocational skills, lack literacy and numeracy and suffer from a variety of psychological and psychiatric ills. They function poorly without remediation of these problems, but do respond well to habilitation programs that provide these components.

My 27 years of experience in this field and my own and my colleagues' Dr. Wexler's, research lead me to believe, and I believe what I say is shared with the treatment professionals in the drug abuse field, that offenders' addictions cannot be treated in isolation from their medical, psychological, social and practical deficits. Programs that are initiated must deal with inadequate communication

skills, inadequate understanding of human relationships and responsibility, insufficient maturity level and inadequate job skills, among other things.

Habilitation programs, such as Stay'n Out and Cornerstone, deal very well with many of these deficiencies, but they still lack the breadth of service programming necessary to help many persons. The men who failed in Stay'n Out, for instance, in most cases failed for vocationally related reasons.

The success of programs like Stay'n Out, however, can be enhanced and sustained with a thoughtfully coordinated continuum of therapeutic service that is strongly warranted for criminal justice populations.

There are persons in senior policymaking positions as well as academia who could not agree that rehabilitation is or should be one of the key purposes of the post-adjudicatory system. If it comes down to a matter of opinion whether the State has responsibility to undertake correctional rehabilitation, I will firmly declare for it. The empirical evidence unquestionably supports its utility.

I assert that the State has both a responsibility to encourage and sponsor rehabilitation for addict-offenders, and a propitious opportunity to do so.

I argue that the objective of the criminal treatment system are to prevent crime and to prevent anomie. These objectives are implemented by the post-adjudicatory treatment system, by administering sanctions that have a sufficient degree of unpleasantness to demonstrate to the public that the threats annexed to the prohibition cannot be ignored without consequences and to reinforce the confidence of the public that the State is determined to uphold the norms through a demonstration of action taken against offenders, and by preventing recidivism through the use of sanctions as a vehicle for administering rehabilitative techniques to bring offenders to the point where they will voluntarily observe the prohibitions in the criminal law, and preventive force through incarceration or close community supervision so as to limit opportunity to offend again.

Punishment to make the threats a reality to the individual offender so that he or she will be more responsive to them in the future. I hold further that rehabilitation is a part of the social responsibility of the post-adjudicatory system as well as its legal responsibility, and that this is true particularly for the drug offender where custody in the post-adjudicatory treatment system provides control and opportunity exercised pursuant to law.

Incarceration is both the setting and the opportunity for the administration of rehabilitative programs, and we have cost-effective technologies that will yield favorable outcomes. Hence, three balanced purposes can and should be effectively and simultaneously served. Punishment, that is individual deterrence, direct preventative force, that is incapacitation, and retention for prosocial change, that is rehabilitation.

In summary, I believe that just serving time inexorably degenerates both inmates and their keepers. I believe that we should use time as an opportunity for change. It values both and eventually alters the quality of life for all human kind.

Thank you for the opportunity to share these insights and thoughts with you.

This concludes my testimony. I will be pleased to answer any questions that you may have.

Mr. SCHUMER. Well, thank you, Dr. Lipton.

[The references used for Dr. Lipton statement are as follows:]

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Mr. SCHUMER. As I have said a few times before, I think your testimony is incredibly important and should really help direct us. As you say, it is beginning to do already, which makes me feel a little better.

I guess my first question is just a general one.

Given the astounding nature of your findings, given that the country is sort of in search for solutions, and I think we are away from the ideological fights earlier, why hasn't it just taken on? Why hasn't it caught on like wild fire?

Why is it that good people like Dr. Kleber and Director Quinlan, they obviously have financial constraints that they can't talk about that freely here, but it would seem to me that this is sort of revolutionary, almost.

So do you have any speculation, I mean. Here you have done this work—you are obviously very enthusiastic. You are a man everyone I speak to has great respect for, and yet with the evidence out there, we should be doing much more. This shouldn't be a trickle, trickle thing that happens 5 or 10 years from now. You must—

Dr. LIPTON. I have some insights, I think.

One is that the audience who reads this tends to be already converted. The people who are in favor of just deserts, that is a justice model which stresses individual deterrence, do not believe the results.

Mr. SCHUMER. In other words, they think something is wrong with your findings?

Dr. LIPTON. Well, they don't come out and say that precisely.

Mr. SCHUMER. But that is what they believe?

Dr. LIPTON. They believe that the system works better if it is as negative an experience as possible so that people will be deterred. That has never worked in the history of man. Yet there is a consciousness which I think was exemplified by our former Attorney General and some of his appointees that stress the need to return to much more severe kinds of punishment, and who believe that we should hold people in prison much longer.

The outcome of that, of course, is that you need to build more and more prisons. It does not deter people and most people are out in about 2½ years, and they return to their former kind of conduct.

Now, unfortunately, there are a lot of people who are of the mind to open up and initiate rehabilitative programs, but they need seed money. Corrections, generally, in State budgets is the bottom end of the barrel.

If money is left after education and health and other concerns—road building, infrastructure concerns, maybe they will get a dribble.

Mr. SCHUMER. That is changing, though. New York State has—

Dr. LIPTON. Well, New York State is not unique, but very unusual in this regard.

Let me tell you a brief example.

I was called to come to Oregon by the Governor who had set up a whole day for me or at least about 4 hours.

I first spoke to the State legislative staffs and State legislators at 9 a.m. At 10 a.m. I was called to his chambers, sat around a large

conference table with the key legislative committee chairpersons, ways and means, finance and so forth, and then I spoke with his staff, and then I spoke with the correctional and criminal justice staff generally, and I did the same number each session, and his mission was to use me to educate them about the need for this.

They initiated programming right there, and it takes a Governor to put his arms around all of the competing agencies and say, I want you to work together to achieve this end.

It does not help to just let corrections know because they have to compete with all these other organizations, but if the Governor says this is my pronunciamiento and I want this to happen. It tends to happen. It is a matter, however, of seed money.

In most States they would like to do this. We have been contacted by many States around the country, but they need enough money just to get started, and with the money they can then invite persons like myself and Gary Field and others who have been successful, at least shown success in coming and speaking to them.

Let me say that I can't take any credit for the success of Stay'n Out. I did not run Stay'n Out. In fact, I started out saying this program probably doesn't work, so I moved from a point of, well, some skepticism to a point of considerable support.

Mr. SCHUMER. Have you given these findings publicly before?

Dr. LIPTON. Not before Congress. I have presented—my colleague, Harry Wexler, did present before Senator Kennedy's committee, and I have spoken before bodies in various States, but only at their invitation.

It is hard for me to solicit to go and speak to them.

Mr. SCHUMER. Sure.

Let me ask you this, would some dispute the methodology? What about the difference between crack and either heroin or cocaine?

Well, address those and any other arguments in terms of it being unique, different, not applicable to the whole.

Dr. LIPTON. All right.

With respect to the methodology, these people are not different. I have in the paper, I believe, the characteristics of the population. If anything, they are worse, not better.

Mr. SCHUMER. I saw them. How were they selected for Stay'n Out? Did they have to ask to go?

Dr. LIPTON. Yes.

Mr. SCHUMER. So that is one difference.

Dr. LIPTON. Many more asked than were allowed to enter.

Mr. SCHUMER. But then who didn't ask wasn't allowed to go to Stay'n Out?

Dr. LIPTON. That is correct. At the time it began there were only 35 beds in the male institution, then they added female, then they added more male beds. At this point there is only 140—some adult beds.

Mr. SCHUMER. So it is in a sense somewhat voluntary?

Dr. LIPTON. Well, all programming ultimately is. Therapeutic community essentially operates by an agreement to interact between an individual and a set of very confrontational circumstances. It is not an easy road. It is much tougher to be in a program of this kind than to be in the general population.

Mr. SCHUMER. If we were crafting something here for the Federal Government or for grants to the States, we would make it a program where people who wanted it would have it available but not everyone would be forced to do it?

Dr. LIPTON. I think as a practical matter, there is really no sense in having it available for everyone.

First of all, there aren't enough trained people, there aren't enough ex-addicts who are gifted enough to do this.

Second, we don't have the isolated units that we could do.

Now, let me just say in answer in part to an earlier question, and related to this is that 60 percent of the successes in the Stay'n Out Program did not enter the program with any intention of change. They entered it because of some incentive that pulled them in. They entered, in fact, for nefarious reasons. They figured they could get out earlier, they figured it would be easier, they figured they could get better clothes. It was a safer environment, so they entered without any intention of change.

So the critical issue is not a matter of coercion but creating sufficient incentives, both positive and negative, to make them move in that direction. Once they get there, the process itself begins to change them, so it is not initial motivation that counts, but creating a situation which will take any motivation whatsoever and alter it subtly over time so they move in that direction.

Mr. SCHUMER. Could you comment on those who would say, well, yes, Lipton's studies, Stay'n Out, they did very well, it shows it works with heroin or cocaine, but crack is a totally different animal.

Dr. LIPTON. Twenty-eight percent of the people we worked with were cocaine users, and this is people who were in prison in the early part of the decade, back in 1977, 1978, 1979, in that area. The program began in 1977. So we followed people right up through 1986.

Mr. SCHUMER. Is that when the study cut off, 1986?

Dr. LIPTON. That's when the study cut off our followup. We published our initial results in 1987, and it was—I was invited by BJA to come down to help them when they first had money from Congress to set up programs, and I came down with a full program, and so they called the next day and invited me to become the national program coordinator and do the technical assistance with this model.

Now, they were convinced on the basis of the initial report.

Now, we subsequently published, you know, even finer results which looked at the 60 to 90 days immediately after recovery to see what were the differences between those who succeeded and those who failed, and typically the area was the vocational. In other words, it did not prepare them for the world of work, and that is why we needed to add that.

Let me just also add that testing in the institution is necessary. I mean, the Alabama example I gave you is an important one. You cannot do any kind of programming, whether it is TC or an institutional program of any kind in an atmosphere where drugs are available. It just makes no sense at all.

Mr. SCHUMER. What about crack, though? You said 28 percent were cocaine.

Dr. LIPTON. There was no crack. Crack didn't appear until 1984, didn't become prominent until late 1985, 1986, so we don't have data on crack users.

Mr. SCHUMER. So what would be—if I were to go to my colleagues and say we should be funding something like this, they would say, well, this deals with heroin, cocaine but not with crack, crack is a different animal.

Dr. LIPTON. Well, all I can do is give you an assertion.

Mr. SCHUMER. What do you think? I trust your judgment.

Dr. LIPTON. This is a very powerful modality. Drug involvement is not a function so much of the drug as it is of the life style. What this modality does as a holistic approach is attack the life style, and not only attack it, it sets up a whole framework for a new one.

As they emerge, they can emerge from any kind of drug use. I would submit they can probably emerge without any kind of drug use whatsoever as just offenders in this kind of atmosphere.

I worked at doing an evaluation of a therapeutic community for the worst offenders in New York State that was set up in 1966-67 up in Dannemora, when Dannemora was closed and Clinton Prison is right next door to Dannemora. I did an evaluation of a program that was run by Bruno Cormier from the University of Montreal that brought in a whole team of professionals and they said give us your worst, so the prison wardens from around the State were more than overjoyed to send all their worst offenders. So we had 50 men in a TC in Dannemora, in the closed institution where we opened up one ward. And after 1 year of release, after 1 year of treatment, only two people had come back, and this was the worst group that you had ever seen.

Now, it became the Clinton Prison diagnostic and treatment center and then ultimately was incorporated into the institution. It was much too expensive for the State of New York to maintain other than as an experiment, so TC's are powerful instruments, and they are designed for human change and resocialization.

What it does is it takes you back to kind of a kindergarten level and then brings you back up.

Mr. SCHUMER. Would most experts agree with you that while there are no longitudinal studies about crack, that if it works for the kind of people we are talking about, it is likely to work for the typical crack user?

Dr. LIPTON. It is hard for me to say what others would agree to. I would think that if anything would work, a modality that is as intensive as this would work.

Now, as I said, we have a grant pending to just do that precisely.

Mr. SCHUMER. What about the idea that in Stay'n Out people were screened, had no history of violence, arson, sexual crimes, would that indicate that they were a lesser problematic group?

Dr. LIPTON. Those were the initial criteria. After time went on, the criteria were relaxed, and so I have, for example, on my staff Stay'n Out graduates who are guilty of manslaughter.

Mr. SCHUMER. So violence did not stay all the time as a—

Dr. LIPTON. That is correct.

Mr. SCHUMER. OK.

I just want to say to you, Dr. Lipton, that I think your testimony is amazing. We are going to have other hearings. I hope you would be here.

Dr. LIPTON. I would be pleased to, Mr. Chairman.

Mr. SCHUMER. Because this, to me—I was talking to George Gekas, and he said everything is so depressing about all of this area, and to me this is a ray of hope. I don't think we have to get involved in any of the ideological discussions about human nature, the purpose of man, even the purpose of corrections as long as we can say that—if you are paying \$25,000 a year to incarcerate someone, pay other \$3,000 or \$4,000 a year and you reduce the chances of them coming back by such huge significances. It makes sense regardless of your party ideology, et cetera.

Dr. LIPTON. Sure, you pay for the program right away.

Mr. SCHUMER. Did Stay'n Out take people—you said it works best 9 to 12 months. Did it take people who are in the prison for 2, 3 years and then in their last year—

Dr. LIPTON. Yes, that is how it was designed. People entered the program when they were about 18 to 24 months priority release.

Mr. SCHUMER. Did it take people who had just gotten a 1-year sentence as well or just people who had been in prison a long time?

Dr. LIPTON. No, it took people who were in prison for a variety of times, there were some people who had been incarcerated as long as 7 or 8 years. Others had been incarcerated only about 1 year.

Mr. SCHUMER. The New York program you mentioned, the 1989 budget, has that been cut back in the new 1990 budget with all the austerity that is going on in New York?

Dr. LIPTON. I don't know. I am not sure.

Mr. SCHUMER. I think it may have, but, if not, then a large percentage of New York prisoners will be given this kind of opportunity.

Dr. LIPTON. When the programs are implemented, you need to build facilities first. There is a substantial capital investment.

Mr. SCHUMER. They can't just take a part of the prison and use that?

Dr. LIPTON. They are doing that now. There are 51 programs, therapeutic milieu-type programs now going on. Most of them, however, are like one of our comparison programs, not like Stay'n Out. There is only one Stay'n Out at the present.

Mr. SCHUMER. Does it matter if they just took a wing of the prison and it was isolated from the others or set up a whole new prison?

Dr. LIPTON. No, that is all you need to do. In fact, you can take over any space and say, all right, this is going to be that.

Mr. SCHUMER. Well, I don't have any other questions. I want to thank you for the work you have done, not just for being here today.

I will tell you as far as I am concerned, we are going to do everything we can to get the word out. When that happens, I think you will see people move in the direction that you were talking about.

Dr. LIPTON. Thank you.

Mr. SCHUMER. Are there any questions?

Mr. SMIETANKA. I have no questions, Mr. Chairman.

Mr. SCHUMER. At the end of each hearing, I always like to thank our court reporter for doing their hard and diligent work. Today it is Ann Blazejewski, if I pronounced it correctly or close enough. I want to thank you. I want to thank my staff, minority staff for all their help.

Thanks.

The hearing is adjourned.

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

**OVERSIGHT HEARINGS ON EMERGING
CRIMINAL JUSTICE ISSUES**
**(Sentencing Options and Alternatives for Drug-
Dependent Offenders)**

WEDNESDAY, AUGUST 15, 1990

**HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIMINAL JUSTICE,
COMMITTEE ON THE JUDICIARY,
*Washington, DC.***

The subcommittee met, pursuant to notice, at 10:35 a.m., in the gym of the Bibby Resolution, Pier 36, East River, New York, NY, Hon. Charles E. Schumer (chairman of the subcommittee) presiding.

Present: Representatives Charles E. Schumer and George W. Gekas.

Also present: Don Goldberg, professional staff member; Dan Johnston, counsel; Teresa Faunce, clerk; and Raymond V. Smietanka, minority counsel

Mr. SCHUMER. The hearing will come to order. And first, before I get into my opening remarks, I want to thank the warden and everyone here on the Bibby Resolution for allowing us to have the hearing here and doing the great job that they have done in settling us in and everything else.

It's very difficult times right now, people are very, very busy because of what's gone on on Rikers Island. Unfortunately, that means that some of our witnesses are not going to be able to be here, that means that some of the people from the media and press who were going to be here are not going to be able to be here.

But my view is this is an important enough subject that if we have these hearings and get the word out that something will be done in terms of drug treatment. And so timing may have conspired a little bit against us in the short run, but not in the long run, because when you have a good idea and when you have some facts that prove it's a good idea, nothing can stand in its way over the long term.

But I do want to give my sincere thanks to the warden, I guess he left already, I see Deputy Warden Summers is there, and to everybody else, all the staff who facilitated us being here today.

I want to thank everyone for coming, the witnesses, my colleague George Gekas, who came in from Harrisburg, PA, just to be here this morning.

And, of course, this is an unusual location for a subcommittee hearing, but I wanted to hold it on the Bibby Resolution because it underscores the intent of this hearing which is very simply that drug treatment for drug-dependent offenders is the best chance we have for keeping them out of the criminal justice system.

This facility contains more than 300 beds for inmates with substance abuse problems, it is dedicated solely to those cases, and that's a direction as policymakers we have to examine. We need to commit the space and resources within the prison systems nationwide to treating the substance abuse habits of offenders so we can turn them into productive citizens.

Let me first share with you some recent statistics of drug use in the New York City criminal justice system. For the fourth quarter of 1989, according to Drug Use Forecasting, that is DUF—let me interrupt and say here is the warden. I just wanted to thank you personally, I did for the record, for all the work you have done to allow us to have the hearing here.

Seventy-six percent of all males entering the system tested positive for drug use, 68 percent of that was for cocaine. For women the figure was 72 percent, 64 percent for cocaine. That's the bad news. But there's good news. The good news is that those figures are the lowest since DUF started keeping track.

That doesn't sound positive but, in fact, the 76 percent for male arrestees is down from 90 percent just 1½ years ago. For women arrestees the high peaked at 83 percent 2 years ago. So the numbers are down, although they're still outrageously high.

The drug problem is not just a local nightmare, it's a Federal problem too and the Federal Government has a responsibility to solve it. What should we as Federal policymakers be doing to lessen crime caused by drug abuse? That's what we're after today.

And again, it is my belief when the public hears of the success that therapeutic drug treatment has in the prisons, they're going to become enthusiastic about this program.

At the first part of this hearing which was held last month in Washington, Dr. Doug Lipton of the Narcotics and Drug Research, Inc., reported on his view of Stay'n Out Program. His results were astounding.

His admittedly skeptical review of Stay'n Out found a 70-percent success rate for those who stayed in the program 9 months. That's incredible. That means that 7 out of every 10 prisoners who were given therapeutic drug treatment never again committed a crime.

Now, that is something the public just doesn't know and ought to know. The purpose of this hearing is to get them to know it because there is hope. For years and years we've been told there is no hope, recidivism rates have to stay high, we have to build more and more prisons, et cetera, et cetera, but this is an example of hope.

And by the way, I think it's an issue that liberals and conservatives can unite around and that's because on the one hand, it does return people to their use as productive citizens, while on the other, it reduces crime, and reduces crime in a not very expensive way. The cost of staying out, for instance, is \$2,100 a month.

And so success of the program proves that within the criminal justice system if drug treatment is carried out for a minimum length of time it can work, it can keep offenders from resorting

back to their destructive habits, keep them away from crime and keep them out of jail.

We hear about the disturbance that occurred on Rikers the other day. If there had been more drug treatment at Rikers, then we might not have had that disturbance, conditions would have been better for the prisoners, conditions would have been better for the correction officers, and we might not have the awful results that we had last night. So people should be here at this hearing today listening to how to avoid what happened there at least in part.

We all know that our jails and prisons are overcrowded and doing little more than babysitting for offenders. We all know that a high percentage of those entering the criminal system are testing positive for drug use. We just don't have the jail space to house everybody. We have to do something to treat their addictions and get them out of the system.

We're going to hear from a good number of witnesses who are going to tell us how therapeutic drug treatment works in the prisons, we're going to take that message back to Washington, and then we're going to try to do something about it at the Federal level and hopefully at the State and local levels too.

So I want to thank all of you again for coming and I want to thank especially my colleague George Gekas for coming as well, and turn over the microphone to him.

One of the things about the Bibby Resolution is it has European electricity, so you have to bring your own sound system because regular microphones don't work.

STATEMENT OF HON. GEORGE W. GEKAS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. GEKAS. I thank the Chair. It is true that the evidence is overwhelming that drug dependency within the prison system is part of the battle that has to be waged in this war on drugs in which we're engaged.

And what you are doing, those who are participating in this hearing in what ever form that is, and how ever small you might think that contribution is, it is helping us establish a message among our colleagues in the Congress and throughout the law enforcement community nationwide, that indeed that war on drugs cannot even be waged without one of the battlegrounds being identified as the prison system itself and that drug dependency within that system has got to be one of the thoroughfares of battle.

So the job will become easier for us once the record is complete from testimony such as you are about to give.

And since I've been preempted, I turn back the microphone and let's begin.

Mr. SCHUMER. OK. Thank you Mr. Gekas.

One of the programs that has had tremendous success one of the few really in terms of therapeutic drug treatment in the prisons is the Stay'n Out Program, which is located here in Bayview, Staten Island in New York City, and we have several people from that program.

One, of course, is Ronald Williams, the director of the Stay'n Out Program. He's been executive director of New York therapeutic

communities for the past 13 years, and William Watson who directs Stay'n Out at the Bayview facility for women.

You may please come to the——

Mr. WILLIAMS. I'm Mr. Williams. Mr. Watson isn't here as of yet. However, I do——

Mr. SCHUMER. Would you like to wait, is he expected?

Mr. WILLIAMS [continuing]. Have a couple of staff members with me that I was asked to bring along, and I think I can start now.

Mr. SCHUMER. Good. So why don't you bring them up and introduce them for the record and we'll be ready to hear your testimony.

And as I understand it, you two gentlemen are graduates of the program itself and you now work for the program; is that right?

Mr. MCGEE. Yes, sir.

Mr. SCHUMER. So if you would give us your names just for the record here.

Mr. MCGEE. My name is Dorian McGee, and I'm a senior counselor at Arthur Kill Correctional Facility——

Mr. SCHUMER. You have to speak into the microphone.

Mr. MCGEE. My name is Dorian McGee, I'm the senior counselor at Arthur Kill Correctional Facility for the Stay'n Out Program.

Mr. DAVID. My name is John David, I'm the assistant director of our new community based facility.

Mr. SCHUMER. And, of course, we have Mr. Williams the director. And, Mr. Williams, you may speak as you wish, and then we'll ask our two other panelists to speak as well and then we'll ask some questions.

Mr. WILLIAMS. Thank you, Mr. Chairman.

Mr. SCHUMER. Thank you. And it's really a pleasure for me to be here, and Stay'n Out should be—it's a beacon to me and it should be a beacon for the whole country, and we hope to get the message out.

Mr. WILLIAMS. Thank you very much.

Mr. SCHUMER. OK, Mr. Williams.

**STATEMENT OF RONALD WILLIAMS, EXECUTIVE DIRECTOR,
STAY'N OUT PROGRAM, ARTHUR KILL CORRECTIONAL FACILITY**

Mr. WILLIAMS. I don't think I have to state my name again since it is known, and also I don't think I really have to describe the program itself, because I understand that Dr. Lipton did an excellent job of that earlier on.

Since you know something about the program, how it operates in essence, what I'd like to address is the results of that program. And I'd like to maybe start it out with a small amount of history about myself.

I am executive director and I have had involvement in the drug abuse field for almost a quarter of a century now, 25 years. My earliest involvement is a halfway house that myself and five other individuals started many, many years ago that I eventually named Phoenix House. So that just shows a part of the history and also how far back that that goes.

I think that the interesting part of the Phoenix House venture though is that when I started Phoenix House I was also on parole.

I was incarcerated in the New York State prison system for 5 years. And the reason behind that incarceration is the reason we are all here today.

I was a drug addict. I used heroin for approximately 11 years. And in that 11 year time span I was in and out of prison in the same fashion that the average addict is.

The interesting part about that particular journey is that in those days they had a saying that was, once an addict always an addict. And if there's anybody that actually believed that saying, it was the addict. I thought that I had no hope, I thought that I had no future.

Let me digress a second, because I think you might find it interesting. I'm 48 years old. When average individuals ask me how old I am I normally say that I'm 18 years old. And the reason for that is that as a street addict I sincerely believed that I would never live to be 30. I had accepted that fact. I had many friends that had died around me at a very young age.

I understood the risks of going into and out of jails or to places like the Comstock Correctional Facility where you really have your life in your hands. I expected by the time I was 30 I would either be dead from an overdose, that I would be cop shot, that I would be found on a roof or in a back alley somewhere, and that is a part of the addict's lifestyle.

So the fact that I'm 48 years old today says to me that I got 18 more years of life that I never imagined I would have. And I think that that is what we're actually talking about today, that I have not only 18 more years of life, but also 18 productive years of life.

That it was because of an aftercare program that I found my way out of that vicious cycle that I had been living in for many, many years. And it was because of the treatment that I found there that I can sit before you today and testify. In the TC world we often say our treatment saved our life. Well I don't just say that, I sincerely believe that.

So as we talk about the Stay'n Out Program, I just would really like to emphasize that the creation of that program it was done by a man who at one time had a death sentence that was called addiction, and through treatment was rescued from that life so that I could eventually create Stay'n Out which I hope will help many, many thousands of other inmates that were in the same fashion I was at one time, helpless and hopeless.

I have been asked often times what the issue is around inmates, the recidivism issue. People say, well, I think that they just like prison, you know, they get the three hot's and a cot and, you know, get food and it's comfortable. Let me assure you, gentlemen, there is no comfortable prison that I've ever seen.

When you lose your freedom and also you're in a very violent environment, it is very uncomfortable indeed. I suggest that the phenomena you see is not the fact that they like that environment but that they are trapped in a circumstance that is called lifestyle.

As we talk about treatment we divide it up into three areas. The first area is attitude, the next area is behavior, and the final area is lifestyle. In order to successfully address the problems of addiction you must also successfully impact on those three areas.

The attitude. My attitude as an addict was, you know, I am an addict and I'll always be an addict and I will die an addict and therefore I behaved like an addict.

In our Stay'n Out Program I have the luxury now of addressing the first two major issues in treatment, that is, attitude and behavior. Anybody who has ever visited Stay'n Out comments on the attitude and the behavior of our residents. They look at them and say, oh, you know, they don't act like inmates, they don't look like inmates, and that is because there is a marked change in the jail-house attitude, as we call it, and also subsequently their behavior. So what you have then are individuals who are in the midst of change and who manifest that.

The superintendents and I think the overall staffing patterns of correctional facilities like that, it is good for them because those particular individuals are always well behaved, they don't really have to worry about the violence.

And in an overcrowded institution any time you have even a corner of it that is indeed quiet and under control and well behaved, everybody is thankful. It offers the individuals an opportunity to utilize time that might otherwise be wasted by a simple incarceration.

I must emphasize, incarceration of itself does not cure addiction. When we actually talk about addiction we aren't only talking about the physical aspects of it. There is a profound mental aspect to it that must also be addressed.

While we have the men there, and also the ladies, we were able to start to retrospect and to look backwards at what has happened to you over the time, while you are currently incarcerated and what you will do when after 3 years or 5 years or 15 years you are finally released with the magnificent sum of \$40 and one suit to return to New York City and to reestablish your life.

We very, very strongly encourage all participants that there is a major aspect they must address upon release. That is the last aspect of the treatment issue which is called lifestyle. What is lifestyle about?

When I was released from the Comstock Correctional Facility after 2½ years, I sincerely felt at that time that I had seen God, I did not wish to ever return to any correctional environment ever again. And I walked out of the doors of Comstock fully prepared not to return.

Then even as an ex-inmate without any treatment experience, I discovered some things that are very vital to treatment knowledge. The first thing I found out is that man is a sociable animal, man needs affirmation from man just for their mental health. It is necessary for a human being to feel either recognition or else approval or a kind glance from other human beings.

I discovered after I left Comstock with the \$40, and a couple of other dollars that I made in the soap shop and I came back to Manhattan and found out that my grandparents who were God fearing, law abiding, West Indian people, were so mortified that their grandson Ronnie had wound up in prison, that they had sold the house and moved back to Jamaica. I found out that the young lady who I had been seeing was now married with a child. I found out that those individuals in the old neighborhood who were positive

people remembered Ronnie when he was an addict and they looked at him with fear.

I eventually found out that the only people that welcomed me back were the addicts. They were the only ones that said, hey, Ron, it's good to see you. And intellectually I knew that this was wrong. However, emotionally I was—and anybody that would look at me kindly, I welcomed it. So the rationalizing started. Well, I'll just hang out a little bit but I won't use drugs. That's the first biggest lie. You don't hang out with addicts without doing what addicts do.

They even reached to me with the highest degree of kindness that they could muster and they said to me, Ron, I know that you've been down a long time, man, you know, I'm on the way to cop, you know, I'm getting a little heroin, why don't you come along with me and I'll turn you on.

Now, was this guy trying to harm me? Not in his view, he was offering me his lifeblood. Addicts don't share heroin and other drugs easily so this was a very, very friendly gesture.

The next gesture I got was that there was this robbery that would happen that particular evening and I was welcomed along because it was a soft job and they realized that I didn't have any money, and even though they could do it themselves, you know, you can come along.

Now, that is inherent in the addict's lifestyle. That is their way of saying, I think highly of you. So it evolved right off the bat, a robbery, an armed robbery, and drugs.

To make a long issue short, I refused only because I was right out of prison and I was still sort of involved in the spirit of I am going straight. But I must tell you that when I refused that guy and I saw the look in his eyes and he turned his back and he walked away, I saw that guy as the last hope that I had for any kind of social activity. Where else could I go?

Obviously after x amount of time I gravitated back to that circle just for the warmth of human companionship. One thing led to another and I re-incarcerated right back in Comstock. So I am talking about what is recidivism; that is recidivism.

You have here an individual who was trapped in a lifestyle. Very, very fortunately the next time that I came out of prison I met five other individuals and they had an idea about a halfway house situation, and by the way, by that point I had started using drugs again, and I was desperate. I wanted out, I didn't want to die, but I didn't know how, I had no idea how.

And I was in the hospital one day and this is where an individual came in and he started talking about a program or something like that, but he was different, this particular individual he was really talking positively.

But there was something about him that I recognized because he was from the street, you could see it, you could feel it, he understood the street, but he wasn't speaking that language he was saying something else, and he was saying exactly what I wanted to hear but I had to hear it from him.

And this was the first time that I had ever seen an ex-addict. This individual turned my life around because he offered me hope. He was somebody that I could recognize, that I could relate to that was an obtainable goal. He said to me, if I can do it, you can do it.

And I believed him. That then started my journey to this seat today.

Now, that whole preamble is for me to talk about what happens around Stay'n Out and also as a way of introduction to why I believe our particular program is highly successful, that is the product of our program and the role that they play with our residents. For that aspect of it, I'd like to turn you over to Mr. John David.

STATEMENT OF JOHN DAVID, ASSISTANT DIRECTOR, STAY'N OUT PROGRAM, ARTHUR KILL CORRECTIONAL FACILITY

Mr. DAVID. I'll say good morning once again to everybody. My name is John David and I'm a staff member with the Stay'n Out Program. My affiliation—

Mr. SCHUMER. Could you give your title again?

Mr. DAVID. I'm assistant director of the community facility in Brooklyn.

Well my extent of drug abuse was a total of about 18 years. My first stint with the correctional system when I was arrested for the first time and convicted, my perception at that time was that I saw good educational type of facilities but I didn't see anything that I could latch onto to talk about my addiction problems.

The second time around, however, I did. I was introduced to the Stay'n Out Program—

Mr. SCHUMER. What year was that?

Mr. DAVID. And this was back in 1976, and I immediately went down to seek an interview for entrance into the program and thank God I did. I entered the program after having, as I said, 18 years of addiction behind me, and I can't emphasize enough as much or talk about lifestyle because I had found a lifestyle where I was king of the road, king of the hill.

It's one thing to get caught up into using the narcotics but I also found a lifestyle that I had a lot of control as a salesperson. I could pretty much make people do what I wanted them to do. I could literally have somebody paying—if the product costs \$50 and you only had \$40, you could imagine what the dialog was. Well I can't buy it for free, and by the time you finish begging me for something, you've just put me up on a pedestal, you made the executive director.

Treatment wasn't easy in Arthur Kill Correctional Facility because I had 18 years of that and I wasn't a young person and I was about 33 years of age at the time. And I automatically took a good look and said, well, when I first took my first shot of heroin I stopped growing emotionally, and emotionally I was a big baby.

When you stop using narcotics and begin to address true feelings and emotions, all of sudden you feel like you're so far behind and you have a lot of growth, a lot of things to do.

Taking advantage of educational facilities was a much needed thing but that made me an educated dope fiend. So I saw a lot in just the first few weeks in the program that I had to take a look at so far as my attitude and behavior and lifestyle.

When I was released from Arthur Kill Correctional Facility there was no community based program run by the family that I just left, that I began my initial treatment with, and most other

programs were long term and I thought that I had done a pretty good job on the inside, but I was still very, very needy or at least I didn't think so at first when I was released.

But when you're released to the streets of New York and you have been living a lifestyle for 18 years, then you better not take socialization lightly because you don't know, you don't have any other, you've pretty much stepped on, stomped on, and misused the people who cared for you and loved you, and the only thing that you have out there, the only assurance that you have is negative reassurance. You have the dope fiends waiting for you.

And no matter how hard I pushed the message that I no longer cared to indulge in that lifestyle, you could feel the pressure of somebody, just one addict just wanted to buy me something so that he or she could have the privilege of say, oh, he's lying, he hasn't really changed.

You can find yourself very lonely once you are released from the penitentiary because you've lived this lifestyle for so long and now you have begun a process of change and you want that to continue and you need a lot of help.

So the emphasis put on entering into aftercare facilities once an individual has been released, is something very, very, very, very vital.

Mr. SCHUMER. How long had you been in treatment in Arthur Kill?

Mr. DAVID. I was in treatment from the latter part of 1977 to January 1979.

Mr. SCHUMER. And they felt it was appropriate, it was then your release time.

Mr. DAVID. It was my release time.

Mr. SCHUMER. Mr. Williams, or I can ask any of you, Stay'n Out doesn't have outpatient facilities, does it?

Mr. WILLIAMS. I'm pleased to say that as of this coming Monday, this is after a 3-year struggle to open one up, I will finally have a relatively small, 45-bed-aftercare facility.

Mr. SCHUMER. In Brooklyn?

Mr. WILLIAMS. That's correct, in Brooklyn.

Mr. SCHUMER. But at that point they just tried to place in an other outpatient—

Mr. DAVID. Yes. Well actually when I left, before I left, realizing what it was going to be like or anticipating what it was going to be like for me, I began work. I had sent out some correspondence to local therapeutic communities and my choice at that time was Phoenix House. And I had—I think the first day that I went, well as soon as I left parole, I went to Phoenix House.

I attended what they call an ambulatory type of service and I was very fortunate inasmuch as that I was evaluated as doing a successful job on myself. And it wasn't long thereafter, it was about 30 days before Phoenix House asked me to submit a resume for a job. I began in the business as a junior counselor there.

Mr. SCHUMER. The type of treatment in Phoenix House and the type of treatment in Stay'n Out were basically the same, there wasn't a hard transition; right?

Mr. DAVID. No. What I got from Phoenix House was more of a reentry type of program in what I needed. Both of them are therapeutic communities.

Hopefully I'm painting a clear picture that one can actually leave an institution such as Arthur Kill, and because of the lifestyle that they had been involved in for so many years, can find themselves a very lonely individual.

Although Stay'n Out did not have at that time an aftercare facility, they were very, very open to people like myself to take advantage of coming back into their administrative offices and begin to set up what ever they possibly could to address the issues of what one has to go through in job hunting and family reunions and family ties, children, wives, the whole gambit.

And I'm very, very, very proud to say that not only do we get to open up a community residence after 13 years in which I think that it was always a dream of ours that we saw that this was the icing on the cake for that continuity of treatment from the inside to the outside, but I get a chance to be a staff member in my own community where I did all the wrong in the world, so I get a chance to give it back, give something back.

So I'll pass it on now to Mr. McGee.

STATEMENT OF DORIAN MCGEE, SENIOR COUNSELOR, STAY'N OUT PROGRAM, ARTHUR KILL CORRECTIONAL FACILITY

Mr. MCGEE. Good morning, gentlemen. As I—

Mr. SCHUMER. Give us your title again.

Mr. MCGEE. I'm a senior counselor at the Arthur Kill Correctional Facility for the males. As I'm speaking if you want to stop and ask me some questions it's OK.

I know you've all heard a lot of recovery stories and success stories, mine is a little bit different and I feel it's a little unique, OK, and mainly because of Ron Williams and Sonya Page who is our senior director at the facility, they don't tell anybody how old they are or how long I've been working there because it tells them how young they are.

I've been there 11 years. It all started for me when I was about 14 years old and started selling dope, heroin was the epidemic at that time. This was in the early seventies, 1971. And as time went on, which was very short, I started getting high because of the people I really idolized, they were getting high. It was mainly a number of men, pimps, hustlers, prostitutes, stuff like that. So about 8 months, 10 months I started getting high, but I started skin popping in the back not main'ning too much.

Not long before I started mainlining, most of the people at that time would tell you not to do it, but they were doing it. You didn't listen too much, it was hard to listen to them at that time, and the years started clicking by and I was mainlining.

I was getting arrested also as a youth. My mother had lost control. I was coming home with things that she didn't buy. She had brought me to church to talk to the priest, but it didn't work. I was too far involved. It had made me very lazy mentally, I didn't want to go to school.

Actually at that time, because my mother caught me playing hooky, and I really thought I was going to sell dope all my life. Dope was only \$2 a bag then, but if you made \$200 selling drugs then, you made a lot of money and I thought I was going to do that.

And getting arrested as a juvenile, you know, it's just family court, you go down, your mother comes and gets you, they might put you in Spofford, and stuff like that.

Well I was getting older and I became 16 years old and from then on it was Rikers Island, Brooklyn House of Detention and the Tombs.

But one of my counselors when I first came to Stay'n Out, we sat down and calculated how much time I had been incarcerated, which helped me go to Phoenix. It came to over 12 years in and out, I had two State incarcerations.

When I first went to prison, you know, I was very young and wild. Young people do not take life seriously. I didn't take life seriously. I was in Clinton Denamora Prison, and all I did was lift weights and work in the mess hall. At that time only the strong survives, I was there to survive, I was a long ways from home. Rehabilitation and getting myself together wasn't really important to me. I was 22 going on 23.

Mr. SCHUMER. Was it offered to you?

Mr. MCGEE. Yes, it was. I'm getting to that. A recruiter came there, and I'm a long ways from home, and said they had this new program. I was in there for drugs, OK, all crimes on my record are drug related crimes.

I signed up for the program for the parole board so I could get out quicker. I was interviewed, I spoke with the recruiter and he told me he was going to transfer me down, it was a commitment, no problem, all right.

I was under the impression that what I was going to do was, I didn't like Clinton Denamora Prison at all. It was very horrible, only the strong survives. City jails don't carry the clubs like the correction officers do in Clinton at that time. I'm talking about 1977.

So I was going to try to get out as quick as I could and I was going to go to New Jersey to sell dope, I'm going to be honest. I didn't want to go back to Clinton Denamora.

So I got in the program, yeah, it's true, yeah, because that becomes your negative pedigree, you become conditioned to do that for survival. But my mother had died, and you start thinking a little bit different. My father was getting old, my sister had gotten married, so you start thinking about where you're going to go when you get out. If I went to my sister's house I would have to sleep on the couch.

So after the recruiting and I was accepted, I was transferred to the program. The program was fairly new, it was about 6 or 7 months old, and we started talking with the counselors that they were incarcerated, they used to use drugs, all right. Not taking from the counselors that didn't, OK, but you feel more comfortable speaking with a former than you do a nonformer, at least I did, because I was very young.

I was locked up with John David, who I'll tell you a little bit about in a few minutes, and we were doing time. Nobody really—not another inmate, I wasn't used to another inmate pulling my coat to something positive, you know, you're used to somebody pulling your coat to do something negative, stealing or whatever.

But when you're in a program like Stay'n Out, which John David, used to do, OK, pulling my coat for something positive, helped me with my schoolwork, because I didn't like school and I didn't want to go to school. So you don't have another inmate telling you to go to school. In a program like Stay'n Out you have that. It's called a brother's keeper concept.

Going through the program after we calculated all my time, one of the counselors said, "Dorian, let me direct your life." I thought he was crazy. He told me I've been directing my life and I've been directing it right straight to prison. I didn't stay in the street 4 months. I've done of lot of city incarcerations, 90 days, 6 months, 1 year, 10 months, in and out.

Well the program evaluated me, Stay'n Out, I was a parole board candidate, and they paroled me. I was mandated to stay in Phoenix. But I think the best move and the greatest move was that after I left Arthur Kill Correctional Facility's Stay'n Out Program, I went straight into Phoenix for 24 months, no stops.

Every time I got out of prison I went back to the same community and picked up where I left off. I never started anything new. And I think that right there, going straight in to a residential 24-hour program, after my parole expired I still stayed in the program because I worked for them also, I went straight in, no stops.

Most of the time when I did 90 days on Rikers Island or Brooklyn House of Detention, I went straight uptown when I got out with that \$40. This time I didn't make the stops. And I think that right there, because I teach that myself, at Arthur Kill, go straight in with no stops.

I'm very glad that finally—because I think Stay'n Out is a little backdated with that outside facility, we waited for crack to get that. I'm a part-time cabdriver because I don't make that much money with this program, so money doesn't have me here.

Actually what I do is I put Stay'n Out in the place of the heroin and cocaine, cause I used to love to speedball. This particular program has been very successful for over 13 years, and to me it's a shame that it took 13 years. I lost a lot of lives because I worked in the trenches, the front line, so to me I lost a lot of lives. It took 13 years to open a program like that, that's a shame.

The drugs today don't discriminate. So I'm not talking about color or anything like that, right. And I do a lot of community work for the police department. You name all the high schools on Staten Island, they know Dorian McGee.

To me the program is a little backdated, I'm very glad to see it. Maybe it will stop that cycle we call the revolving door, with the treatment and the 24-hour live-in, and the services that they're going to provide. But to me all of the treatment that a person can go through while they're incarcerated, the social network and re-entry are the most important, where you're going to go and who you're going to do it with.

You can educate them and you can give them all the treatment you want while they're locked up because they're in a protective environment, semi, because there are a lot of drugs in jail too. But when they get out, where is he going to go and who is he going to do it with.

A lot of clients, if you sit down and speak to them and they're honest, they never socialize without being intoxicated, they never went anywhere without being high, they never filled out a job application without being high. So the social network to me and reentry was the most important part of my treatment.

I've been working at Arthur Kill for 11 years. When I first came back there there were correction officers that I had just left there. A lot of them shook my hand, they were very glad to see I was successful. Most of them that used to come back, I was still in greens, so they thought I was on work release. But I know I had a civilian pass and I was an employee.

And I'm still very proud of myself because I get a lot of respect in that prison and I'll help anybody even if they're not in the Stay'n Out Program. If I can help them and it's positive, I'm going to help them. And I was very delighted when Ron asked me to come here and speak, because I do this in high schools, colleges, if it's going to help put a dent in the problem.

One day I was driving a cab, I'm a part-time cabdriver, and have two daughters, but I'm divorced and I take care of my children. I'd be out there from six in the evening to six in the morning so I see it all, and this lady was pregnant and she couldn't have been no more than about 15 or 16, she told me she was hungry. There's an all night donuts and coffee, but I wouldn't give her any money, but she was pregnant and I didn't have to ask her what she was doing. I could see what she was doing, she was smoking crack and she was hustling. Because you're not waiting for a bus at 3 o'clock in the morning. See, I have daughters. My daughter is 10 and I know I wouldn't like anybody to sell my daughter crack because she might wind up like that.

And I said, you know, I was part of that, you know, really, the guilt, and this is over 13 years I've been clean, the guilt, OK. I gave her the phone number of the Phoenix House and Odyssey House who help service pregnant women.

And I said, well, listen, if you're not going to do it for you, do it for the baby, that baby has every right in the world to be born clean. Because I've seen babies on life-support systems, plus drugs haven't been good to my family.

And I can go to any crack house and shooting gallery and won't touch it, for my sister and my brother died. My sister she died from cancer, drug related, shooting heroin, and she didn't get the cancer symptoms, right. And when she got it, right, the doctor gave her 4 months, she died in 3½ months, right. And we didn't have any insurance so everybody chip in.

My stepbrother Michael he died from a cardiac arrest at 6:30 in the morning freebasing. I was on my way to work. So all those tragedies helped push me away from it further. And being out there on a part-time job driving a cab because they all come out at night, it's a night crew, I call it the crack crew.

And watching that, knowing that I have daughters, I have to be part of the solution, I'm through with being part of the problem. And with that, if you have any questions, feel free to ask them.

Mr. SCHUMER. We have a lot of questions. I just want to thank all of you for your testimony.

But I wish we could line up the 435 Members of Congress just for an hour and have them listen to you, that's all it would take. It was very, very impressive and very powerful.

My questions, I have a lot, but first, I guess to any of you, does every Stay'n Out graduate—do you call it a graduate when someone—

Mr. WILLIAMS. Yes.

Mr. SCHUMER. Does every Stay'n Out graduate get placed in an outpatient treatment program, do they all need it, for all the ones who need it are they able to get it? Tell me, Mr. Williams, and that's up to now. And the second question is, is your facility large enough to handle all the people who graduate?

Mr. WILLIAMS. Let me answer the second question first with an emphatic no. We need a lot more room, a lot more space. Even though we are proud of the fact that we finally have that outside link, it only houses 45 individuals.

Mr. SCHUMER. How many are in Stay'n Out right now in the prison?

Mr. WILLIAMS. All tolled 200, that is male and female. So since our reentry portion of it will last anywhere from 6 months to 1 year, then that tells you automatically that as soon as it is open and filled, that I once again face the problem.

Our original design was in conjunction with our sister agencies. We are a part of—

Mr. SCHUMER. Like Phoenix House.

Mr. WILLIAMS [continuing]. Therapeutic communities of America and also the regional. So our original parent organizations were indeed Phoenix House, Odyssey House, Day Top Project Return, et cetera. And our design then was to have a modified therapeutic community in the prison systems and orientate the individuals into the expectations, do's and don'ts are the language and tools of therapeutic community, and that upon parole, have them paroled directly into one of our sister agencies for that necessary reentry portion.

And that worked fairly well until about 7 years ago—

Mr. SCHUMER. You were able to place each person.

Mr. WILLIAMS. I was able to place the majority of those that wished or needed the placement. And then about 7 years ago we had this phenomena occur called crack, and then all of a sudden all of the beds were filled in all of the programs, so I no longer had that outlet. They had waiting lists in Phoenix House and Day Top of months at a time, so to find an outlet was almost impossible.

And even though I always felt that I would like to have a facility that is specifically designed for the returning ex-offender with prior treatment, I really felt a desperate need then to get any site that I could because that aftercare component is a vital, vital cork—

Mr. SCHUMER. What happens to those who—

Mr. WILLIAMS [continuing]. To treatment.

Mr. SCHUMER [continuing]. Receive the in prison treatment and don't get aftercare, is their rate of success much lower?

Mr. WILLIAMS. I would think it is, yes. We tried desperate measures, you know, we opened up the office, we have a hotline, everybody is invited in. John David specializes in helping finding jobs and other situations. But what you really need—let me just make a point.

I had a luxury when I went through treatment. My luxury is that I was rehabilitated. And as I told you about my earlier upbringing, you understand hopefully what I'm saying, rehabilitation assumes that you have been habilitated in the first place.

So those individuals that have the marketable skills, who understand Protestant work ethic, that have had the role models and also have fairly healthy family systems, those individuals they might make it well with ambulatory care and some sort of hands-on every now and then.

But the greater percentage of those individuals that we now see are not receiving rehabilitation, they are indeed receiving habilitation. It isn't a matter of mainstreaming these individuals because they were never in the mainstream in the first place. So that is not the ambulatory care type of individual. That particular individual needs residential care. He or she needs that safety net so that as they learn how to navigate society if they make a slip that is not fatal. Simple issues, simple issues.

Anybody that is working with this particular population, if you want to see sheer terror with some of these guys in the prisons, and they look kind of terrified themselves sometimes, pumping iron, they're pretty big guys, they're looking rough and tough, if you want to see them come apart, you know, take the average one of them into a bank and ask him to open up a savings account, you will see terror, because they don't know how to do that.

They have never done that in their life, and the bank is this institution that they don't know how to deal with. So a lot of the basic things that you and I take for granted, are things that for these individuals this is their formative time, these are their formative years. And you don't put a babe out on the street. You have to make sure that they first, you know, kind of learn how to crawl and then eventually walk. So a lot of the guys actually coming out of prison, what that outside facility is, is their training wheels, because they don't know how to ride their bike yet. That's what we're talking about.

Mr. SCHUMER. The second question I have, are there enough people, trained people, to replicate programs like yours if there were the dollars?

Mr. WILLIAMS. One of the—

Mr. SCHUMER. I mean let's be candid. Or does it really depend on a fellow like Ron Williams who happened to go through what he did and, you know, you could set it up in other places and it might not work.

Mr. WILLIAMS. I'll answer that twofold. At the Arthur Kill Correctional Facility we also have the luxury now of running a training unit. This particular unit has trained staff members from the Alabama Department of Corrections, Hawaii Department of Cor-

rections, Connecticut, New Jersey. In the next months I'm also expecting Pennsylvania Corrections, and Oregon Corrections.

After training with us, these correction sites have gone back and replicated to the best degree that they could the Stay'n Out Program. In the State of Alabama, or as they put it, the great State of Alabama, there is a program there that is called the New Outlook. Very, very successful TC inside the Alabama prison system that is based upon the Stay'n Out model.

Delaware, they have another program there that is called the Key Program, a highly successful program that is based upon the Stay'n Out model. So, yes, we can train people, we can find people, but another part of it is that this particular aftercare facility, one of the major thrusts there is to utilize our inmate cadre that is now training all of these people from other States and use that aftercare facility as a training component for themselves so they can then become entry level staff in other programs like Stay'n Out. It also offers them a career ladder.

Mr. SCHUMER. One question for both Mr. McGee and Mr. David. Can you just give us a few examples of successful graduates who now don't work in Stay'n Out or in the therapeutic community?

Mr. MCGEE. Private sectors?

Mr. SCHUMER. Yes, private sector. It could be public sector but not in—

Mr. MCGEE. All right. I have a former client or he's still a client, OK, it's not the private sector but it's not in a TC type setting, right, his name is Alexander Anderson, all right, and he constantly keeps in touch with myself and the program.

I'm not going to tell you too much of his background because he's not here, but he didn't go to prison for snatching chickens and he didn't do 2 or 3 years. He did a presentation for me at the Arthur Kill Correction Facility on the treatment improvement.

And he's now working with the homeless. Prior to that he was a supervisor for Wildcat. That agency was great to me because he said, Dorian, you need somebody that needs a job, send them to me. It might not be what they like but I'll get them a job. And this is what the trends leave off, all right.

I don't know if you want to call the homeless a private sector but it's not with a—

Mr. SCHUMER. I understand.

Mr. MCGEE [continuing]. Setting. He goes down to Penn Station and places like that which is a tough job and maybe he does that for his own mental health, I don't know. I don't think that to me, if Stay'n Out wasn't here would I go back, I don't think so. I think I'm pushed back too far away from it. I like keeping my ties, I like the people, I like the family concept from other family who was dying off, and you put things in their place. But I don't think so.

I've encountered some pretty rough problems when I was, you know, out and I didn't turn to that, I didn't turn to those drugs, especially like a divorce. I was going through a divorce. If anybody experienced that, it's a lot of pressure, a lot of stress, and the kids are in the middle, and that didn't send me back.

And that was one of my biggest setbacks since I've been out. I've been out about 13 or 14 years. I got out of prison in 1978, right, that was one of my biggest financial setbacks and emotional set-

backs too. And I didn't run to the alcohol and I didn't run to those drugs.

Mr. SCHUMER. Would you say most, Mr. Williams, most of the people who are successful graduates, do they work in drug type environment or do they work in other type environment?

Mr. WILLIAMS. I would say unfortunately no. Most work in other environments. And I say unfortunately in that with the task that we have ahead of us, personally I would like to get as many people involved as is possible working in the field, in a very, very short amount of time, you know, a decade—we have seen it going from 17,000 up to 50-odd now, so there's a lot of work to do.

Mr. DAVID. I'd just like to say that in answer to that question, and without mentioning names, one individual that comes to mind every year when we have our graduation, anniversary graduation ceremonies, is one individual that had relocated to Florida and he had his parole relocated to Florida, he started his own business, very, very, very successful and had just sort of like—I think now he's left his own business to join some other type of organization that was twice as large, but there are individuals like that.

There's another individual that comes to mind that went through treatment with Dorian and myself that he was so happy to get a \$50,000-plus salary in accounting, that he called me and said, come with the van and take everything in the house that I own, because I'm buying everything brand new.

We have graduates in city corrections and just all over——

Mr. MCGEE. Let me interject one thing before you go ahead. A lot of clients don't work in the field or within the facilities, because of the money.

Mr. SCHUMER. I understand. I think that people would want to see that there are lots of job opportunities out there.

Well I have a lot of other questions. What I'd like to do with your OK, is I'd like to organize maybe in the fall, maybe a little tour, a visit out to the facility and we can continue the dialog. I know we have other witnesses waiting, so I'm going to hold my questions particularly since we started a little bit late, and throw it over to you.

Mr. GEKAS. I thank the Chair. I have drawn two, and I think we can all draw two firm conclusions from the combined testimony you have offered. One is that the best chance for rehabilitation and opportunity to become drug free and then become productive in society is if there is no interruption between prison and the program.

I seem to sense that if the individual goes back to the street even for 10 minutes that he is probably lost to the possibilities of rehab. Is that correct?

Mr. MCGEE. A relapse. It could happen that fast.

Mr. GEKAS. I'm exaggerating when I say 10 minutes. But I'm saying it seems to me that all three of you in different ways have said that to go from prison directly into the program is the best chance we have of saving that individual.

Mr. WILLIAMS. That is absolutely correct. And to emphasize it furthermore is that if you also have the continuity that is what I might call in the same family, so that there is a familiarity of the program, of the resident, of the history on the both sides that it works even better.

So what I'm saying in essence is that I had a lot of success with sending people out of Stay'n Out into Phoenix House. I had a couple of failures there and I think that the reason was that it was a different program, there was loss of contact from the—source, if you will.

If you have one organization that has that particular continuity from inside to the outside, that the chances of success are increased.

Mr. GEKAS. Does this mean that the program does not accommodate those who are out on the street and who want to come into the program, is it only a transitional concept or can somebody on the street now who returns to—

Mr. WILLIAMS. OK. Now—

Mr. GEKAS [continuing]. Can he say, I've had it, take me in, that doesn't happen; does it?

Mr. WILLIAMS. That particular aftercare facility is designed for a particular purpose. One of the major problems that I've found with our interactions with our sister agencies is that they had a specific design for the specific clientele, that is, that addict that is coming off of the street that is in need of long term residential care.

With our program we have our primary care while incarcerated. The aftercare facility has a specific design that is for reintegration and reentry.

Mr. GEKAS. So we have lots of different programs like that. We have many programs like that but they're not unique. The unique program is the one that you're talking about that allows for that reentry.

Mr. WILLIAMS. Of the continuity, yes.

Mr. GEKAS. Continuity.

Mr. WILLIAMS. Right.

Mr. GEKAS. The other truism that I've drawn that I think we can make a record is that the people who work in the program would have a better chance of success in their mission if they themselves have gone through addiction and are able to relate to the newcomer their previous experience.

It seems to me that all three of you said in different ways that the nonuser counselor or the nonaddict counselor is not as productive or is not as convincing as one like yourselves who have gone through the bad times.

Mr. DAVID. I wouldn't say that. I mean I don't—the way that you described it I don't know. We're saying that fighting fire with fire concept is definitely viable and it has a lot of positive things in it to have someone like myself, like Mr. McGee says, that he did not listen to somebody who he felt as though did not know what he was going through through his years of addiction and incarceration. He found it more comfortable to talk to someone like myself—

Mr. GEKAS [continuing]. That does not exclude—

Mr. DAVID. Yes.

Mr. MCGEE. Exactly.

Mr. DAVID. But we're not saying that I'm a better counselor than somebody that didn't have—if it's a prerequisite for you to use narcotics like I did for 18 years in order for you to become a good counselor, you're in trouble. I think both is necessary, they complement one another.

Mr. MCGEE. We have a formula at Arthur Kill. We have some counselors that didn't use drugs, OK, we have some counselors that did use drugs. We also have ex-offender counselors, so we have that kind of formula.

Also, we have an ethnic breakdown in the staff and the resident population, with the white, the black and the Hispanic, because some client if he's caucasian or white, he's comfortable talking with a white guy, plus the culture, he's comfortable and he has that.

If he's a Hispanic, and he may not speak good English, we have the bilingual counselor, male and female, that could handle that particular client. And we have the black, the same thing. So that's important also if you really want to be effective.

Mr. WILLIAMS. Let me give you an analogy. When I went through my old treatment I was asked by a guy there named Dr. Mitchell Rosenthal he asked me, he said, Ron, do you know what a therapeutic community does for you, and I gave him all of the answers that I thought were correct.

And he said, no, no, what it does is that it gets you ready to see a psychiatrist. And it took me a long time to understand what he meant. What he meant was that first of all the individual must accept the treatment is good for you. If he does not accept that, then he really spends a lot of time trying to outpsych the psych, you know, it gets into a battle of wills rather than understanding that he's there to try to help you.

That is a role that the ex-addict counselor plays, that he makes that initial linkage, gets the understanding going that, this is good for you, look what it did for me. Once that individual understands that, then any qualified counselor will have equal effect.

Mr. GEKAS. I have no further questions at this time.

Mr. SCHUMER. Well I want to thank this panel. I do want to take you up on accepting—I put you on the spot asking you to do a tour for us out there in the fall.

Mr. WILLIAMS. I hope it didn't put you on the spot because I will hold you to that.

Mr. DAVID. We look forward to seeing you.

Mr. SCHUMER. We're coming. And again, hopefully this will serve as a model for lots of other places. Mr. Williams, Mr. David and Mr. McGee, thank you.

Mr. MCGEE. Thank you very much.

Mr. DAVID. Thank you.

Mr. SCHUMER. Our next two witnesses are Dr. Doug Lipton, director of the Research Institute for Narcotic and Drug Research, Inc. He's been a director of research and planning for the department of corrections; assistant director to Governor Rockefeller's Special Committee on Criminal Offenders; assistant director of the New York State Crime Control Council; the New York State Office of Crime Control Planning, and the New York State Division of Criminal Justice.

He's evaluated drug abuse programs worldwide. Dr. Lipton has testified before our subcommittee already. It was he who first interested me in this issue and his entire statement will be read into the record.

The second person here is someone well-known in New York City, someone who did a great job as HRA commissioner and is now applying both his intellect and compassion, which he has ample supply of both, working to develop a national initiative to find some private funding and solutions for substance abuse problems.

Bill Grinker from 1974-82 was founder and president of the Management Demonstration Research Corp. which found employment opportunities for the disadvantaged, but that was before he was HRA commissioner.

Gentlemen, your entire statements will be read into the record, so don't worry about having to read through the whole thing.

With that, we'll call on Dr. Lipton.

STATEMENT OF DR. DOUGLAS S. LIPTON, DIRECTOR, RESEARCH INSTITUTE NARCOTIC AND DRUG RESEARCH, INC., NEW YORK, NY

Dr. LIPTON. Thank you very much. It's a pleasure to appear before the subcommittee today to discuss what our research and experience show can be done to improve substance abuse treatment within the criminal justice system.

Addiction treatment is a critical component of the Nation's war on drugs, and the incarceration of persons found guilty of various crimes who are also chronic substance abusers, presents a unique opportunity for treatment that is extremely propitious.

It is propitious because these persons would be unlikely to seek treatment on their own, and without treatment they are very apt to continue their drug use and criminality after release, and we now have cost effective technologies to effectively treat them while in custody and alter their lifestyle from criminal to prosocial.

I come with an intention of sharing with you the optimism I personally feel with respect to how successful we can be with persons generally considered irredeemable, namely, chronic heroin and cocaine users with extensive predatory criminal histories.

It is worth nothing, Mr. Chairman, that with high rate addict offenders such as the persons that were being treated, are currently being treated at Stay'n Out, these are people who commit each 40-60 robberies a year, 70-100 burglaries a year, and more than 4,000 drug transactions a year. With this group a meager 10-percent reduction in recidivism means a substantial improvement in our quality of life. And we have consistently been able to substantiate with this program more than a 25-percent reduction.

The field of corrections has not had notable rehabilitative successes, and I am responsible, in part, for the pervasive notion that nothing works, which emerged from the summary by Bob Martinson of the book that I wrote with two colleagues, Bob, and Judith Wilks, back in 1975 called *The Effectiveness of Correctional Treatment*. The book emerged at a time when the national media and the social climate were ripe for a shift away from the so-called rehabilitative era.

Now, I come from this background of skepticism, so when I see successful outcomes for correctional programming and see it re-

peated year after year with a group of offenders who are unlikely to succeed, it certainly makes me sit up and take notice.

When I say success I'm referring to reducing recidivism to a statistically significant degree, and by recidivism I mean returning to prior forms of conduct. I not only want to share with you the success of the Stay'n Out project, but also of other programs that have been successful with drug abusing offenders.

Now, you heard earlier about the scope of the problem, I'm not going to belabor the point, but I do want to mention that there are 800,000 inmates that are currently in Federal and State prisons, and 9.7 million that are admitted to the Nation's 3,500 jails each year. About 50 to 66 percent, depending on locality, are regular users of controlled substances.

Now, in the 22 of our largest cities from the DUF data we know that 50 to 80 percent test positive for one or more drugs regardless of their charge at arrest. And these are people who are not necessarily drug salespeople at all but people arrested for every conceivable kind of crime.

Now, opiates have been found in about 20 percent or fewer, except perhaps in New York where it ranges between about 17 and 29 percent. In contrast, cocaine levels are consistently high in most cities. The highest rates of cocaine use, pretty consistently above 60 percent, have been found in Washington, DC, in New York and in Philadelphia.

At the other end of this criminal justice funnel, at the incarceration level, it is a safe assumption that the proportion of drug using offenders among those incarcerated is higher than even their proportion among arrestees. These men and women in many instances are not just users of single drugs, but use many different drugs, and use them mostly in combination with each other and with alcohol.

Their lifestyle is pervasive with respect to drugs, it preoccupies their daily hours. Most of these persons have avoided treatment while active in the community although some have experienced detoxification several times. Their entry into the country's crowded jails and prisons stills their criminal acts for a while, but the problem of prison crowding is of such enormity that for each person incarcerated there is one bound to be released and he or she is likely to be an untreated drug user. At least 45 percent of the arrestees charged with violent crimes are income-generating crimes like robbery and burglary and theft, tested positive for the use of one or more drugs according to NIJ back in 1989.

The relationship between drugs and crime is indisputable. There has been a decade of research which documents how much addiction accelerates the rate at which individuals commit crimes, four to eight times during periods of active addiction, the rate soars. The increasing rates of cocaine and crack use and its effects on criminal behavior is now well documented. The cost of this crime is staggering. The National Institute on Drug Abuse estimates the annual cost now at \$60 billion.

All but eight States are under some kind of court order or consent decree to relieve prison overcrowding. Much of this prison crowding pressure is directly due to the righteous public outrage regarding drug-related crime and the resultant tougher sentencing

practices that have been enacted for repeat offenders and criminals committing drug-related crimes, as well as just a dramatic increase in arrests directly related to crime increases generally.

Drug using offenders are a substantial proportion of the pool of persons now flooding the prisons and jails, and this trend of the 1980's is likely to continue undiminished in this decade. The repeater rate of drug offenders is quite high. Up to two-thirds of the inmates in some States are drug-involved form probationers and parolees.

Although data vary across studies, it would appear to be that drug using felons are also a primary source of failure on parole, that is, they constitute a disproportionate share of the repeat offenders. The 60 to 75 percent of untreated paroles with histories of heroin and/or cocaine use are reported to return to heroin and/or cocaine use within 3 months after release, and these become reinvolved in criminal activity.

This revolving door analogy epitomizes the situation with the hard drug-using offenders. And since a great proportion of American drug users are processed through some part of the criminal justice system during their drug using careers, it makes a great deal of sense to consider that system as a location for treatment.

Most inmates have not been treated in the community and State, and when asked, they have no particular interest in entering treatment. Thus, the criminal justice system is a major opportunity to bring to bear the state-of-the-art in drug abuse treatment for this otherwise elusive population.

Overall then, the U.S. prison population has grown about 55 percent over the past 8 years largely fueled by this major influx of drug using offenders. These offenders, who are largely recidivists, are responsible for a relatively large amount of crime and among them the most predatory the heroin using violent predators when compared with nondrug using offenders committed 15 times as many robberies, 20 times as many burglaries, 10 times as many thefts. Active drug use not only accelerates the users crime rate, but also the crime quality as it is at least as violent or more so than that of nondrug using counterparts.

Mr. SCHUMER. Dr. Lipton, could I—there are some questions maybe you can focus on here because your statement is completely in the record and if there is some points you want to highlight that's fine. I wanted to ask you—can I—

Dr. LIPTON. Sure, go ahead.

Mr. SCHUMER. I'm sorry to interrupt. The first panel stressed the need for aftercare or post release. Does your studies involve how I mean what I've been so impressed with is the success rate, do you just do people who are in some post released therapeutic community, does it include everybody, have you found a difference between the two?

Dr. LIPTON. The experience that—

Mr. SCHUMER. Just address that as you go through your remarks.

Dr. LIPTON. OK. I can address it directly.

Mr. SCHUMER. Go ahead.

Dr. LIPTON. The experience is that most of the people who we tested who were part of this program Stay'n Out did in fact go into

some kind of therapeutic process after they were released. The ones who were most successful did in fact continue their treatment. The difference, however, is not statistically significant.

Mr. SCHUMER. It is not.

Dr. LIPTON. No.

Mr. SCHUMER. That's interesting.

Dr. LIPTON. Stay'n Out is a powerful instrument, it's a powerful technology. It's not the only program that has been as successful. Almost identical rates of success were achieved by the Cornerstone Program in Oregon, which has a very different clientele in a very different kind of setting. Yet with predatory chronic heroin and cocaine addicts they achieve the same kinds of outcomes.

Mr. SCHUMER. But what you are saying, at least statistically, if someone goes through the Stay'n Out Program and stays in for, say 9 to 12 months, and then is released out on the street, things may be more difficult for them but the odds are relatively high that they don't go back to a life of crime at the very least.

Dr. LIPTON. The odds are certainly better than they would be if they had not been in the program. What we've learned is that when you look at failures you find that the failures were often people who had started out being successful, in fact, stayed out much longer than they would have ordinarily and much longer than people in the control groups who were not treated. They stayed out on the average two or three times longer.

But the ones who failed were those who could not get jobs, so a very powerful impediment to normal social functioning is not being able to work, and what they do is revert back to what they know they can make money with, which is selling drugs.

And having a place to go if you're homeless is another important factor because if you're moving from place to place, transient, you're not rooted, your lifestyle tends to be surrounded by people of similar lifestyle.

Mr. GEKAS. Are you saying they return to crime but not necessarily to drug use or abuse themselves?

Dr. LIPTON. No, it almost always comes together. It's really a lifestyle issue. And we're dealing with people who are not simply drug users, they're suffering from a variety of impediment. They have poor social skills, poor educational levels or educational skills, they're barely literate in many instances. Or if they have been through the program of this kind, they may have a GED but that doesn't necessarily mean that they can function acceptably.

They lack a variety of the kinds of things that root people in the community. And what you need is a halfway in, halfway out facility where they can come back in if they begin to fail, where they can be released from on a fairly tight level after they've been released where they can come back each evening during a period of readjustment.

Therapeutic communities for years used a concept called reentry in which people are essentially decompressed from the experience of the treatment and are released gradually into the community, and where they can retain and be reinoculated with the philosophy of the program and the rehabilitative ideal that the program embodies.

Let me just say that the DUF data indicate that about 22 percent of the arrestees are people who have received treatment of some kind, usually a detoxification. Only 4 percent of the arrestees in the DUF data were receiving treatment at the time of arrest. So we're dealing with a population which, at best, 80 percent have not been treated. And these are people who would for all intent and purposes never enter treatment unless they were in some way compelled to.

Mr. SCHUMER. So the really important difference here with treatment within the prison is that people get a taste of treatment, or more than a taste, a strong dose of treatment, therapeutic treatment, and that begins to get them out on the road to recovery. Whereas, if you just didn't do it in prison, let them out and said find something, they never would.

Dr. LIPTON. They wouldn't enter. There would be no compulsion to.

Mr. SCHUMER. And that is more important, you would say, but as long as they have that, they have a significant chance of adjusting and becoming productive citizens even if they can't be placed once they get out of prison or is that not so?

Dr. LIPTON. Well I don't have more than suggestive evidence. As a scientist I'm reluctant to just unequivocally say that you're correct, yes, we do need this. All the evidence, all my experience tells me, yes, we do need it. But I don't have a very careful, you know, scientific study to give me the answer.

However, I think it's important to note that programs that have continuity of care generally, the history of treatment programming going back as far as I've ever looked at it, indicates that programs with continuity of care are more successful than programs without it. Programs that end at the walls typically drop a person at a point when they're both vulnerable and ready.

Mr. SCHUMER. That's what the testimony of the first panel brought out. On the other hand, your data has been based on a situation where they didn't have—they're just opening their first outpatient facility. At least Stay'n Out is—

Dr. LIPTON. That's correct.

Mr. SCHUMER [continuing]. But what you're saying is that they generally were given maybe—I think I asked this question of Mr. Williams and Mr. McGee and Mr. David, they were generally placed somewhere else which may not have been quite as good but still basically did the job.

Dr. LIPTON. Well the difficulty with placing people someplace else is that there's not real continuity. They have to accept them as people who've already been treated. In some instances, some of the programs treated them as new and they really were—they were discomforted by it.

Mr. SCHUMER. I mean, as you know, I am an advocate and enthusiastic about the kind of program Stay'n Out is, but if we're going to fund more Stay'n Out Programs and not then have places for people. Mr. Williams mentioned when crack came it's far more difficult for him to place people, is this going to mean that the value of a Stay'n Out Program will be greatly diminished?

Dr. LIPTON. No. The program is, as I said, a powerful technology, and it moves people from a place where their pervasive criminal

subculture controls their behavior to a place where they're ready for being a very different kind of person.

One of the reasons it does that is because in its holistic nature it deals with many of the impediments. It doesn't deal with all of them, unfortunately, and it perhaps never could. But we need to put in place those other mechanisms like vocational training, for example, that can take people through the process.

I think it's important to note also that 60 percent of the people who were successful in Stay'n Out entered the program with nefarious reasons, that is, they did not enter for the purpose of changing themselves or making themselves better or improving themselves. They entered because it was a safer place to be, because there were better clothes, or for whatever reason, they didn't enter for the purpose of change. But these were successes.

The point is that once they're in that setting they begin to change. But the issue is not one of compelling them, enforcing them to enter, but to creating sufficient incentives so that it makes it worthwhile for them to enter. And the most powerful incentive is a shorter period of time, so that early release as a promise.

Perhaps it should be noted also in the record that there is a safe environment in the therapeutic community, there is no violence. People say, I don't have to watch my back. And it's not only the inmates that say that but also the officers.

Mr. SCHUMER. In a sense when you're starting out in this kind of therapeutic community it's safer to do it in a jail, and I don't just mean safer, or a prison, I don't mean safer physically from violence, but there's less temptation, this is it, this is what you're stuck with.

Maybe there are a lot of people who join up at Phoenix House and after 2 weeks, because of all the temptations in the outside world quit, whereas here they don't have much choice.

Dr. LIPTON. Exactly. The rate of failure in terms of early leaving, premature leave, from therapeutic communities is quite high. They're under no controls, under no compulsion to stay. And the best therapeutic communities perhaps retain 30 percent. The Stay'n Out Program retains about 50 percent.

Mr. SCHUMER. Well I was going to ask, is there something wrong with your results because you're not including the 50 percent who leave the program, but—

Dr. LIPTON. No, we looked at everyone who went through the program. That's how you get the various time cohorts. Those who stayed 0 to 3 months, 3 to 6 months—

Mr. SCHUMER [continuing]. Fifty percent and give those a 78-percent success rating for \$2,100 extra a year, which is what I think the cost is. It's amazing we're not doing—

Dr. LIPTON. Well when those data were collected it was about 21, now it's about 3,000.

Mr. SCHUMER. Still, you pay 25,000. The warden was telling me the average New York City jail cells costs \$158 a day, aside from building the prisons, to keep someone incarcerated here. So you add an additional—an extra \$10 a day, and then you have a 78-percent chance of them not coming back.

[See Dr. Lipton's statement on p. 343 of the July 23, 1990, hearing.]

Mr. SCHUMER. Let me maybe ask Mr. Grinker to comment and elaborate on some of his testimony. I'm doing this freelance only because Dr. Lipton has testified before us once before, his testimony is indeed part of the record, and I'd rather have a dialog and get his wisdom that way.

But feel free, Mr. Grinker, to proceed as you wish in terms of your testimony, and then we'll go back to questions and follow through.

STATEMENT OF WILLIAM J. GRINKER, DIRECTOR, SUBSTANCE ABUSE STRATEGY INITIATIVE, THE TWENTIETH CENTURY FUND, ACCOMPANIED BY JODY ADAMS WEISSBROAD

Mr. GRINKER. Thank you, Mr. Chairman. I'm not going to go through my testimony, I'll just summarize it briefly. I'd also like to, if possible, introduce Jody Adams Weissbroad who's here with me, maybe she can come up, she's much smarter on this stuff than I and also better looking, but she's done a lot of work on this particular aspect.

As you know, Mr. Chairman, we were asked by several foundations a number of months ago to look at this whole issue of drug abuse services and to see whether we could fashion some strategies that might sense in terms of new initiatives. And one of the areas that we have focused on and that I want to talk about a little bit today is this area of ex-offenders, people who have been involved in the criminal justice system and who have had some kind of a treatment experience while in the criminal justice system.

It seems to me, as we looked at the information, that I would certainly confirm what Dr. Lipton said in terms of this kind of a treatment experience, Stay'n Out and a number of other programs throughout the country having a positive impact in terms of helping individuals who are involved in crime and drugs to straighten their lives out.

The problem that we felt in looking at these programs, and I think it's been alluded to earlier by some of the other panelists and Dr. Lipton as well, is that when the individual gets back into the community, subject to the same kinds of pressures, the same kinds of negative environmental influences that brought them into the prison system in the first place, so what happens is because there aren't enough supports in the community, the effects of these in prison treatment programs wear off within a period of, it looks like an average of about 3 years.

And by the end of that time you don't see a lot of data that shows that over the longer term an individual has been better off, that too many revert to crime and drug usage.

So what we are recommending as a part of a strategy is a much greater emphasis on this issue of reentry and services to individuals as they come out of the prison system who have shown that they are interested in straightening their lives out by participating in treatment in the prison system.

And to my mind there are two or three pieces to this reentry effort that have to be taken into consideration. One is that it's good to have the kind of program that Stay'n Out has in terms of a special reentry service. I don't think we can rely solely on that. We

have to look to the variety of treatment mechanisms that there are in the community and make sure that they're maximally available to individuals.

So that what happens too often, as we've seen throughout the country, is a person will come out from prison will want to get some kind of service, but has a very great difficulty connecting because there is no systematic mechanism generally for saying, here's a treatment slot that would be appropriate for you, here's a kind of service that would work for you, and then trying to make sure that that individual gets into the program.

And often times what happens is somebody will go on a waiting list, he may go on two or three waiting lists, and if another program he happens to come on that has a vacancy, he'll get into that program. It could be a therapeutic community, it could be a day treatment or some other kind of program. And there's really no tracking mechanism or no coherent mechanism for keeping track of these kinds of availability.

So one of the things that we're working on, we're working with IBM on the development of this is a central intake unit which would have a treatment placement support system built into it. So when an individual got out into the community they would know what treatment was available, they would be able to assess that person's need. There have been some models of assessment, the one in New Haven is pretty good at the Yale Medical School, and assess the best kind of treatment that was available, make the referral and then monitor the progress so if an individual went out of treatment—

Mr. SCHUMER. This is before they are actually released from prison.

Mr. GRINKER. At the time of release, working with the parole officer to assure that there is—

Mr. SCHUMER [continuing]. It make sense to say don't release them until they're placed in some kind of similar type—

Mr. GRINKER. Well if you can do that without delaying the release, I mean you can't stop—

Mr. SCHUMER [continuing]. Even got started.

Mr. GRINKER. Right.

Mr. SCHUMER. What do you think of that, Dr. Lipton?

Dr. LIPTON. Well let's call it an intensive transition, sir. The concept of parole now is almost a voluntary passage. So a person who's released on day one he has to report by day two or day three, but meanwhile he goes back out and within 3 hours he's connected if he hasn't been treated, he's gotten more drugs.

Having a intensive transition service I found, in fact, going back even when I worked for the department of correction, was a very valuable resource to take people from the, at that time it was a ferry from the ferry slip, but now—

Mr. SCHUMER [continuing]. The bridge?

Dr. LIPTON. Right. You could take them directly into a service facility. You maximize the probability that (1) they continue in treatment, and (2) that they don't get into trouble which pretty much pervades their thoughts at the time of exit.

Now, it doesn't mean that you can't create furloughs and you can't create time for them to become human beings again. But there really is a need for a transition period.

Mr. GRINKER. I would say also that we have to judge each——

Mr. SCHUMER. I hope you gentlemen don't mind my——

Mr. GRINKER. No, fine. You have to judge each case individually. I believe that some people need a continued therapeutic community. Many may just need Twelve Step Program. I mean different individuals are at a different stage in terms of their recovery, and that's why I think assessment is an important component of this.

The other thing I think that Dr. Lipton and others alluded to that I see as a key piece of this, is some kind of a housing service so that an individual can get into some kind of a halfway house or some kind of a drug free living environment.

Again, there's negative forces that play upon an individual and often times are too much to overcome. So that if a person is finished treatment there is some kind of a drug free living environment that's available. And to that we would look toward some of the community based organizations, the Community Development Corp., such as the Flatbush Community Development Corp. or the like, that have had experience in developing housing, developing alternative resources for these difficult to serve populations.

The other component that I think has been alluded to is the need for employment and training services, it's very important. I was very surprised and began to look at this area to find services available in terms of employment and training for ex-offenders. In business 20 years ago there was a lot more than there is today. And I think we have to really begin to build that up again based on some of the experience we've had with programs such as supported work such as the Safer Foundation in Chicago and others, where they have been successful in terms of working with ex-offenders to provide them with work experience, to provide them with job placement, to provide them with training and really work through a strategy on an individual basis.

Mr. SCHUMER. Dr. Lipton, does Stay'n Out do those things, housing and job placement except on an informal basis, I guess?

Dr. LIPTON. Not on a routine basis.

Mr. SCHUMER. Let me ask you this, Mr. Grinker, what's so powerful among all the other things that Dr. Lipton has found is the fact that with just Stay'n Out alone 78 percent don't come back and commit another crime.

Now, I understand we'd like to get it to 100 percent or 95 percent, but living in an era where budgets are smaller than they used to be, where budgets are shrinking, I mean the thing that jumps out at me is this is a program, it's 9 to 12 months, it isn't perfect, but 78 percent of the people don't commit another crime based on a long longitudinal study, no matter what else. That's something I think I could interest all of my colleagues in.

On the other hand if you say, well, it's not bad, but it also implies a housing component and a job training component and TC after prison to get to that 78 percent, then you're talking simply many more dollars. And being dollar conscious, so I guess I'd ask both of you, Dr. Lipton first, and then Mr. Grinker——

Dr. LIPTON. I'm not sure that in my prior testimony I mentioned Oxford House. Oxford House was started by a recovering alcoholic who was a former, I believe, Assistant Secretary of Commerce in the Federal Government, by the name of Molloy, who while held in this recovery facility in Montgomery County, MD, the county then funded it and they took it over.

And now there are about 150 Oxford Houses around the country, unfortunately none in New York. And I believe that the issue is one of legislation that's required here. But this is a housing facility that has recovered people, some of which are alcoholic recovered, some of which are recovered drug addicts, and the people live there as a condition and the condition of living there is being drug free or alcohol free.

They use that as a base and they go out to work and they go out to continue treatment, they don't treat them there, so they're not treatment facilities and therefore do not need to meet those community criteria.

Now, in those programs the need for housing is met and it's a revolving loan system funded by the Federal Government so that individuals even without any funds can borrow money and pay back and then as they continue successfully in the community to earn an income, they can pay rent, and they can retain that housing situation until forever for that matter, as long as they continue to pay rent and stay abstinent.

Now, that addresses, I think, that model costs nothing to the Federal Government except provide for the revolving fund—

Mr. SCHUMER. Let's say we didn't have that, let's say we just did Stay'n Out's all over the prisons and jails in this country.

Dr. LIPTON. Well you'd have a big problem getting trained staff, that's one of the biggest—

Mr. SCHUMER. Understood.

Dr. LIPTON [continuing]. Issues.

Mr. SCHUMER. That's a different issue and we should address that. But would your findings at least show that the recidivism rate would be as low as 22 percent?

Dr. LIPTON. I think what we need to look at—I mean here we have a program that was designed for the most serious chronic heroin and cocaine users. I don't think you need to have a program for less serious drug users that lasts as long. I think you can be equally successful at 6 months or even less with people who are less serious drug users provided that you have some kind of continuity of care.

So here in the New York City Department of Correction they have a 45-day program and hopefully they can continue and provide continuity of care after people are released and refer them on into treatment and provide sufficient incentives so that they're motivated to enter.

So the costs can be reduced by triaging the population so that you take the most serious and put them into a 9 to 12 month program and the less serious drug users into a less lengthy program.

Mr. SCHUMER. But even if you did the most serious and the cost is say \$3,000 a year and the recidivism rate were to be only 22 percent or the nonrecidivism rate 78 percent, I think most Americans would—

Dr. LIPTON. If you show them the quality of life that can be improved, I would absolutely agree with you.

Mr. SCHUMER. And that is what your findings show. I mean all these other things would be nice and they were part of it, but they were not mandatory as part of Stay'n Out, they happened for some of the graduates, not for others, et cetera. Is that fair?

Dr. LIPTON. Well, let me put it this way. I live in New York City, I understand the risks that everybody in New York City faces in terms of crime victimization. And I know that if I can take 100 people and reduce for each of them who are chronic robbers 40 robberies a year for each, I know that I'm going to be less likely to be a victim, and I think I can sell that to the citizen. I think that's a responsibility we have because they can then clearly understand that they can feel safer walking the streets.

Mr. SCHUMER. I was just asking if to get that 78-percent rate do we need all these other things, would it be better to have them but are they entailed in your study?

Dr. LIPTON. It's really hard to answer from a scientific standpoint. I can assert that I have a great deal of confidence in the outcome of the program, that the program achieved the same results cohort, after cohort, after cohort, that is extraordinarily unusual in social science research.

Mr. SCHUMER. And it's interesting too, Dr. Lipton, because after the crack epidemic Mr. Williams said he was having more difficulty placing people and yet you still received the same results.

Dr. LIPTON. Well what I would assert is that you probably could bring that result higher, you would probably never achieve 100 percent, but you can certainly achieve a greater cost effectiveness by adding certain dimensions, and one of them is after release and vocational services, housing services and making sure that there is a place for them to go to get reinoculated periodically.

Mr. SCHUMER. Mr. Grinker, did you want to comment?

Mr. GRINKER. I haven't looked totally and thoroughly at Dr. Lipton's data about the 78 percent, and maybe the Stay'n Out Program is special, but the data I've seen doesn't indicate generally that kind of success rate for these programs over a 3- to 5-year period.

Mr. SCHUMER. This is not outpatient.

Mr. GRINKER. I understand, this is in prison programs. But I'm talking about after 3 to 5 years compared to control groups who haven't had the treatment, I haven't seen the levels of success that Dr. Lipton points out, not that these aren't good programs but that quality surprises me, so I'd really have to see that.

Dr. LIPTON. I would like to add that I think it's essential to strengthen paroling authorities with a variety of options, program referral options, direct service options, so that former drug users who were being released on parole can do more than simply go to Narcotics Anonymous and Alcoholics Anonymous.

Mr. SCHUMER. Let me ask both of you this question related to that, and that will be my last question because I've taken some liberties here to try and get some answers.

Let's say we had mandatory, not prison, but someone was assigned as their parole to go to a therapeutic community and the minute they stopped, dropped out, they would go to prison.

Dr. LIPTON. I don't think that's a wise approach.

Mr. SCHUMER. OK. That's what I wanted to ask you.

Mr. GRINKER. How is that again?

Mr. SCHUMER. Let's say this is a second time drug offender, right, that's the crime, and instead of going to prison, which right now in New York he'd be required to do as a predicate felony, you say you must be enrolled in a therapeutic treatment program, that's your condition of parole.

Mr. GRINKER. Well doesn't a task program—

Mr. SCHUMER. Task tries to do that.

Mr. GRINKER. In some places very successfully, I believe.

Mr. SCHUMER. That's my question. Would that—

Mr. GRINKER. I mean it's an individualized kind of thing, you'd have to make a judgment on the—

Mr. SCHUMER. It wouldn't—

Mr. GRINKER [continuing]. Individual—

Mr. SCHUMER [continuing]. Everybody but for certain people. It would have the same kind of mandate that they must try therapeutic—

Ms. WEISSBROAD. Project Return is also trying something. Project Return has facilities—

Mr. SCHUMER. You just have to speak into the microphone.

Ms. WEISSBROAD. Project Return is also experimenting with that. There is a facility specifically for parole violators who have violated—

Mr. GRINKER. Well you're talking about as an alternative to sentencing.

Mr. SCHUMER. Right.

Mr. GRINKER [continuing]. Treatment is alternative.

Ms. WEISSBROAD. Yes. But Return has an alternative facility. Instead of sending a guy to prison, you go to this 80-bed facility up at 100th Street and Amsterdam Avenue that's run by Project Return that has no recidivism data yet, that's relatively new, but there's an experiment with that going on right now. And it seems in some other jurisdictions that some of the Task work is promising in that regard.

Mr. SCHUMER. I don't have any other questions, maybe George does.

Mr. GEKAS. Just one thing that loses me in its translation. It seems to me, at least Mr. Grinker has said, that retraining programs, employment training programs are essential to any of these programs of rehabilitation but that we don't have any that are directly tied into the specific program just like Stay'n Out is. But I thought that this State and other States have a multiplicity of retraining programs and training programs that are attached to the welfare program, shall we say, or to the unemployment compensation substitutes and all that sort of thing which are naturally available anyway, that all that would be required would be direction to those programs rather than set up a whole—

Mr. GRINKER. Well I don't think we have to set up a whole—create a whole new system, I think you're absolutely right, Congressman. But what I did find was that generally these programs are difficult for this population to get into. These programs have sort of turned away from this population toward populations per-

haps that are easier to deal with and that the ex-offender has a much harder time hooking up with some of these training and employment programs.

And, in fact, a person who's been on drugs or is in drug treatment, specifically in New York and I think in a number of other States, specifically exempted under the welfare laws from participating in these programs. So it's sort of topsy-turvy in some ways.

And I do think that this is a resource that's out there, as you say, but we have to take much greater advantage of it and we have to direct it toward the specific needs of this population to a much greater extent.

Mr. GEKAS. It seems counterproductive if we can't turn around and have the existing retraining and employment training programs geared toward the emerging drug treatment rehabilitee, so to speak.

Mr. GRINKER. Right.

Mr. GEKAS. We're maybe rendering the original drug treatment ineffective.

Dr. LIPTON. Surely vesticating the effect. But I would submit that there is a tremendous number of competing supplicants, there's the handicapped and so forth. I mean there are a lot of people who take a righteous stance that this is a population that doesn't deserve these opportunities, so there is a stigma that has to be overcome. And that stigma is not simply one of providing the resources but also employment and housing, in all of these areas.

Now, it doesn't mean to say that it's an insurmountable obstacle. I think with people like Ronnie Williams and his colleagues standing up before public audiences they get a sense that maybe once an addict, seldom an addict, I mean they have to shift from once an addict, always an addict. And this is a terribly stigmatized field, it's not only the people who are former drug users who are stigmatized but the people who work in the field as well.

And I think what the world perhaps or the United States and particularly the areas where high concentrations of drug use are, they need some public education and there needs to be a—I think doing what your doing, this subcommittee is doing is extremely important. I think that just serving time degenerates inexorably inmates as well as their keepers.

Mr. GRINKER. I've seen, to follow up on what Dr. Lipton said, I've seen a certain attitude, you have a mind set which is not entirely unreasonable where people say, well why should we, in times of limited resources, put resources into these guys, because there's a lot of other need, and so you do have this attitude.

And my sense is it's a pennywise and pound foolish because if we do put these resources into helping these individuals who have shown an indication that they want to be helped, we're going to have a much bigger payoff. But there still is that sort of—

Mr. GEKAS. It seems to me that if in an overall crafting of incentive legislation the Congress might adopt, we almost have to mandate to the States that unless you gear some of these training programs to the drug rehabilitee, you would be punished in other ways from the Federal largess in other programs.

Mr. GRINKER. It would make a lot of sense—

Mr. GEKAS. I think we've got to make that linkage.

Mr. GRINKER. Well there used to be in the old days a specific set aside, CETA has a specific set aside for ex-offenders, recovering addicts, and so forth, that doesn't exist any more.

Dr. LIPTON. There is, Mr. Gekas, I believe a powerful incentive that we can convince the public with. I think that the cost effectiveness of these programs is obvious. When you take these people committing this number of robberies and burglaries and can turn them around to become productive citizens, not only do their taxes that they pay in after a couple of years pay for the entire treatment, but the immediate reduction in the cost of all the criminal justice costs, is excess of what the program costs, so you're immediately saving money. And you're saving money within a year and within 2 years that's more than paying for the program and, in fact, is paying back to the public.

I know policymakers are very concerned about bottom line issues, and the public is also very concerned about that. I think there's another issue and perhaps at risk of belaboring the point, I think it's important to say that the public is not simply satisfied at having these people treated, they want them punished. There is a quality of retribution, there is a need on the part of the public to feel that somehow these people are being punished.

And it's not simply one, and this is part of my reaction to you before when you talked about the diversion issue, when you have predatory felons who are committing a fairly high rate of crime, the public is not satisfied to give them a magic bullet which instantly would turn them around into perfectly good citizens. They need to have a sense that some retribution occurs.

So we have in the criminal justice system both a vehicle for satisfying that need through punishment and deterrents as well as rehabilitation, an opportunity which is rare and which in most instances does not exist for these people otherwise.

So it becomes to me, sitting in your shoes, if I may presume that, that there is an obligation on the part of Congress to say, this ought to be explored in every State and it ought to be—and the Federal Government can do it with seed money because the readiness is there.

In the work that we have done since 1987 we have seen an enormous amount of interest on the part of States throughout the country to undertake these kinds of things but they can't do it alone, they need seed money to initiate it. In every instance, in the 11 States that we worked in, the States have come up with far more resources once the Federal Government provided the seed money.

And I'll give you an example. I was just in conversation with Alabama last week and they now have five institutions providing therapeutic community type treatment, they have treatment in every institution and in 1987 they had no programming at all for anybody. And they have taken that seed money, which amounted to about a half a million dollars, and have put now something in the neighborhood of \$6 million of their own resources.

Mr. SCHUMER. What did the seed money go for in Alabama?

Dr. LIPTON. The BJA, the Bureau of Justice Assistance, provided technical assistance resources to States that applied. And those States, which I reported in my testimony, were given about somewhere between \$85,000 and \$125,000 for planning and then

\$400,000 for implementation. And that money was to be specifically for correctional drug abuse treatment.

And the goal was reducing the overcrowding and, in fact, reducing recidivism. But that program is over, so there's a need to continue it.

Mr. SCHUMER. Any further comments? Well let me ask Dr. Lipton a question. Why is it taking so long for this message to get out? You know, I'm beginning to disagree with you just on one thing.

I think if the public were offered—they're so fed up with crime that the ideologies are becoming less important on both sides, on the left in terms of due process and civil liberties and all of that, but also on the right in terms of punishment for punishment's sake. And if someone could show people an answer that says, hey, let's skip all the ideological talk and instead just reduce crime so that you have less of a danger of being hit over the head when you go out at night, the public might jump at it.

And I guess I'm wrong, I think you're probably right as I think it through, because these ideas, programs like Stay'n Out have not yet caught fire.

Maybe let me ask all three panelists why that is, why is it taking—here we have this hearing now, obviously we have bad circumstances today, but it's the second time we've had a hearing on this sort of matter, they're hardly beating down the doors to come in and report about it and pay attention to it. What do you think?

Mr. GRINKER. You always have up front expenses here and you do have to put out the money to have something. And we have seen a substantial expansion of treatment program, I think it was about 3 percent—

Mr. SCHUMER. That's true.

Mr. GRINKER [continuing]. Seventeen percent, something like that, in the past 4 or 5 years in terms of those eligible for treatment, so you can't say nothing's happening.

Mr. SCHUMER. No, but I—

Mr. GRINKER [continuing]. Happening fast enough and—

Mr. SCHUMER [continuing]. As opposed to kneejerk, you know, well let's make the human condition better because we're all such—

Mr. GRINKER. Well I do think—

Mr. SCHUMER [continuing]. People.

Mr. GRINKER [continuing]. That there stills remains a lot—

Mr. SCHUMER. Doesn't seem to be—

Mr. GRINKER [continuing]. Of skepticism—

Mr. SCHUMER [continuing]. There yet.

Mr. GRINKER [continuing]. About the longer term effects of treatment as the answer.

Ms. WEISSBROAD. Because I don't think you can underestimate the prison treatment programs. They have taken hold, I think the idea has taken hold within the correction system, but men leave prison.

Mr. SCHUMER. I beg your pardon?

Ms. WEISSBROAD. People leave prison and they go back to the community. And in the long term, despite good short-term results, in the long term ultimately they recidivate and they relapse. In

large part we think because they don't enter the productive economy of their communities, so we don't know much about the long term behavior of people when they return to the communities.

And it seems that now since the idea is catching hold in the States, is the moment to seize the gains that the people do make in prison and when they do come out build them up as much as possible so that they can sustain the gain—

Mr. SCHUMER. But Dr. Lipton—

Ms. WEISSBROAD [continuing]. In the long term.

Mr. SCHUMER [continuing]. I'll let him have the final word.

Ms. WEISSBROAD. May I just make one more—

Mr. SCHUMER. Go ahead, please.

Ms. WEISSBROAD [continuing]. Point? I think it's very important for people working in the criminal justice system to be short up as well. We're overlooking the difficulty that the individual parole officer faces in making a link between his client and the treatment community—

Mr. SCHUMER. No question.

Ms. WEISSBROAD [continuing]. It's not so easy for him with his parolee to actually get him effectively to a program. There are impediments—

Mr. SCHUMER [continuing]. What Mr. Williams—

Ms. WEISSBROAD [continuing]. That are enormous.

Mr. SCHUMER [continuing]. Said, sure.

Ms. WEISSBROAD. There are no central control mechanisms, no vacancy control mechanisms, no payment, no rationale mode of payment, and it is a charge that is often impossible for the most dedicated parole officer to carry out.

Mr. SCHUMER. OK.

Dr. LIPTON. See, there is a possibility—

Mr. SCHUMER. And would you address—Ms. Weissbroad said that long term people recidivate except—

Ms. WEISSBROAD. I would—

Mr. SCHUMER [continuing]. The study on Stay'n Out is pretty long term.

Dr. LIPTON. We have data for 9 years.

Mr. SCHUMER. Yes. Five to 10 years is—I mean I think that's pretty long term for people. And by 10 years later you just have demographics slowing down the rate as well. So go ahead, Dr. Lipton, you get the last word.

Dr. LIPTON. I forgot what I was going to say.

Mr. SCHUMER. Don't conclude on that.

Mr. GRINKER. I think that Congressman Schumer has raised a very good point. I heard earlier testimony about the fact that these individuals get back into the community are subject to the same kinds of pressures and that without ongoing services they quickly relapse into past behavior. This seems very contrary to the data that Dr. Lipton is putting forward and counter intuitive to what—

Mr. SCHUMER. Exactly.

Mr. GRINKER [continuing]. I've seen in many programs. So maybe his data is something we really have to look at further because if he's right that Stay'n Out is the answer, we don't need all the rest of this stuff.

Mr. SCHUMER. OK. I would—

Dr. LIPTON. I don't think Stay'n Out is the whole answer. I think you need a—program and I think the programs have to be targeted to the kinds of needs that these people have. Stay'n Out is not the only answer by any means and could not be because it's a very powerful modality for the most severely involved.

There is a need for short-term programs, for programs in jails, for alternative programming, for a whole host of possibilities, working with juveniles. We haven't said a word about the juvenile offenders.

They just finished a survey here in New York State, there are 50 percent of the kids who are currently incarcerated in juvenile facilities are drug involved. There are no programs to speak of with respect to treating these kids, and these are the kids that are going to be flocking into the institutions in 5 years or 6 years or even 2 years, as soon as they begin to get out.

You look at the careers of drug users and you see that they spent time in juvenile facilities and they spent time in adult facilities, and if we don't take that opportunity we're missing the boat, we really are missing the boat.

Mr. SCHUMER. I thank all three of you for a very elucidating hour. I appreciate your staying late under the time constraints, and we're beginning to bump into our own time constraints as well, unfortunately.

Dr. LIPTON. Thank you very much.

[The prepared statement of Mr. Grinker follows:]

PREPARED STATEMENT OF WILLIAM J. GRINKER, DIRECTOR, SUBSTANCE ABUSE
STRATEGY INITIATIVE, THE TWENTIETH CENTURY FUND

Mr. Chairman, my name is William Grinker, Director of the Substance Abuse Strategy Initiative of The Twentieth Century Fund. I appreciate the opportunity to testify today on this important topic. For the past six months, I have been heading an analysis of demand side drug abuse programs and research with the goal of formulating a multi-foundation and government strategy for drug prevention and treatment initiatives. I have headed a team that has traveled the country learning what programs are out there that seem to hold some promise, and what areas need focused resources for demonstration program development and research.

We have come to the conclusion, after a survey of various drug abusing populations, that one tremendous, unmet need is a program and research initiative targeted at drug abusing offenders who are leaving prison and returning to their communities. These individuals do not exist in isolation from other neighborhood residents. They are family members--sons and daughters, older brothers and sisters and -- most important for the future of these neighborhoods--they are parents.

While women are the fastest growing segment of the incarcerated population, in absolute numbers they are still only a small fraction of the people in prison. Therefore, the primary focus of any post-release initiative should be on males.

An offender's return to drug abuse and criminal activity poses a direct and terrible threat to the people who live with him, or down the street. Drug abusing offenders are the men in high-risk neighborhoods most likely to father children without taking responsibility for them, to commit domestic violence, to bar their addicted female partners from seeking treatment, and to serve as invidious role models for young children who are close to them.

There is significant justification for optimism, to believe that if ex-offenders are provided with appropriate treatment and support services, many can stay off drugs and away from criminal activity. Research studies have shown that offenders who enter treatment while incarcerated reduce drug dependence, and are less likely, once freed, to commit a crime, at least for a while.

These positive benefits of prison-based drug treatment, however, are generally not sustained. And, while drug treatment helped ex-offenders deal with their addiction in the short term, it did little to help their employment status.

We recommend a strategy designed to build on the progress offenders make while in prison.

I. SCOPE OF THE PROBLEM

People who come within the control of the criminal justice system use illegal drugs at an enormous rate. Eighty percent of the men arrested in Chicago in 1988 had used an illegal drug within two to three days before they were arrested. The numbers are similarly overwhelming in other large cities--83 percent in New York, 81 percent in Philadelphia, 82 percent in San Diego. Overall, in 1988, in most large cities, 70 per cent or more of the men arrested had taken drugs very soon before they were arrested.

More and more, cocaine is the illegal drug used most frequently by those arrested. Most cities have seen vast increases not only in the rate of drug use generally, but particularly in the rate of cocaine use among arrestees. In Manhattan, 83 percent of arrestees in September and October, 1986 tested positive for cocaine, compared with 42 percent in 1984.

Drug abuse and crime are powerfully connected in our imaginations and in fact. Their relationship is complex and the causal link remains murky. Some people commit crimes because the physiological and psychological effects of drugs can cause aberrant behavior. Some drug addicts commit income producing crimes to get enough money to sustain their drug habits. Some people who take drugs commit other illegal acts because they do not feel constrained by the force of law. Whatever the nature of the association, it is so deep that, in many communities, the criminal justice system

agencies have custody and control over more drug abusers than any other societal institution.

II. CURRENT EFFORTS

The handling of drug addicted offenders (that is, people who may be charged with any offense and who are also dependent on drugs -- as opposed to people charged with the sale or possession of drugs) tests the capacity of the criminal justice system to perform its rehabilitative function. And, despite the explosion in numbers of drug addicted offenders, every state has forged some linkage between the criminal justice and drug treatment systems; drug treatment services are available to offenders at various stages of the criminal justice process. Clearly, the response has not kept pace with the need, but there is an increasing effort to respond with a variety of service alternatives.

Treatment Alternatives to Street Crime

TASC, a federal initiative begun in 1972, is the basic program available in most jurisdictions linking defendants at various stages in the criminal justice process to community treatment resources, which may serve as alternatives to traditional case processing and incarceration. TASC is an offender based, case management model. The particular form of alternative punishment accompanying the rehabilitative treatment varies according to

jurisdiction; most commonly used are fines, community service and electronic monitoring (federal interest in this is growing).

TASC has remained and, in a number of jurisdictions, thrived over almost 20 years in part because local criminal justice systems have been able to create systematic linkages with treatment resources. These relationships should be built upon as the demand for offender based treatment strategies increases.

Statutory Diversion and Alternatives to Incarceration

Most states legislatively authorize the diversion of certain (generally young, non-serious, or first-time) offenders out of the traditional criminal justice process and into community-based programs, including drug treatment. Many local jurisdictions have made imaginative use of the diversion statutes and have developed treatment alternatives specific to their needs and resources. Jurisdictions notable for such efforts are Miami, Phoenix, Kansas City and Birmingham, Alabama.

The NIJ/BJA agenda for the development of alternatives to incarceration focuses primarily on testing various combinations of treatment and urine testing. BJA's Drug Testing Technology/ Focused Offender Disposition Program is developing a diagnostic instrument aimed at matching a defendant to the most appropriate form of treatment, ranging from urine testing alone to long-term

residential care. Many states are developing plans to use block grant money for treatment with testing programs.

Treatment in Prison and Jails

1. Jails

Jails generally house pre-trial detainees and convicted misdemeanants sentenced to up to one or two years. Some state systems have made available fairly extensive treatment resources for detainees, and occasionally sentenced misdemeanants, within large jails.

In New York City, the Department of Correctional services has provided 500 drug treatment beds within Rikers Island, in addition to providing methadone maintenance services. The Bibby Resolution, is an innovative program located in a former troop carrier ship, in which 384 drug abusing pre-trial detainees live in a therapeutic community. However, since the average length of stay is only 45 days, it is hardly likely that this program has long-term impact on inmates' drug use once they are released.

2. Prison Programs Generally

Citing the most recent data available, NIJ reports that in 1987 11 percent of state prison inmates were in drug treatment programs,

compared to 4 percent in 1979. Although more recent systematic data is not available, NIJ officials believe the number of state inmates now in treatment is substantially higher than the 1987 figure, because all state corrections departments now provide some form of drug treatment services.

NIJ has paid particular attention to, and urges the replication of, three prison-based, therapeutic-community programs: the Cornerstone program, Oregon; the Lantana program, Florida (although the current status of this program is not certain); and the Stay N' Out program in New York, which is about to open its first half way house for offenders leaving the Stay N' Out therapeutic community in the Arthur Kill prison. This facility will have 40 beds, be "staff intensive" and provide a variety of on site services. It might be a useful model for other efforts.

Therapeutic communities have found comfortable homes within correctional settings, and their use in prisons is growing. Therapeutic communities and prisons are distinctly compatible; prison administrators accommodate them easily because they are effective control mechanisms. The therapeutic community techniques of breaking down individual autonomy and developing hierarchies and disciplinary structures within the inmate community, serve prison administrators well. Department of Correctional Services officials in New York claim that the discipline inherent in the therapeutic

community reduces the number of guards needed and results in substantial savings.

3. Boot Camps/Shock Incarceration

Twelve states now have shock incarceration programs and 10 more are developing them. New York and Texas have leading programs. These programs generally are aimed at young, non-serious or first-time drug abusing offenders. They involve rigorous, "boot camp" style discipline and physical activity (drills, marches, physical challenges) combined with therapeutic community or 12 step treatment components. In exchange for the more onerous conditions of incarceration, shock inmates are eligible for parole release earlier than inmates in traditional facilities.

* * * *

The available research offers good evidence that legal coercion is compatible with successful treatment and, in fact, can create an environment that promotes successful outcomes.

"Drug users who are legally coerced into treatment programs perform as well as those who enter voluntarily. They stay in treatment as long or longer and perform as well as voluntary clients on a number of outcome

measures, including decreases in criminal behavior."
(Anglin, paper presented at American Enterprise Institute
for Public Policy Research, Seminar for Executive Branch
Employees May, 1990)

The TOPS study found that clients who entered treatment under criminal justice system coercion fared as well as clients whose motivation sprang from another source. In fact, the study found, the capacity of the criminal justice system to require participation led to greater retention in treatment which was, in turn, associated with more positive outcomes.

The TOPS data showed that:

"the criminal justice client, particularly the TASC client, stayed in treatment longer than the client with no criminal justice involvement...criminal activity for those with a criminal justice status decreased substantially while in drug abuse treatment...The tendency of those with criminal justice status to stay in treatment longer encourages positive treatment outcomes."
(Hubbard, et al., 1989).

But we also have evidence that the gains made by offenders in treatment are not sustained when they leave the supervision of the criminal justice system and return to their communities. While drug

treatment received in the system was initially effective in reducing drug use and criminal behavior, these results decayed after two years and there was no positive longer term effect.

The TOPS data show that drug treatment did little to improve the employment status of criminal justice clients and, perhaps because of their continued inability to earn legitimate income, criminal activity began to increase over a period of several years after treatment:

"Although treatment results in reductions in drug abuse and criminal activity, it does not result in consistent increases in employment or productivity.

...Decreases in the crime related costs of drug abuse after treatment are consistent with the decreases in criminal activity among clients in the year after treatment relative to the year before treatment...They are also consistent with the observation by several authors that criminal activity is lower during periods of nonaddiction...That is, as drug abuse decreases in severity after treatment...criminal activity also decreases and the crime-related costs of drug abuse correspondingly decline.

Findings for the second year after treatment are consistent with the declines seen for the one-year period, but in the three to five years after treatment

there appears to be a reversal of the favorable trend. By three to five years after treatment there was a return to pretreatment levels of costs...legal earnings increased little in each of the follow-up periods. Thus although clients decreased their criminal activity immediately after treatment, they did little to improve their integration into the legitimate economy." (Hubbard, et al., 1989).

Conclusions

Drug treatment provided through the criminal justice system has been proven effective in reducing drug use and criminal behavior. We have not, however, effectively reinforced the success of prison-based treatment so that offenders can maintain their gains and function as constructive, rather than destructive, members of the communities to which they return.

If we share the criminal justice system's goal of rehabilitation, it is time to take the next step. We now know how to change the behavior of drug dependent offenders. Neighborhoods should build on the success of prison-based programs and create programmatic structures to help offenders sustain the gains they have made in treatment and lead productive lives.

III. HELPING EX-OFFENDERS: THE STRATEGY

We recommend a concentration of resources to build on the work of treatment received in the criminal justice system by providing offenders returning to the community with a package of after-care services aimed at sustaining treatment gains and achieving a positive reintegration into the economic and family life of the community.

Programs should link criminal justice, drug treatment and welfare programs and other services to a community-based organization that would coordinate services and entitlements for individuals coming back to their neighborhoods from prison or on other forms of supervised release.

The cornerstone of the effort should be the development of a Central Intake Unit: a unified, systematic intake, assessment and referral system, which would include a computerized vacancy control and tracking system that could monitor an individual's progress in treatment and assure maximum coordination and provision of service.

It is key to the conception of this strategy that the neighborhood organizations and participating institutions use the Central Intake Unit developed for use by this population as the proto-type for a broader based, regional referral and vacancy control mechanism that

could ultimately be expanded to serve a variety of clients who seek treatment in the community. Therefore, we see this as the first step in developing a more rational and coherent treatment system.

The theory behind this strategy is that an offender who has succeeded in reducing his drug use through prison-based treatment is more likely to sustain his success if he returns home with a coherent plan that includes continued drug treatment as well as three other specific supports -- work experience, housing, and parenting and family skills training -- that will provide him with essential skills and place him on a firmer footing as he re-builds a life in the neighborhood.

Re-entry into the community after drug treatment in the criminal justice system is a particularly promising moment for programmatic intervention. Participation in treatment reveals a motivation that should be exploited. Offenders who have participated in treatment have acknowledged their addiction, demonstrated a desire to change their behavior, and shown an ability to follow a treatment plan.

The Institutional Partners

Three institutional systems are involved in the provision of drug community-based treatment services to most offenders who are on parole or probation -- the criminal justice system imposes a treatment requirement and supervises the offender's participation;

providers within the state drug treatment system deliver the treatment service; and, the welfare helps system pays for it.

In most large cities, drug treatment services available to parolees are scattered, fragmented and difficult to negotiate. Many individual parole/probation officers now have no central point of contact with their communities' drug treatment systems and often find themselves unable to effectively link their clients with the services required by the terms of their conditional release. In many communities, the mechanical barriers to access to treatment can frustrate the best efforts of parole officers to perform their rehabilitative tasks and promote their clients' transition back to the community.

Further, there is little communication between treatment providers, criminal justice and welfare officials. A parolee in treatment being paid for by a home relief grant may drop out of treatment without any notice from the provider to his parole or welfare officers.

Community organizations should seek to create better linkages than now exist between the three systems through a more creative use of the particular mechanisms available within each so that the actions of the three systems reinforce each other and reinforce the effective delivery of treatment services to individuals participating in the program.

Target Population

The primary target population for focused resources should be offenders who received drug treatment in prison and are being released to the community. (Most returning inmates will be on parole; the overwhelming portion of prison releases in all states are conditional -- that is, subject to parole supervision for a fixed period of time.) This group is most in need of supportive services because the transition from prison to community is notoriously difficult and offenders generally leave prison with almost no resources -- be they financial, housing, or employment. Re-entry into the community is a moment of prime vulnerability and, for a recovering addict, the incentives to relapse are enormous.

High risk, urban neighborhoods are home to substantial--and growing-- numbers of parolees. In 1989, there were a total of 28,900 parolees in New York City: 7900 in Brooklyn; 6700 in the Bronx; 6200 in Manhattan; and 4400 in Queens.

On an average day in 1989, there were 7600 parolees in Chicago; 600 in the Roxbury section of Boston; 18,000 in Los Angeles; 2100 in St. Louis.

The dimensions of this population--and their potential for destructive behavior in disproportion even to these large numbers--

argue forcefully for a concentration of resources and creative policy making.

We think that the following elements should compose an effective program strategy:

Central Intake Unit

The strategy's core should be the Central Intake Unit (CIU), the unified coordinating mechanism that will make effective drug treatment and a comprehensive service plan possible for parolees.

1. Treatment Placement Support System

The CIU should develop a Treatment Placement Support System (TPSS) aimed at establishing a smoother, more rational way of getting a client to the most appropriate form of drug treatment. The state drug treatment agency will be the key institutional partner in the creation of the TPSS. Under the auspices, and by agreement of the state agency, all community treatment providers will participate in and provide information to this system describing services provided, eligibility criteria, and vacancies; if they have vacancies, they will agree to accept referrals from the CIU that meet their eligibility criteria.

The TPSS will be a state-of-the-art, on-line data base management system that will dramatically improve a community's ability to provide, monitor and plan for the development of drug treatment services. The TPSS will have the following objectives:

- o Operational Support - TPSS will provide information on all available treatment slots, of all kinds (residential, outpatient, acupuncture, etc.) to CIU staff 24 hours a day seven days a week. TPSS will also provide information on eligibility requirements, admission criteria, payment policies, etc. of all available slots. This will eliminate the need for multiple calls or visits to providers, and will eliminate the particularly destructive process of serial rejections by treatment providers, which can defeat the most motivated client. The CIU will develop procedures requiring treatment providers to report vacancy information in a regular, timely fashion, so that CIU staff can accurately determine vacancy information at any time.

- o Monitoring - TPSS will allow the systematic monitoring of an individual client's progress

in treatment. If a first referral proves unsuccessful, the CIU case manager can re-assess and refer the client to a different program, without wasteful duplication. The TPSS will be an on-going information service, monitoring a client's placement and tracking his progress in treatment.

- o Systems Integration - TPSS will provide a community with a single reliable source of drug treatment information. Communities now do not have one unified source of information on numbers and kinds of clients in care, length of time in treatment, reimbursement streams available to particular clients or particular providers, etc. TPSS can provide relevant community agencies -- providers, welfare and criminal justice system officials, Medicaid offices, etc. -- with one common source of data.

 - o Neighborhood Capacity Planning - For each treatment modality, TPSS will provide neighborhood-based data on total slots, slots available, new slots, slots eliminated and slots reserved. The CIU, treatment providers
-

and neighborhood and government planners can use this information to more efficiently plan for community treatment needs.

- o Research - Because little is known about which kind of treatment is most effective for which kind of criminal justice client, the systematic information base and monitoring capacity of the TPSS gives communities an opportunity to carry out rigorous research about the outcomes of particular treatment methods with various populations.

- o Confidentiality requirements - TPSS will be designed to safeguard confidential assessment information and to observe all statutory and procedural requirements governing access and confidentiality. Particularly with respect to a population that will be in various stages of criminal justice supervision, the need for sensitivity to questions of access and confidentiality of identifiable data is substantial.

Program Elements

A. CIU--Intake, Assessment and Referral to Drug Treatment

The CIU should ensure the provision and monitoring of all services provided to a parolee. The CIU should appoint a case manager who will develop a service plan for each program participant, and who will work in concert with the CIU assessment team (to be discussed below), which will make decisions related to each participant's drug treatment plan.

The first step for all parolees should be intake at the CIU office. At intake, the case manager should be assigned. This case manager will be the designated contact for all criminal justice officials who must track the offender's progress in the community. He/she will also be the designated contact for drug treatment and other service providers involved in the offender's service plan.

1. Assessment

A sensible assessment procedure could be based in part on the practice of the assessment teams at the Connecticut Mental Health Center -- a joint project of Yale University, the State of Connecticut, and the Abt Foundation. This Center has pioneered the concept of centralized assessment and referral to drug treatment in the disadvantaged, inner-city neighborhood that surrounds Yale University.

Individual client assessments are carried out by multi-disciplinary teams, including doctors, social workers, counselors, and staff from each of the participating service providers. Individual treatment decisions and referrals are made, tracked, and, when necessary, modified by the assessment team.

A CIU case manager should, through his relationship with the client's parole or probation officer, obtain specific information about the nature, extent, and outcome of drug treatment obtained in prison to aid the assessment team in its decision.

2. Referral

Referrals can be made to the following broad categories of drug treatment programs:

- o Long term residential - generally for the prescribed 6 to 18 month stay;
- o Short term residential, generally for the prescribed 28 day stay;
- o Out patient methadone;
- o Out patient drug free;
- o 12 Step program, AA,NA,etc.;
- o acupuncture; and
- o other.

The case manager should manage the referral using the TPSS. This process includes all activities from selection of a particular provider through confirmation of client arrival.

3. Monitoring

Since a first referral may not always produce an effective match between client and provider, it is essential that the CIU case manager stay in close contact with the provider and monitor the client's treatment progress. If, in the opinion of the case manager, based on contact with the client and the provider, the referral proves unsuccessful, the client should return to the CIU assessment staff for a new assessment and referral.

B. Service Plan - Non-Drug Treatment Related

The drug treatment referral decision made by the CIU assessment staff should be the centerpiece of the offender's individual service plan. The case manager will be responsible for determining the scope and length of the work experience, housing, and parenting skills training program elements, depending on the nature of the drug treatment required. For example, if the CIU assessment team recommends long term residential treatment, the other service pieces may not be invoked until the offender is close to release. If the offender has made substantial enough gains in treatment already received, and the assessment team recommends that a 12 step program will be sufficient for maintenance, the offender could begin following a service plan containing the other three elements immediately.

The following three elements should complete a parolee's service plan. The case manager (not the specialized CIU drug treatment assessment team) will make a determination about the nature of the services required in each case and will be responsible for obtaining and coordinating the required services. He/she also will be responsible for monitoring the offender's progress in these other three program areas and for making adjustments or new service provision arrangements if necessary.

New initiatives should rely primarily on the existing service capacity within a community. They should draw on the unique

ability of a neighborhood based organizations to bring together the variety of services already existing in the neighborhood and make them available through one centralized location--the CIU. The case manager should have the primary responsibility for rationalizing and coordinating access in each case.

Employment and Training

The TOPS data discussed above showed that coercive drug treatment received by criminal justice clients is successful in reducing drug use and criminal activity but "it does not result in consistent increases in employment or productivity."

We can hypothesize that the ultimate (after three to five years in the TOPS study) return to drug abuse and criminal behavior reflects, in large measure, an offender's inability to find and keep a legitimate job. Resulting financial pressures, or continued association and identification with a culture of unemployment and illicit income could accelerate relapse and recidivism.

Program initiatives for a parolee population should focus carefully on the role of legitimate work in helping an offender maintain the gains made in treatment. Initiatives should provide an opportunity to research whether or not substantial efforts to bring the offender into the economic mainstream of his community can affect the current pattern of return to pre-treatment behavior.

Finding sustained employment for ex-offenders has proven to be one of the most daunting tasks facing those who provide transition services for offenders returning to the community. Those who have worked in the field for many years describe a trend away from support for employment services for offenders. Across the country, TASC operators, in particular, cite a lack of job training resources and feel often that they fall short in providing that essential piece in the package of services they offer their clients.

Even though employment and training programs designed to help ex-offenders appear to have diminished substantially in recent years, there are some efforts still extant that can be built upon. Notable among them are:

1. Massachusetts-Comprehensive Offender Employment Resource System

(CORES) - CORES is an 11-year-old, state-wide program that is now almost completely state supported. It works through local Employment Resource Centers (ERCs). Every large city in Massachusetts has an ERC, run through a contract with a local non-profit agency. ERCs are intended to be local, one-stop-shopping job training and placement centers for men and women on probation, parole and work release. Boston's ERC is run by Massachusetts Half-Way Houses, Inc., which has a strong reputation for maximizing community resources. CORES sees 2,500 to 3,000 clients a year, and places 65-70 percent of them in a variety of unskilled to semi-

skilled jobs in hotel services, construction, light manufacturing, etc;

2. Illinois. The Safer Foundation, Chicago - Safer was established in 1970 and works with 7,000 clients a year who are mostly on probation, parole, or work release. Funding comes from the State of Illinois, federal JTPA monies, and private industry. The program provides work readiness training, basic skills training and on the job training, primarily in private industry. Some government agencies also provide job training and placement for Safer clients. For example, last year 700 clients were placed in asbestos removal jobs after training was provided by the Environmental Protection Agency. In all, Safer places 2,700 clients a year in jobs. Researchers at the Research Triangle in North Carolina have found that less than 11 per cent of Safer clients were re-incarcerated within two years of their participation in Safer training.

3. Florida. The Pride Program, Pinellas County - The Pride Program has been the prime employment resource for clients in the Operation PAR/TASC program. PRIDE is a combination prison/private industry outplacement program that attempts to link the in-prison training experiences provided by local manufacturers to placement with those employers upon an inmate's parole.

4. New York. The New York State Division of Parole - The New York State Division of Parole works with a variety of small programs. In

New York City, The Neighborhood Work Project of the Vera Institute of Justice hires parolees within 60 days of release from prison. VERA provides short-term day work in construction, demolition, and clearing work. Vera's Vocational Development Program provides parolees with vocational training and testing, employment counseling, and job placement services.

The Division of Parole also has developed the Correctional Vocational Rehabilitation Services Program with the New York State Department of Labor. This is an attempt to provide parolees statewide with vocational testing, employment counseling and placement services.

Finally, the Division places parolees with the two-phased enhanced supported work program, run by the Wildcat Services Corporation. The first phase of the Wildcat program provides a six-month supported work program enhanced with individual counseling and life skills training; the second phase consists of transition into non-subsidized employment for parolees who successfully complete phase one.

5. Supported Work. Despite these and a few other venerable local training and placement efforts -- New York City's Fortune Society and South Forty Corporation, San Francisco's Delancy Street -- there is still a paucity of employment and training services for

the needs of ex-offenders.

The most fully conceptualized, executed and researched work program for offenders and addicts may still be the supported work program that was tested in the National Supported Work Demonstration in the mid 1970's. Supported work is primarily distinguished from other employment and training programs by its emphasis on three programmatic techniques specifically designed to try to make participants comfortable with a life of work: peer group support through work in teams; graduated stress; and close supervision. The program offers many participants their first real opportunity to develop two assets that should assist them in entering the legitimate labor force: good work habits and a history of stable employment.

The National Demonstration produced findings with provocative implications for the program initiative proposed here. Ex-offenders, one of the target groups of that demonstration, reported significantly less drug use (described as any drug other than alcohol or marijuana) than their control group counterparts over the full 36 month research period.

The results of the program on ex-addicts, another target group, are particularly important to us because the ex-addicts studied in the Demonstration are very similar to the target offender population in the initiative proposed here. The findings are noteworthy:

"Supported work did significantly reduce the criminal activity of the ex-addicts. In almost every period, a lower percentage of experimentals than controls were arrested, convicted or incarcerated...The cumulative differences in the arrest rates were also large and statistically significant. Furthermore, the program had a significant impact on arrests for two specific types of offenses: robbery and drug-related crimes. The effect on robbery is particularly important since this type of crime has a high social cost."

Researchers further found that the reduction in criminal behavior and drug use may have been particularly affected by the interaction among the participants. They noted that:

"experimentals' experience in Supported Work may have strengthened their commitment to conventional behavior...If ex-addicts have been heavily involved in a deviant subculture, as some theories suggest, then the peer support for work may be particularly effective in reducing crime among ex-addicts." (National Supported Work Demonstration, Volume 4, MDRC, 1981).

These notions of positive group behavior reinforcement are similar to those espoused in therapeutic communities and 12 step alcohol and drug abstinence programs.

Supported work experience may be, therefore, an important aspect of an employment and training strategy for the ex-offender/recovering addict population. However, a difficulty with the concept, as implemented in the past, has been that the economic incentive, i.e., a salary based at slightly above the minimum wage, has not been sufficient to forestall a high dropout rate among participants.

For adult ex-offenders, a higher wage incentive, or a more modest wage with other subsidies such as a supported housing arrangement could prove the difference between the modest success of the National Supported Work Demonstration and a more substantial difference in long-term economic and social outcomes. Policy makers should look to this possibility in the further development of program initiatives for this population.

Housing

The goal of housing programs for this population should be to provide living situations for parolees that will minimize triggers to relapse and provide group therapeutic support. There are intriguing possibilities of combining work and housing program elements by having teams of parolees working on the construction of housing for their own use.

Resources should be made available to allow communities to make use of the following housing options:

1. Half-way Houses - Many neighborhood based organizations, in particular Community Development Corporations, are uniquely situated to understand, and make imaginative use of, a community's available housing stock. A CDC can put together a package of housing alternatives appropriate for this population as it has access to stock ready for occupancy or rehabilitation, as well as to sites available for construction.

The provision of on-site social services for special needs housing is also familiar terrain to many CDC's. In addition, half-way houses for this population should have on-site 12 step programs, which are inexpensive, do not pose community siting problems, and are demonstrably effective in preventing relapse.

2. Shared Apartments - The CIU case manager could arrange for an appropriate number of parolees to share suitable apartments. Supervision of the behavior, of the condition of the apartment, etc. could be provided by neighborhood security staff.

3. Drug-Free Neighborhood Areas - Working together with neighborhood police, a community could designate a portion of its area's housing as "drug free," and place a number of parolees in vacant apartments, in these areas. A community policing presence, and staff from community organizations could provide supervision of program residents. The CIU case manager would be responsible for securing and coordinating the provision of other program services for the residents.

Parenting and Family Skills Training

It should be a goal of new program initiatives to help recovering addict offenders find housing that will allow them to maintain the behavioral changes they made in treatment. But there is another aspect to the living situations of this population that is as vital a part of their rehabilitation as the "bricks and mortar" of the actual apartments.

As noted above, upon release from prison, ex-offenders return to communities to which they have ties, usually family ties. Under the

best of circumstances, they return to become productive members of the community, able to support their dependents emotionally and financially. Too often, however, their reappearance can have a negative effect. This is especially true if they return to lives of crime, addiction, and domestic violence.

These days, programs for drug addicted women almost always have a parenting skills component; you can search long and hard before coming across parenting classes for male addicts. Attention must be paid, (and resources should be provided) to remedy this situation.

1. Parenting Classes for Fathers - Many drug abuse treatment programs for women include specific instruction in parenting skills; a substantial body of knowledge is being developed about how the various aspects of a parent's job are best taught. But, we have not seen these services ordinarily directed to men. The case manager should make available, as part of the offender's service plan, parenting skills classes.

A ground breaking model in this area has been developed by the Parent Education Program of Planned Parenthood of New York City, Inc. The model includes a sophisticated, written curriculum, "Fathering: Parent Education in Prison." Over the past several years, Planned Parenthood of New York City has run parenting classes for sentenced male offenders incarcerated in three local correctional facilities. The Planned Parenthood curriculum, and

others developed in connection with women's prison programs should be used as a base for program development.

2. Counseling for Offenders and Older Related Children - The drug addiction and incarceration of a father, older brother, or other close relative has a profound impact on the lives of children. We know that children of addicts are at high risk of becoming addicted themselves.

The case manager should arrange joint counseling for the ex-offender and the pre adolescent and older children to whom he is related. Counseling sessions should aim to offset the negative effects on the children of the ex-offender's addiction and incarceration.

3. Domestic Violence Counseling - Domestic violence afflicts many families in high risk neighborhoods. The security director of a CDC in inner city Newark said that his force spent most of its efforts in the CDC's sponsored housing responding to situations of domestic violence.

Training and intervention programs for abusive parents might be drawn on as a base for the development of domestic skills training. Some programs that have been developed specifically for abusive men, and that can be drawn on as models, are: 1) the EMERGE program in Boston; 2) the Domestic Abuse Intervention program in Duluth;

and, 3) the domestic violence counseling program for men of the New York City Victim Service's Agency.

The CIU case manager, in his regular contacts with a program participant's probation or parole officer, should report any incidents of domestic violence of which he becomes aware and should clearly communicate to each participant that domestic violence will be taken seriously and reported to criminal justice system officials.

4. Child Support Enforcement - The case manager should work closely with the community's child support enforcement mechanism to ensure that program participants enter into reasonable support arrangements for any acknowledged children. This effort should be related to the offender's work program, and support payments may, at first, be small and primarily symbolic. Methods of planning for the financial support of children should be made a basic part of the program of socialization for ex-offenders.

5. Community Role Models - The sponsoring community organization should mobilize men in the community to serve as role models, teaching the ex-offenders how to form responsible, functioning family units. Parolees should receive instruction from, or, perhaps, be encouraged to form one-on-one mentoring relationships with men in the community who can present taking responsibility for families as a virtue worthy of emulation.

IV. CONCLUSION

Transitional services provided to returning drug addicted offenders must be comprehensive and diverse. If successful they should make a difference not only in the prevalence of drug abuse among the target population but also in the extent of repeat criminal activity, and domestic violence and other destructive family behavior.

In addition to improving the future prospects of individual offenders, very poor communities should benefit as well. Drug trafficking activity should be reduced since there will be a reduction in demand and a reduced pool of offenders from which to recruit petty, repeat sellers.

Reducing the use of drugs, drug trafficking, and overall levels of criminal activity and increasing responsible parenting and family behavior should go a long way to improve the quality of life in very poor communities. Further, increasing the level of productive activity among a population that has generally not contributed to the legitimate economy of the neighborhood should build the quality of life in high risk neighborhoods.

We expect to launch a multi-site demonstration initiative based on the strategy we have set forth beginning in early 1991. We anticipate that this will be one of several high risk populations

upon which our programming efforts will focus. So far we have had a positive response from many foundation and government officials with whom we have discussed this strategy and we are reasonably confident that the necessary funding can be secured. Mr. Chairman, we hope that we can count on the continued interest and support of this Sub-Committee as we move forward with this innovative effort.

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Mr. SCHUMER. So we will immediately call the next panel without taking any break. Commissioner Sielaff couldn't be here, obviously, because of everything going on, but he has sent his very able deputy Barbara Shofurd, who's the commissioner of the New York City Department of Correction. And once again we're honored to have Marion Borum who's the deputy commissioner for the New York State Department of Correctional Services.

We also have people who have asked to give their experience because we are very—oh, and finally on Panel 2, Warden Peppy of course, I didn't see him here, but he was going to testify—oh, he put his coat on and he's hiding behind someone, he's going to testify. And he's going to be joined by two members of the program who actually are inmates at this facility right here and they'll introduce themselves when they come up.

So Warden Peppy, you're up, and is it Mr. Lomax and the other gentleman who's name—come on up. Just bring a couple of chairs.

What I'm going to have to do because of our time situation and because this is the last panel, is try and ask each of the people testifying, I know that Commissioner Sielaff only wanted to make brief remarks, but to limit it to 5 minutes, if we could, and then give us a little time for questions.

So why don't we begin with Commissioner Shofurd, go to Mr. Borum, Warden Peppy and then Mr. Lomax and Mr. Morgan.

Ms. SHOFURD. Chairman Schumer, let me just make one correction. It's not Commissioner Shofurd, it's director of operations of the Substance Abuse Program.

Mr. SCHUMER. Got you. Director of operations, OK, very good.

**STATEMENT OF BARBARA SHOFURD, DIRECTOR OF OPERATIONS,
SUBSTANCE ABUSE PROGRAM, NEW YORK CITY DEPARTMENT
OF CORRECTION**

Ms. SHOFURD. I'm going to read a hopefully brief statement from the commissioner. Good afternoon, and thank you for inviting me to meet with you today. My name again is Barbara Shofurd, and I'm representing Allyn Sielaff, who is the commissioner of the New York City Department of Correction.

I've been asked to talk to you about the drug epidemic and the new and proposed programs developed by the department of correction in response to this epidemic. Before I begin describing our programs, I would first like to tell you the programs we've initiated have proven to be some of the most effective and efficient jail management tools in our facilities.

Incidences of violence and assaults on staff have virtually been eliminated in our program areas. Employee absentee rates, both civilian and uniformed have been significantly reduced in facilities where we operate programs, and the cost savings generated by these programs not only pay for all of the program staff, but the department of correction will give back to the city over \$1.6 million in fiscal year 1991.

In the context of jail management and the delivery of services to inmates, I believe that it's important to provide you first with a few facts that highlight some of the problems facing the New York City correctional system. Seventy-three percent of women and 53

percent of men report using drugs daily before their incarceration. Seventy-six percent of men and 81 percent of women given urine tests at Manhattan Central Booking in April to June 1989 tested positive for drug use. Cocaine was the predominant drug.

The city department of health estimates that 50 percent of the inmate population in New York City has a history of IV drug use and that over 25 percent of the inmate population is HIV positive. Twenty-five percent of inmates admitted to our custody are sick and require medical treatment.

As you can tell from these figures, we're seeing the consequences of substance abuse epidemic very vividly in our correctional system. Our facilities have been operating at close to 100 percent capacity and until recently at over 100 percent capacity. Many people, of course, attribute this incredible growth to the substance abuse epidemic and its related sociable consequences including crime.

From 1980-90 our average daily population nearly tripled from just under 7,000 to nearly 20,000, and since 1985 our average daily population has doubled from 10,000 to nearly 20,000. In addition, the inmate population is very transient. The average length of stay of inmates in our custody is 39 days. But over one-half of all detainees are discharged within 10 days of admission.

I believe the New York City Department of Correction has responded to the substance abuse crisis with positive and creative initiatives. Since 1987 the department of correction has operated two methadone programs in the jails, keeps a methadone maintenance program that serves over 2,000 men and women each year, and guarantees participants a placement in a community based methadone program upon their release and methadone detoxification that serves over 15,000 inmates a year.

Additionally, in 1987 a 50-bed drug free therapeutic program was implemented to provide services for adolescent inmates. Over 1,000 inmates have entered the program and more than 80 individuals have been discharged and placed in community treatment programs.

In addition to these programs, independent organizations and vendors such as Alcoholics Anonymous and Narcotics Anonymous regularly provide counseling and other service to our inmate population.

In 1989 a more aggressive, comprehensive and creative approach to drug abuse problems among inmates was undertaken. Specifically, the department began to expand drug treatment services for inmates with an emphasis on community based referrals upon release.

In fiscal year 1989 DOC initiated two pilot drug free therapeutic housing programs for inmates with substance abuse problems. These programs are based on the therapeutic community model. In highly structured environments inmates participate in a broad array of services including group and individual counseling sessions, relapse prevention and various educational seminars.

These programs were found to be immensely successful not only as intervention efforts for substance abusers but also in reducing violence in the housing areas and enhancing custodial control of the housing areas.

Given this success, the department dedicated an entire facility, a facility that we're now on, the Bibby Resolution, to provide drug free intervention services for male inmates. By dedicating the Bibby Resolution solely to substance abuse services, the department was able to reduce uniform staff and costs of the facility.

The department then invested part of the savings, \$1.7 million to establish a substance abuse intervention division know as SAID, to oversee delivery of substance abuse services on the Bibby Resolution and in the George Mochen Detention Center on Rikers Island.

In fiscal year 1990 Department substance abuse initiatives will save the city nearly \$900,000 in operating costs. But because of the unique environment of the jail and because over one-half of all detainees are discharged within 10 days of admission, our drug free programs are designed with limited but strong objectives. Specifically, we offer services designed to identify drug users, provide education and referral, initiate treatment and place some inmates in long- and short-term treatment programs upon release.

Since the program's inception 4,800 inmates have been served in these therapeutic communities, therapeutic housing units, and over 100 inmates placed in community based organization. To date, DOC has allocated almost 1,200 beds for drug free intervention services for detainees including 200 beds for male adolescents, 100 beds for adult female detainees, 884 beds for male detainees including a program for 100 males with heavy emphasis and time provided for vocational skills development, education, counseling and concrete discharge planning efforts.

In addition, we have recently expanded our program to include a 274-bed facility for sentenced women. This includes 100 beds for what we're calling a Family Restoration Project. This Family Restoration Project is designed for pregnant women and women with children. Along with substance abuse counseling, much of the focus is on parenting issues with a comprehensive discharge plan component.

A recent expansion has also included 125 beds for sentenced men. Both the sentenced men and women's programs involve referrals to the city's conditional release board.

Finally, we'll also be providing services of some 48 beds to adolescent female detainees, a high security male detainee in 68 beds by late autumn. By that time we will be providing drug free services to over 1,700 inmates with a projected 12,000 to be served in fiscal year 1991.

The wide array of substance abuse services that we offer are certainly a positive step in addressing the growing problems of drug addiction that plagues many of the individuals admitted to our system. I know of no other correctional system in the country that offers such a broad range of substance abuse intervention services for such a large number of inmates.

Due to the full schedule of regimented program design in the set housing units, the units have fewer infractions and uses of force by uniformed staff in general population units. The monthly violent infraction rate per 100 inmates averaged 3.9 at the Bibby Resolution after its conversion to a substance abuse facility.

We compared this rate to the rates of two jails with inmates of similar security classifications. These two jails averaged 5.1 and 6.9

for the same period. The departmentwide filing infraction rate for the same period was 6.9.

In a survey conducted by SAID in July 1989, most inmates indicated that the dorms were very safe especially when compared to general population dorms. Some inmates also commented they were able to sleep comfortably at night because they felt safe in those dorms.

The increased level of safety in housing-units is attributable to several factors. The intense therapeutic environment fostered by the 12-hour-a-day, 7-day a week scheduled activities, the focus on behavior modification and all individual and group counseling sessions, the integration of clinical activities that allow inmates to deal with their emotions and aggressions in a nonviolent manner, the presence of the counselors including at meal and recreation periods, serving as a constant reminder to inmates to abide by program rules, and the positive working partnership established between the uniform and counseling staff. In addition to reduced violence rates, the uniform absentee rate on the Bibby Resolution is one of the lowest in the department.

The department would like to commend you, Congressman Schumer, for focusing on the issue of substance abuse treatment for incarcerated inmates. Our programs here in New York have shown that such efforts are effective in addressing this most serious problem for our programs are having an impact.

We, along with correction professionals around the country, recognize that our funding to these programs is limited and strongly support Federal funding for inmate drug treatment programs. These programs have proven to be successful and cost effective. They deserve increased support. Thank you.

Mr. SCHUMER. Thank you, Director. I don't want to get you in trouble with your bosses.

Ms. SHOFURD. That's all right.

Mr. SCHUMER. Maybe it portends good things for the future.

Mr. Borum.

STATEMENT OF MARION BORUM, DEPUTY COMMISSIONER FOR PROGRAM SERVICES, NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES

Mr. BORUM. Good afternoon. Commissioner Coglein asked that I express his regrets for his inability to be here. As you probably know, he's in California attending a conference.

We were asked to give written testimony—

Mr. SCHUMER. Without objection, all the written statements will be submitted into the record, so—

Mr. BORUM [continuing]. Our population problems—

Mr. SCHUMER [continuing]. Can highlight it.

Mr. BORUM [continuing]. And programs. I was asked to give very short oral testimony, which I'll try and do. The New York State Department of Correctional Services currently has 55,000 inmates under its custody, 63 correctional facilities throughout the State.

These facilities range from maximum security facilities to shock incarceration camps to work release facilities to alcohol and substance abuse treatment centers. A common factor in all of these fa-

cilities is the high proportion of individuals, approximately 75 percent, with histories of alcohol and substance abuse. Fifty percent of the inmates who have used drugs reported using cocaine or crack, 13 percent reported using heroin, 14 percent reported using other narcotics or drugs.

The most common crime of commitment for male substance abusers involved drugs. Thirty-three percent were committed for drug sales or possession, 23 percent were committed for robbery, and 13 percent were committed for murder. Sixty percent of the women inmates with substance abuse histories were committed for drug offenses.

To meet the needs of this large and growing population, the department has developed the alcohol and substance abuse treatment program known as ASAT. This program which provides treatment for approximately 21,000 inmates each year is offered at 60 facilities on a residential or outpatient basis.

Augmenting this program are numerous Alcoholic Anonymous groups, Narcotic Anonymous groups supported by volunteers from AA and NA chapters. The department also provides substance abuse treatment services at two facilities through a contract with Stay'n Out. This contract supports about 200 inmates in residential programs, as you know, at Arthur Kill and Bayview.

The 1989 State prison ombudsman bill recognized the accomplishments of ASAT program and the potential role of community based service providers by authorizing a major new treatment initiative, the comprehensive alcohol and substance abuse treatment program or CASAT.

CASAT includes six 200-bed treatment centers, a community reintegration program and an aftercare program for individuals released to parole supervision. The continuing care role in some cases be administered by community based service providers through contracts with the department and the division of parole, launching this program and are hopeful that it will prove successful in helping participants to break the pattern of addiction that is destroying their lives as well as the fabric of our community.

I neglected to say that including in that bill was a 750-bed treatment facility. It should be noted that Federal funds have supported our program efforts. This year the department received 1.7 million in Federal funds to provide direct services to inmates, to provide essential staff training and to implement a pilot nursery program at Taconic Correctional Facility in Westchester County to provide treatment services for drug addicted inmate mothers.

This support has been most helpful in enhancing the programs funded by the State. We believe that policies in the area of treatment programs for drug-dependent offenders should take a number of factors into consideration: (1) the need for more education and treatment programs to reduce the number of individuals who commit felonies related to drug possession, use and sale; (2) the need for more treatment programs in correctional facilities to meet the needs of incarcerated individuals; (3) the need for more programs in the community to provide support and treatment to individuals released from correctional facilities. Regardless of how effective our programs may be, their benefit can be sharply curtailed or even negated by the absence of appropriate aftercare programs

and support systems in the community; and (4) the need for improved coordination of efforts and resources in the community.

The Federal Government can support our efforts in a number of ways: (1) Continue to fund treatment programs for incarcerated individuals; (2) fund treatment programs in the community both to provide alternatives to incarceration and to provide necessary aftercare programs for released inmates; and (3) provide grants to encourage innovative educational and treatment programs in correctional facilities and in the community with sound research components.

However, we believe that the success rates achieved by our treatment programs demonstrate that we can, if we're willing to make a sustained commitment, reduce recidivism rates. We can help individuals establish rewarding lives free from addiction to alcohol or drugs and we can help rebuild our communities.

Thank you.

Mr. SCHUMER. Thank you very much, Deputy Commissioner Borum, and New York State has been a real leader in this area, and I for one am very appreciative and impressed with their efforts.

[The prepared statement of Mr. Borum follows:]

PREPARED STATEMENT OF MARION L. BORUM, DEPUTY COMMISSIONER FOR PROGRAM SERVICES, NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES

Emerging Criminal Justice Issues: Drug Dependent Offenders - Sentencing Options and Alternatives, Part II

I. Overview

In New York State, a formal program to address alcoholism began in 1976 in one correctional facility and; within a few years the program expanded to six facilities. In 1978, formal drug abuse treatment programs began in four facilities. Shortly thereafter, the Department contracted with Therapeutic Communities, Inc. to implement substance abuse therapeutic communities at two additional correctional facilities.

In 1983, all alcohol and substance abuse treatment efforts were administratively placed in a newly established Alcohol and Substance Abuse Treatment (ASAT) Division. Since that time, efforts have increased dramatically; staff have been placed in 58 out of 61 correctional facilities in New York State.

The 1989 Prison Omnibus legislation authorized a significant expansion of the Alcohol and Substance Abuse programs administered by the Department; this new initiative is the Comprehensive Alcohol and Substance Abuse Treatment (CASAT) Program. To ensure maximum benefit for chemically dependent inmates this comprehensive program was developed to assist participants in preparing for a successful transition to their families and communities upon release.

II. Identified Need

The ASAT program has expanded over the years based as a result of the Department's recognition of the growing need for substance abuse treatment programs for the inmate population. The following information on substance abuse reflects self-reported drug use six months prior to incarceration and scores of 9 or above on the Michigan Alcohol Screening Test (MAST). On February 24, 1990, 73 percent (37,913) of the 51,737 inmates under custody reported using drugs or are classified as alcoholic based on the results of the Michigan Alcohol Screening Test (MAST).

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Identified Substance Abusers

Of the identified substance abusers, 74 percent (36,312) of the males report drug abuse only, 21 percent (7,582) abuse both drugs and alcohol and 6 percent (2,072) are identified as alcoholic according to the Michigan Alcohol Screening Test (MAST). Of the identified female substance abusers, 69 percent (1,108) report drug abuse only, 20 percent (316) abuse both drugs and alcohol, and 11 percent (177) are identified as alcoholic according to the MAST.

Types of Drugs

In terms of types of drugs abused, 50 percent (18,184) reported using cocaine or crack, 13 percent (4,567) reported heroin use, 14 percent (5,203) other drugs or narcotics, 17 percent (6,286) marijuana only, and 6 percent (2,072) were identified as alcoholic with no prior drug use. Of the identified female offenders, 50 percent (806) report using cocaine or crack, 30 percent (477) reported heroin use, 4 percent (63) reported other drugs or narcotics, 5 percent (78) reported marijuana, and 11 percent (177) were identified as alcoholic with no prior drug use.

Crime of Commitment

The most common crime of commitment for identified male substance abusers involve drugs; 33 percent were committed for sale or possession of drugs. Robbery is the second most common offense (23 percent) followed by homicide (13 percent) and burglary (12 percent). Drug offenses are also the most common commitment offenses for female substance abusers. Sixty percent were committed for drug offenses, followed by robbery (12%) and homicide (9%).

Demographic Information

The average age of all identified substance abusers is 30.5 years. Thirty percent of the male inmates are between 25 and 29 years old, while 22 percent are between 30 and 34 years old, 18 percent of men fall between 21 and 24 years of age. Similarly for females, 32 percent are between 25 and 29 years old, while 25 percent are between 30 and 34 years old. Seventeen percent are between 21 and 24 years of age.

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Educational Level

Thirty-four percent of identified substance abusers report having a high school education or above. Thirty-six percent have less than a 10th grade education and 20 percent have an 8th grade education or less. For females, 32 percent report having a high school education or above. Thirty-five percent have less than a 10th grade education, and 18 percent have an 8th grade education or less.

Ethnic Status

Forty-eight percent of identified male substance abusers are Black. Thirty-five percent are Hispanic and 17 percent are White. For females, 45 percent are Black, 40 percent are Hispanic and 14 percent are White.

Region of Commitment

The majority of identified substance abusers are from the New York City area. Seventy-three percent of males and 75 percent of females are from New York City. Twelve percent of males and 11 percent of females are from suburban New York. Eight percent of both males and female cases are from upstate urban areas while 7 percent of males and 6 percent of females are from other upstate areas.

Summary

As demonstrated by the above statistics the majority of incarcerated offenders are identified substance abusers. The most commonly reported drug used is cocaine/crack; marijuana is the second most commonly reported drug for males and heroin is the second most frequently reported drug for females.

The crime of commitment for identified substance abusers also reflects drug involvement, especially for women. Sixty percent of the females identified as substance abusers were committed for drug offenses. In contrast, only 33 percent of males were committed for drug offenses. In the case of both males and females the most frequent commitment category was still drug offenses.

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III. Statement of Program Purpose/Goals

To prepare chemically dependent inmates for a successful transition to their families and communities and to reduce recidivism, the Department's ASAT Program provides program participants with education and counseling focused on continued abstinence from all mood altering substances and participation in self-help groups based on the "Twelve Step" approach.

Goals:

1. To enable inmates with histories of alcohol and substance abuse to identify their addiction and the process for recovery.
2. To better prepare chemically addicted participants for their return to their families and communities upon release.
3. To focus resources on the needs of inmates with histories of alcohol and substance abuse.
4. To ensure appropriate aftercare services in the community.
5. To increase coordination with appropriate State agencies, local agencies, service providers, and community organizations.
6. To reduce relapse and recidivism rates for program participants.

Performance Goals

1. To provide orientations to the general inmate population, especially at reception centers, sensitizing inmates to the problems of alcohol and substance abuse.
2. To identify in reception centers those inmates demonstrating a need for alcohol and substance abuse treatment services through a standardized alcohol and substance abuse classification procedure.

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3. To provide educational seminars through the use of audio visual aids, lectures and discussions, as well as group counseling and other appropriate supportive services.
4. To assist participants in the ASAT program to develop post-release plans which include community treatment and self-help group participation.
5. To assist inmates who have completed the direct treatment phase of ASAT through supportive counseling and programs as needed.
6. To encourage inmate participation in self-help groups during and after formal ASAT participation.
7. To develop linkages with community based treatment providers to ensure a continuity of care.

IV. Critical Alcohol and Substance Abuse Treatment Components**A. Orientation**

At each of Department reception center ASAT staff provide an orientation for all new inmates. The purpose of the orientation is to sensitize inmates to the problem of alcohol and substance abuse, as well as to motivate those individuals in need of treatment to participate in the ASAT program or other Departmentally approved programs dealing with chemical dependency. In addition, testing and assessment is conducted so that appropriate program recommendations can be made.

Pre-sentence reports are used to make initial identifications of alcohol and substance abusers as well as develop recommendations for treatment programs. A variety of testing is conducted; this includes the Michigan Alcohol Screening Test (MAST), various academic tests, medical and psycho-social evaluations to both identify and assess the treatment needs of the

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chemically addicted. Finally, inmates are interviewed to establish a self report regarding chemicals abused before incarceration.

Recommendations are made by Reception Center staff regarding alcohol and substance treatment and other types of programs which address the needs of the chemically addicted.

Once received in one of the Department's general confinement facilities, Correction Counselors review program recommendations with each inmate and make referrals to the appropriate programs which will meet his/her particular needs.

B. ASAT

These education and counseling programs, serving general confinement and work release inmates, are currently located in 58 New York State correctional facilities. ASAT programs are implemented according to one of three modalities comparable to community based modalities i.e. residential, day-care and outpatient type programs. Other Department programs (e.g. academic and occupational training, specialized counseling, etc. become part of the treatment efforts.

Currently 243 alcohol and substance abuse professional staff are available to provide direct treatment services. Ex-offenders and ex-addicts are continuously recruited for the ASAT positions. This staffing enables the Department to provide direct alcohol and substance abuse services to 10,672 inmates at any given time. This will allow the Department to treat approximately 21,000 inmates per year.

C. CASAT Program

The 1989 Prison Omnibus legislation enabled the Department to enhance its alcohol and substance abuse treatment efforts in a new initiative, the Comprehensive Alcohol and

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Substance Abuse Treatment (CASAT). This program is based on a therapeutic community model with a structure which provides for a continuum of care.

CASAT has four components. The first component (6 months) begins in one of two designated feeder facilities. In the second component (6 months) participants transfer to one of six 200 bed facilities. In this component the treatment will be provided either by Department staff or by community based treatment providers which have contracted with the Department and the Division of Parole to provide treatment services in this, as well as the next two program components. This arrangement will enable a continuum of care extending one year after release to parole supervision.

In the third component (6 months) the participant, while still incarcerated, will be placed in a community reintegration program. Based on the individual's need and progress various alternative living arrangements and alcohol and substance abuse treatment will be provided in the community. Upon release by the Parole Board, the participant will become involved in the 4th and final component, aftercare. Once again, based on needs and progress alcohol and substance abuse treatment and other ancillary services will be provided for 12 months.

CASAT is increasing the number of alcohol and substance abuse treatment slots by 1,950 and will allow the Department to treat an additional 2,900 inmates per year.

A similar effort has been undertaken to implement this initiative for the chemically addicted female. The program is located at the Taconic Correctional Facility. In addition, a nursery program has been established at this facility to address the needs of pregnant chemically addicted females and addicted mothers of newborns.

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D. Shock Incarceration

Based on the traditional Shock models of work and discipline, the Department's Shock Incarceration Program places a strong emphasis on basic education, ASAT programming and the use of therapeutic community tools. All inmates participating in the Shock program participate in this ASAT/Network programming. In addition, the Department has made use of Federal funds to contract with a private agency to provide on going services to families of individuals in the Shock program as well as specialized addiction training to Shock staff. These programs are available to male and female inmates and are located at five Shock Incarcerated Correctional Facilities Statewide.

E. Self-Help Groups

Participation in self-help groups such as AA, NA, CA, etc. is a requirement for all ASAT participants. Numerous community volunteers are involved in the program so that there is a variety and sufficient number of meetings taking place in all facilities. This enables inmates to participate before, during and after their formal participation in ASAT programming.

In conjunction with the Division of Parole and the Division of Alcohol and Alcohol Abuse, the Department has implemented the Drugs, Alcohol Self Help (DASH) Program. This program elicits the aid of volunteers who accompany newly released inmates to self help groups in their communities of release.

F. Training

Through a contract with a private agency and through Federal grants, ongoing training is provided to ASAT staff. In addition, through these sources training has been required and offered on a voluntary basis to other Department personnel; training ranges from sensitizing executive level and administrative staff to the

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problems of addiction and recovery to more specifically focused training on issues of addiction and recovery.

All ASAT staff are required to participate in regional training and in an annual Statewide training conference. In addition, 70 Department employees were trained in therapeutic community techniques, 60 Department employees attended training specifically focused on substance abuse skill enhancement and 465 executive level staff participated in the following one day training sessions:

- Model for Understanding Substance Abuse
- Overview of Therapeutic Approaches to Treatment in Corrections
- Cocaine: Physical, Psychological, and Treatment Implications

G. Department Contracts

- a. **The Fellowship Center.**
This private, not for profit alcohol and substance abuse treatment agency provides ongoing technical assistance, regional training and a training conference each year.

Another contract enables this agency to provide ongoing substance abuse counseling and support to families of individuals in the Shock Incarceration Program and specialized addiction training to Shock staff.
- b. **Therapeutic Communities, Inc.**
This private, not for profit, substance abuse treatment agency enables the Department to implement two therapeutic communities called Stay'n Out at Arthur Kill and Bayview Correctional Facilities.

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Another contract to this agency enabled this agency to expand the Stay'n Out Program at Arthur Kill and provide training to Department staff in therapeutic community techniques.

- c. Narcotic and Drug Research Inc.
This agency has provided training to Department staff to enhance alcohol and substance abuse treatment skills and has provided training to sensitize executive level staff.

H. Treatment Intervention Strategies

The following treatment strategies are employed in the Department's Alcohol and Substance Abuse Treatment efforts:

- Therapeutic Community Environment
- Community Meetings
- Individual Counseling
- Group Counseling
- Audio Video Presentations on Alcohol and Substance Abuse
- Lectures on Alcohol and Substance Abuse issues
- Group Discussions on Alcohol and Substance Abuse issues
- Seminars on various topics related to addiction and recovery such as:
 - nutrition
 - sexuality
 - value clarification
 - life skills
 - etc.
- Family Counseling
- Self-Help Groups
- Ancillary Programs such as:

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- Academic Education
- Vocational Training
- Ministerial Services
- Special Subjects - (Recreation of Arts and Crafts)
- Specialized Counseling

- Work Assignments
- Treatment Plans
- Monthly Evaluations
- Final Discharge Evaluations

V. Research Studies

The Department has conducted research studies to determine the effectiveness of alcohol and substance abuse treatment programs. To date the following programs have been studied:

- Woodbourne Correctional Facility
This survey found the return rate for satisfactory program participants was 23.3% compared to unsatisfactory participants who returned at a rate of 28%. This was notably less than the Department's projected overall return rate of 27.4%.
- Mt. McGregor Correctional Facility
This study also found that satisfactory participants in alcohol and substance abuse treatment at this facility return at a lower than expected rate (20.9% vs 28.3%).
- Arthur Kill Correctional Facility
This study of the Stay'n Out Program was conducted independently by researchers from Narcotic and Drug Research, Inc. These researchers found that overall this prison based therapeutic community was "effective in reducing recidivism rates; and that time in program is positively related to increases in time until arrest for those who recidivate and greater likelihood of possible parole outcome".

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- Alcohol and Substance Abuse Completion Rates
This study was undertaken to determine the number of inmates who can be expected to satisfactorily complete the Alcohol and Substance Abuse Treatment Program. It was found that at least 68% of inmates who begin treatment can be expected to satisfactorily complete the program within six months. Twenty-four percent will not complete treatment divided generally between unsuccessful dismissal (12%) and administrative or network transfers (12%).

VI. Funding

State funds:

Personal Service	\$5,063,133
Non Personal Service	240,500
Contracts	1,077,028
State Matches	<u>211,500</u>
Total State:	\$6,592,161

Federal Funds:

Substance Abuse Grant	
Personal Service	225,000
Intensive SA Grant	
Personal Service	409,500
Waiting List Grant	
Personal Service	395,049
Non Personal Service	13,500
Enhancement of SA in Shock Incarceration	
Personal Service	98,372
Non Personal Service	23,120
Contracts	128,040
BJA Phase II Grant	
Personal Service	103,363
Non Personal Service	126,057
Contracts	<u>170,580</u>
Total Federal:	\$1,692,581
Grand Total:	\$8,284,742

Mr. SCHUMER. Our next witness is Warden Peppy of this facility. I just want to thank, and I will convey it directly to the commissioner, I want to thank you, Warden, for all your cooperation in helping us have this hearing here, of you and your staff which has been just outstanding, 10 out of 10.

You may proceed as you wish.

STATEMENT OF MICHAEL PEPPY, WARDEN

Mr. PEPPY. Thank you. Chairman Schumer, Congressman Gekas, I would like to thank you for coming out to the facility and having the hearing conducted here. For too many years these type of hearings have been away from where the actual subjectivity of the operation has been and certainly today we've heard a lot of objective statements, and I think it's good that you've come out here, not only for what correction people in New York City is about but what the inmate population is about, and ultimately those are the people that we're aiming to help.

I'm not going to give you the objectivity that we talked about, I'm just going to give you some subjective things and give you a little history of how I got involved in this and where I've been for in correction and hopefully where we can go with your support from the Federal Government. I was deputy warden on Rikers Island when the Pro Mesa program came in.

At about the same time, the inmate population in New York City was skyrocketing and the drug problem in New York City was taking the same upturn. I was promoted to warden and I was assigned to a large correctional facility on Rikers Island with 2,000 inmates.

One of the classifications that I had on Rikers Island in the Island's reception center was adolescence and the Pro Mesa program came in, that was a drug free program targeted directly for adolescents.

Subsequent to an approximate 2-year stay I was asked to come here. This particular facility was brought in as a dedicated therapeutic community with an immediate need to put beds on line, again, because of the skyrocketing jail population. I was somewhat apprehensive.

My role as a warden is certainly the security and safety and the efficient running operation of a jail. I didn't know what to expect from a complete therapeutic community with a focus on persons with drug problems. But it sounded like an interesting challenge. And certainly in today's times with those two upturns, jail populations and drug problems, it's a reasonable approach to start to address part of the problem.

I have to tell you my year here with the support of the people in the New York City Department of Correction's central office, with the support of the drug counselor's, this has been one of my most memorable assignments. I believe that we're running a safe, secure facility, I believe that we've reduced the idleness time of the inmate population, I believe that we have given to those persons who have had problems in society and end up in our correctional facilities, some of the real basic tools to go out there and help

themselves, because they certainly have to help themselves, we can only help them understand what some of those problems are.

It's a big step. I think it's a big step for New York City, I think it's a big step for the department of correction. A lot more has to be done, there has to be continuums.

I have to clearly let you know that some of the inmate population who have been housed here will not go back into the community directly and they will go to the State department of correction. There are other persons who will be released by the courts back into the community. In some cases they need that continuum, whether it's a halfway house or some other type of support, to get back on their feet.

Understand clearly when they're in a correction facility we feed them, we clothe them, we take care of all their basic needs. When they are pushed out through the threshold of a jail back into the community with no support, with no counselors to help them identify their problems and to reinforce the positive tools that they have picked up in this setting, they have to first worry about their housing, their clothing, feeding their families and they're back to where they started.

Mr. SCHUMER. Warden, how long does the average inmate stay here at the—

Mr. PEPPY. Mr. Chairman, the average stay in the Department is about 40 days, that's a departmentwide average. I have to tell you that I have had inmates now in this facility 7, 8, 9 months. So although we talked about some short term turnaround numbers earlier those are Department averages and are not necessarily true. I do not have those particular figures for any individual.

Mr. SCHUMER. But it's hard to do therapeutic drug treatment for someone who's staying here for 1 month or just 2 months.

Mr. PEPPY. I would have to say that it's better to do therapeutic drug treatment for somebody who is here for 5 days, and to do something positive with those 5 days, then to have him or her, another targeted group in another command, sit there and do nothing for 5 days. At least—

Mr. SCHUMER. Do you think it helps them when they come out?

Mr. PEPPY. I think it helps to reduce the idleness in my command. Again, understand my role—

Mr. SCHUMER. Understood.

Mr. PEPPY [continuing]. But I think it makes them more aware of what's going on when they get back into the community. I've seen nothing but positive interaction here in the year that we've been here. Contrary to other facilities, we have not had a slashing or a stabbing here, which is almost remarkable. And again, I don't want to say it's remarkable, I think it's a tribute to the people working here. We've only had 12 assaults, excuse me, 6 assaults, in over 12 months which is, again, somewhat remarkable.

Mr. SCHUMER. Just one other question for Director Shofurd. How much, or either of you, how much extra does it cost to provide the therapeutic treatment per inmate, per day, let's say, do you know?

Ms. SHOFURD. It doesn't cost any extra. As a matter of fact, we're saving, and Warden Peppy can probably respond to that a lot better than me because of the programming that we provide we're

able to cut some of the staff in this facility, so it doesn't cost any. We're giving money back to the city.

Mr. SCHUMER. Why is that?

Mr. PEPPY. What happened basically is the average cost across-the-board for each day is \$158 per inmate—

Mr. SCHUMER [continuing]. Throughout the city.

Mr. PEPPY [continuing]. That's all costs included, all support groups across-the-board. What transpired when this facility was brought online, we were staffing someplace in the area of a little bit over 350, I believe it was, we're down to about 232 now—

Mr. SCHUMER. And that's because of the relative peacefulness of the facility you need fewer, is that—

Mr. PEPPY. That is basically the concept and the premise that was established when we started, that by keeping people busy and reducing the idle time by keeping the commitment of a 7-day program, 12 hours a day, we should be able to reduce violence.

Mr. SCHUMER. It's fascinating.

Mr. PEPPY. And I this, I think—

Mr. SCHUMER. And that reduces costs because it reduces the number of officers you need.

Mr. PEPPY. When we opened up initially the program had not started and we had what we called general population inmates, they were just any type of person who wanted to come in.

The persons who are in this program understand, a little background, volunteer to come in the program, the inmates want to be here. It helps a little bit too.

Mr. SCHUMER. Sure. Why don't we hear from two of the inmates who are here. Gentlemen, if you could—we could do it one way or the other, we can either play musical chairs or musical microphone.

The two are inmates Ronald Lomax and Tyrone Morgan, who are at this facility. And, gentlemen, if you could each briefly give us your stories and what's happened here, we would very much appreciate it. We appreciate your taking the time to come testify.

STATEMENT OF TYRONE MORGAN

Mr. MORGAN. Good afternoon, distinguished guests, my name is Tyrone Morgan.

Mr. SCHUMER. If you could just speak up a little bit, Mr. Morgan.

Mr. MORGAN. Yes. I would like to bring to your attention why it is important to have a drug treatment program in a jail setting. For myself it's the difference between life and death, so to speak.

If I was in a regular jail setting, I'd probably go on not realizing I even have a drug problem. But by coming to the drug treatment program here, I have gone to address issues that would probably go unaddressed anywhere else.

By being here my attitude now is more in tune with what's going on with myself and my feelings of what I am about. It's been an honor to be here, I'm very grateful. And if it wasn't for the drug program, I don't know where I'd be right now.

Mr. GEKAS. What is your sentence?

Mr. MORGAN. First of all, I'm still going to court, I'm a detainee here, so I've been here approximately 10 months. I'm going back

and forth to court, but still at the same participating with a strong effort in the program here.

Mr. GEKAS. Do you have a public defender?

Mr. MORGAN. Yes, sir.

Mr. SCHUMER. What are you charged with?

Mr. MORGAN. I'm charged with robbery in the first and second degrees.

Mr. SCHUMER. Is this your first time in a jail?

Mr. MORGAN. No, sir, it's my second time around. That's why even more so it is important. You know, when I had first heard of the drug program I jumped at the chance immediately because, I wanted to know why I kept coming back and forth to jail, why my life was ending up the way it was, why the effect that it had on my family, including myself, you know, it was so terrible.

My family is in disarray, they are totally upset with me, for good reasons because I have been very active in drugs for quite some time now.

Mr. SCHUMER. How long?

Mr. MORGAN. Approximately 15 years.

Mr. SCHUMER. How old are you?

Mr. MORGAN. I'm 32.

Mr. GEKAS. 32?

Mr. MORGAN. 32.

Mr. SCHUMER. You look pretty good for 32.

Mr. MORGAN. Thank you very much. So I'm happy to be here.

Mr. GEKAS. Thank you.

Mr. SCHUMER. Mr. Lomax.

STATEMENT OF RONALD LOMAX

Mr. LOMAX. Good afternoon, gentlemen, my name is Ronald Lomax. This program, since I've been here, and I've been here almost 11 months now, has changed my life around dramatically. It's changed me to the point where I know who I am and where I want to go today in life. It's changed me to the point where I have a goal in my life, that I live for tomorrow to achieve the goals in my life and not for the drug that was in my life.

This program has let me sit down and find new ways of finding out how to go about life in a productive manner. The counseling staff in this program has helped me out to the point to where I'm their house manager now and they call on me to help other guys out now. I go down to orientation with the people coming on the boat and speak to them.

And these are things that 10 months ago when I walked on this boat I wouldn't be able to do. Ten months ago when I walked on this boat I might have talked to you but I'd have been looking at the floor instead of looking you in the eye. Today I'm not ashamed of who I am. I love me for who I am today, and the best part about it I love me being drug free. I don't have to use drugs.

The most important thing I found out since I've been here is it wasn't the drugs that were the problem, it was me, I just used the drugs to hide behind. That's the problem with all of us, because I still have problems today, I still get homesick, I still call home

when things are going on with the family. But today I'm able to deal with them without the use of drugs.

I'm able to go to my brother and cry on his shoulder without any repercussion of being called a sissy or labeled a punk inside this facility. In this facility I can walk up and down the halls and don't have to look over my shoulder to see who's running up behind me to shank me or try to steal my sneakers from me, whereas, in Rikers Island they're doing it every day. They're killing people over the phone in Rikers Island. They're killing people over \$1.82 pack of cigarettes in Rikers Island.

So this facility gives you a chance to get peace of mind, and it's only if you want it. There are those individuals who don't want it and those are the individuals who will be statistics in the next 5 years, because the only thing that drugs lead to now is a long term prison sentence or death.

I thank God that I'm getting off as light as I am. But even with me coming out I'll probably have to go upstate and do a little time. But the staff here has said when I come out they're going to help me get into a long term—

Mr. SCHUMER. You'll be able—

Mr. LOMAX [continuing]. Treatment program.

Mr. SCHUMER [continuing]. To get into a therapeutic program upstate?

Mr. LOMAX. Yes, sir, I'll go into ASAT and I might even be eligible for Arthur Kill.

Mr. SCHUMER. Mr. Borum, does it generally work with city jailees that once they're sentenced, if they're successful here, will be sent to a therapeutic program in the State system?

Mr. BORUM. In most cases we try to do that.

Mr. SCHUMER. How old are you, Mr. Lomax?

Mr. LOMAX. I'm 24.

Mr. GEKAS. In other words, it'll be on their dossier that they underwent a treatment program here, that will help classify them for the State institutions, is—

Mr. BORUM. That's correct.

Ms. SHOFURD. What we do, and Mr. Borum and I were just talking about strengthening that linkage, we provide the inmates with a letter saying they participated in programs in the New York City Correction system, please consider me for programs in the State system. That's a linkage that—so that it works and that if there are openings, these persons—with a place in those programs.

Mr. SCHUMER. Is this your first experience in a jail—

Mr. LOMAX. No, sir, it's not. But I'm a firm believer that, see, I'm not originally from New York, I'm from Kansas, and I believe if there would have been a program like this in my home State when I went and did the time then, that I'd have never been in this type of setting again.

Mr. SCHUMER. Well I don't think there's more powerful testimony than those of Mr. Morgan and Mr. Lomax, so I'm finished.

Mr. GEKAS. We thank you.

Mr. MORGAN. Thank you.

Mr. SCHUMER. Again, I want to thank everybody, all the panels here, it was a great hearing. It will help us to try and do more so that there are more people like Lomax and Morgan who have the

opportunity to enter these programs and become productive citizens.

The only thing I'd say in conclusion is this is an American problem, this is not a problem of the inner city or of two individuals or 10,000 individuals because what we need is every single person in this country being able to contribute to the productivity of the country. So by Lomax and Morgan being here instead of out there being productive, it's not just hurting them and their families, it's hurting somebody back in Kansas and somebody in Oregon or wherever else. We're all in this together and we're all going to have to get out of it together.

So I want to thank you, I want to thank Mr. Borum, I want to thank Director Shofurd, Warden Peppy again for all their cooperation, and let's hope this starts us on doing something good and productive to help everybody out.

I also want to thank my staff, and George Gekas, who made a special trip here, and our recorder who I always thank at the end of hearings, the unheralded heroes of all these hearings, Mr. Ken Tankoos.

The hearing is adjourned.

[Whereupon, at 1:30 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARINGS

U.S. Department of Justice

Bureau of Justice Statistics



Office of the Director

Washington, D.C. 20531

The Honorable Charles E. Schumer, Chairman
House Judiciary Subcommittee on Criminal Justice
H2-362 House Office Building Annex 2
Washington, DC 20515-6223

MAY 15 1990

Dear Chairman Schumer:

I would like to thank you for the opportunity to testify on criminal justice statistics before the Subcommittee on Criminal Justice on April 19, 1990. I have read the prepared testimony of the General Accounting Office (GAO), and I was present during their oral presentation to the Subcommittee. To ensure the accuracy of the public record, I would like to clarify a number of points made in GAO's testimony.

1. Distinction between criminal history records and criminal justice statistics

It is important to understand the difference between criminal history records held within the States and the State criminal justice statistics provided by BJS. GAO correctly cited problems in criminal history record information stored in repositories within the States. BJS has long recognized these problems. Its predecessor agency spent \$44 million throughout the 1970's to develop modern computerized criminal history record systems in the States. Most recently, the Attorney General has acknowledged the problems with these records and has set aside \$9 million for the next three years to improve their data quality. BJS, however, does not rely on these records for 90% of its State statistical programs. The great portion of BJS data from the States come from administrative records and surveys--not from criminal history records. Thus, problems that may exist with the quality and completeness of criminal history records in the States do not affect the reliability or limit the usefulness of almost all the State criminal justice statistics collected and published by BJS.

2. The Offender Based Transaction Statistics Program (OBTS)

The Offender Based Transaction Statistics program, which comprises only 1% of the BJS budget, is one of three small BJS programs that rely on criminal history record information from the States. GAO stated in its prepared testimony that "...BJS officials told us they perform no independent data matches to the source documents for the OBTS program. The absence of required validity checks raises additional questions regarding the accuracy of the data."

In fact, extensive validity and edit checks are conducted on OBTS data submitted to BJS, with follow-up to the States to investigate any aberrations. Data are refined at the Regional Justice Information System (REJIS) in St. Louis, Missouri and at the University of Michigan Archive Center before they are published at BJS and made available as public-use tapes. If BJS is not satisfied with the quality or completeness of data from any State, these data will not be used in BJS reports or made available in public-use tapes.

Quality control and data accuracy are of the highest priority at BJS. Extensive edit checks are conducted on all of our data sets. For example, inmate interviews are checked with facility records, reinterviews are conducted in the National Crime Survey, and all state numbers are returned to the States for final review before publication. In the past BJS has dropped data elements from reports because they did not meet our high standards. We also work closely with outside organizations such as the American Statistical Association and other professional associations for procedural review and guidance. To my knowledge, GAO investigators did not review any of the methods BJS uses to ensure data quality in its various statistical programs.

GAO also questioned the amount of money BJS provides to States who participate in the OBTS program and stated that "...it is questionable whether these amounts are sufficient to induce more states to participate." OBTS is a voluntary program. BJS provides \$10,000 initially to States in order to develop software to extract data for the OBTS program that are already in the repositories. It also provides an additional \$2,000 each year to reimburse the States for out-of-pocket expenses such as computer and personnel time required to extract the data in a format useful to BJS. These funds are not used for incentives for States to participate or to improve their record systems. As I have mentioned earlier, BJS' predecessor agency spent \$44 million to develop computerized criminal history record systems in the States in the 1970s, and the Attorney General has recently announced a three-year \$27 million State grant program to improve criminal history record data.

3. National Crime Survey and the Uniform Crime Reporting Program

GAO expressed concern "...that having programs with similar objectives that report disparate results could lead to a situation where policymakers embrace the report which supports their particular point of view." I think the discussion during the hearing on the differences between the two programs sufficiently addresses GAO's concern; however, I would like to add that BJS and the FBI have recently prepared a joint document explaining the two programs and how they complement each other (enclosed).

I would also like to correct and qualify the cost figures of the two programs, which GAO used in its prepared statement. GAO

reported that in FY 1989 the FBI spent about \$4.5 million on UCR. It is our understanding that this figure covers personnel costs only and does not include such other costs as data processing and overhead. GAO also reported that the NCS cost \$6.6 million in FY 1989. It actually cost closer to \$8 million, including personnel, data collection, and data processing.

4. Definitional problems across States

While it is true that there are problems in definitions of crimes across the States, BJS controls for these differences by standardizing information collected from States to make it comparable. For example, GAO highlights the variety of definitions of the term "felony" among the States. BJS' OBTS program compensates for this inconsistency by defining a felony as a crime punishable by incarceration for more than one year. OBTS States provide data on such offenses, whether or not they are called felonies within the State.

5. Need for Consensus

One of GAO's conclusions recommends the need for consensus on a core of consistent and reliable State data for measuring crime. In fact, in many respects a consensus has already been forged on much of what is needed in the field of criminal justice statistics. Two examples of this are the redesigned National Crime Survey and the new Uniform Crime Reporting Program (called the National Incident Based Reporting System, or NIBRS). In the redesign of the National Crime Survey, a panel of leading criminologists and other experts worked together to assess the on-going survey and to improve its methodology and utility. This project was one of the most thorough and innovative projects in methodological research in the Federal government. The redesigned NCS is expected to increase the reporting of violent crime, for example, by as much as 25%. The redesigned NCS will be fully implemented by 1993.

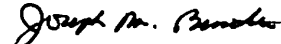
The NIBRS system is another example of a consensus reached among law enforcement and other criminal justice practitioners that this program needed to be redesigned and improved. An independent study conducted in the early 1980's recommended revisions in the 50-year old UCR program. These recommendations were endorsed by the major law enforcement organizations. BJS and the FBI have been working together to implement this program. BJS has been providing funding to the States since 1987 to implement NIBRS, which will yield more detailed and improved information on crimes reported to the police.

In addition to these examples, it should be noted that officials in 1,200 Federal and State prisons, 3,300 jails, 3,000 law enforcement agencies, and numerous other criminal justice practitioners take up to an hour or more to fill out our survey forms on a regular basis. The fact that this imposing burden is

met with virtually universal response (our recent local jail census received a 100% response rate from over 3,000 jails surveyed) indicates the importance that criminal justice practitioners give to the State statistical programs run by BJS.

Again, I would like to express my appreciation for the opportunity to testify and clarify these points for the public record. I have also enclosed tables from the OBTS program which you requested during the hearing. These tables cover the processing of felony arrests in 12 States for 1987. Of course, I would be happy to provide any other information you might desire.

Sincerely,


Joseph M. Bessette
Acting Director



Department of Justice

The Nation's two crime measures

The U.S. Department of Justice administers two statistical programs to measure the magnitude, nature, and impact of crime in the United States: the Uniform Crime Reporting (UCR) Program and the National Crime Survey (NCS). Because of differences in

methodology and crime coverage, the results from the two programs are not strictly comparable nor consistent. By complementing each other's findings, the two programs enhance our understanding of the Nation's crime problem.

Uniform Crime Reports

Federal Bureau of Investigation (FBI)

The Federal Bureau of Investigation's Uniform Crime Reporting (UCR) Program, which began in 1929, collects information on the following crimes reported to law enforcement authorities: homicide, forcible rape, robbery, aggravated assault, burglary, larceny-theft, motor vehicle theft, and arson.

The UCR data are compiled from monthly law enforcement reports made directly to the FBI or to centralized State agencies that then report to the FBI. Each report submitted to the UCR Program is examined thoroughly for reasonableness, accuracy, and deviations that may indicate errors. Large variations in crime levels may indicate modified records procedures, incomplete reporting, or changes in a jurisdiction's boundaries. To identify any unusual fluctuations in an agency's crime counts, monthly reports are compared with previous submissions of the agency and with those for similar agencies.

Law enforcement agencies active in the UCR Program represent approximately 240 million United States inhabitants — 98% of the total U.S. population.

The UCR Program provides crime counts for the Nation as a whole, as well as for regions, States, counties, cities, and towns. This permits studies among neighboring jurisdictions and among those with similar populations and other common characteristics.

UCR findings for each calendar year are published initially in a preliminary release in the spring followed by a detailed annual report, *Crimes in the United States*, issued in the summer following the calendar year. In addition to information on crime counts and trends, this report includes detailed data on crimes cleared, persons arrested (age, sex, race) for a wide range of crimes, law enforcement personnel (including the number of sworn officers killed or assaulted), and the characteristics of homicides (including age, sex, and race of victims, victim-offender relationships, weapon used, and circumstances surrounding the homicides). Other special reports are also available from the UCR Program.

Following a 5-year redesign effort, the UCR Program is currently converting to a more comprehensive and detailed reporting system, called the National Incident-Based Reporting System (NIBRS). NIBRS will provide detailed information about each criminal incident in 22 broad categories of offenses.

National Crime Survey

Bureau of Justice Statistics (BJS)

The Bureau of Justice Statistics' National Crime Survey (NCS), which began in 1973, collects detailed information on the frequency and nature of the crimes of rape, personal robbery, aggravated and simple assault, household burglary, personal and household theft, and motor vehicle theft. It does not measure homicide or commercial crimes (such as burglary of stores).

Interviews are conducted by U.S. Census Bureau personnel with all household members at least 12 years old in a nationally representative sample of approximately 49,000 households (about 101,000 persons). Households stay in the sample for 3 years and are interviewed at 8-month intervals. New households rotate into the sample on an ongoing basis.

The NCS collects information on crimes suffered by individuals and households, whether or not those crimes were reported to law enforcement. It estimates the proportion of each crime type that was reported to law enforcement, and it details the reasons given by victims for reporting or not reporting.

The survey provides information about victims (age, sex, race, ethnicity, marital status, income, and educational level), their offenders (sex, race, approximate age, and victim-offender relationship), and the crimes (time and place of occurrence, use of weapons, nature of injury, and economic consequences). Questions recently added to the survey cover the experiences of victims with the criminal justice system, details on self-protective measures used by victims, and possible substance abuse by offenders. Periodically, supplements are added to the survey to obtain detailed information on special topics such as school crime.

Findings from the NCS for each calendar year are published in a press release the following April (preliminary data), in a BJS Bulletin in the fall presenting summary final data, and in a detailed report the following June covering all NCS variables. Each year BJS staff develop Special and Technical Reports on specific crime topics.

Comparing UCR and NCS

As the previous description illustrates, there are significant differences between the two programs. The NCS, for example, includes crimes both reported and not reported to law enforcement, but it excludes homicide, arson, commercial crimes, and crimes against children under age 12 (all of which are included in the UCR Program). The UCR captures crimes reported to law enforcement, but it excludes simple assaults from the Crime Index. Moreover, even when the same crimes are included in the UCR and NCS, the definitions vary.

Another difference is the way that rate measures are presented for crimes such as burglary, household theft, and motor vehicle theft in the two programs. The UCR rates for these crimes are largely per-capita (number of crimes per 100,000 persons), whereas the NCS rates for these crimes are per-household (number of crimes per 1,000 households). Because the number of households may not grow at the same rate each year as the total population, trend data for rates of household crimes measured by the two programs may not be comparable.

In any large-scale data collection program, there are many possible sources of error. For example, in the UCR Program a police officer may classify a crime incorrectly, and in the NCS a Census Bureau interviewer may incorrectly record the responses given by a crime victim. Crime data may also be affected by how the victim perceives and recalls the event. Moreover, as data are compiled and processed, clerical errors may be introduced at any stage. Both the UCR and NCS programs employ extensive accuracy checks at various stages in the data collection process to minimize errors.

As noted above, the NCS is based on an extensive, scientifically selected sample of American households. Thus, every crime measure presented in NCS reports is an estimate for the Nation based on results obtained from the sample. Estimates based on a sample have sampling variation, or a margin of error (which defines a confidence interval) associated with each estimate. This means that if another sample is drawn, there is a certain probability that the resulting estimate would be somewhat different from the original one. If the survey were repeated many times with different samples, the resulting estimates would converge around the actual measure for the entire population. Rigorous statistical methods are used for calculating the magnitude of the sampling variation associated with the NCS estimates. Trend data in NCS reports are described as genuine year-to-year changes only if there is at least a 90% certainty that the measured changes are not the result of sampling variation. The UCR data are based on the actual count of offenses reported by law enforcement jurisdictions. In some circumstances UCR data are estimated for non-participating jurisdictions or those reporting partial data.

Some differences in data from the two programs may result from the fact that NCS estimates are subject to sampling variation. Apparent discrepancies between statistics from the two programs can usually be resolved by comparing NCS sampling variations (confidence intervals) with UCR statistics. Year-to-year changes in individual crime categories reported by the UCR usually fall within the confidence intervals of the NCS estimates, indicating no statistically significant differences between the output of the two programs. Even should the UCR changes fall outside the intervals, incompatibility of statistics should not be assumed. To illustrate, when differences between UCR and NCS occur, there is a 10% chance they are due to sampling variation because of the 90% confidence level established by NCS. It should also be noted that definitional and procedural differences between the UCR and NCS programs can account for apparent discrepancies in data output.

As has been discussed throughout, the results of UCR and NCS are not strictly comparable for a variety of reasons. Data users, however, possessing the basic understanding of each program's objectives, methodology, and coverage, can use the output from each in a complementary manner to better assess crime occurrence, losses, law enforcement involvement, arrestee descriptive information, and victimization data. By properly utilizing both programs in tandem, the crime issues in this country can be viewed in a much broader, more complete scope.